



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

September 26, 1977

ATTORNEY GENERAL OPINION NO. 77- 308

The Honorable Arnold Berman
State Senator
827 Vermont Street
Lawrence, Kansas 66044

Re: Child Abuse--Reports--Confidentiality

Synopsis: The federal Freedom of Information Act, 5 U.S.C. § 552, does not apply to records of child abuse filed with the Secretary of Social and Rehabilitation Services pursuant to the Kansas Child Abuse and Neglect Reporting Act, K.S.A. 1976 Supp. 38-711 et seq. The secretary has absolute discretion to grant or withhold access to such records to those persons enumerated in K.S.A. 1976 Supp. 38-723(b).

* * *

Dear Senator Berman:

You request my opinion whether the Department of Social and Rehabilitation Services has discretion to refuse to provide access to its files and records concerning instances of child abuse and neglect which are reported to and investigated by it. K.S.A. 1976 Supp. 38-723 provides in pertinent part thus:

"All records and reports concerning child abuse and neglect filed with the state department of social and rehabilitation services or a district court are hereby declared to be confidential and shall not be disclosed, and it shall be a violation of the Kansas child abuse and neglect reporting act for

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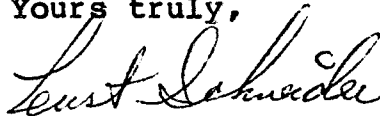
any person, association, firm, corporation or other agency willfully or knowingly to permit or encourage the unauthorized dissemination of the contents of such records and reports except as otherwise provided by the Kansas child abuse and neglect reporting act or under the following conditions"

Inspection of such reports may be authorized upon order of any court of record upon making the determination required by this section. Alternatively, the Secretary of Social and Rehabilitation Services may authorize access to

"(1) A person licensed to practice the healing arts who has before him or her a child whom he or she reasonably suspects may be abused or neglected; (2) an agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record; (3) a parent, guardian, or other person responsible for the welfare of a child named in a report or record, with protection for the identity of reporters or other appropriate persons; (4) a police or other law enforcement agency investigating a report [of] known or suspected child abuse or neglect."

The Secretary has absolute discretion to grant or withhold access to any person described above. The federal Freedom of Information Act, 5 U.S.C. § 552, applies only to records in the custody of agencies of the federal government, as defined in subsection (e) thereof, and does not apply to records in the custody of the Secretary of Social and Rehabilitation Services.

Yours truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj