

state or municipality. Under that act, federal agencies that maintain a system of records are required to grant an individual access, upon that individual's request, "to any information pertaining to him which is contained in the system."

Kansas has not enacted a "privacy act," but has enacted an "open records" law. Under that law, set forth in K.S.A. 1984 Supp. 45-215 et seq., any person may inspect and copy certain records maintained by any public agency. However, a person may properly be denied access to a record bearing his or her name or social security number where that record falls within certain listed exceptions to the general rule requiring disclosure. See K.S.A. 1984 Supp. 45-221.

Your second question is whether a non-custodial parent has access to SRS records concerning abuse or neglect of his or her child. K.S.A. 1984 Supp. 38-1507, as amended by L. 1985, Ch. 145, §1, provides:

"(a) All records and reports concerning child abuse or neglect received by the department of social and rehabilitation services or a law enforcement agency in accordance with K.S.A. 1984 Supp. 38-1522 and amendments thereto are confidential and shall not be disclosed except under the following conditions:

"(1) Upon the order of any court after a determination by the court issuing the order that the records and reports are necessary for the conduct of proceedings before it and are otherwise admissible in evidence, except that access shall be limited to in camera inspection unless the court determines that public disclosure of the information contained in the records and reports is necessary for the resolution of an issue then pending before it.

"(2) The secretary or the law enforcement agency where the report is filed shall authorize access to any records or reports concerning child abuse or neglect to any

of the following persons upon order of any court and may authorize access to such persons without a court order if the child involved is a subject of the record or report:

. . .

"(C) a parent or other person responsible for the welfare of a child, with protection for the identity of reporters and other appropriate persons;"

Under this statute, in the absence of a court order, the secretary of SRS has discretion to allow or to deny a parent access to the records and reports concerning abuse or neglect of that parent's child.

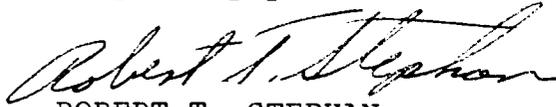
It is well established that states and state agencies which participate in specific federal programs are required to conform to the federal requirements and regulations governing such programs. The Kansas Court of Appeals recently recognized this principle by holding that SRS, as a participant in the federal AFDC program, had to comply with the restrictions on disclosure of information regarding AFDC applicants and recipients set forth in the relevant federal statute. Whisler v. Whisler, 9 Kan.App.2d 624 (1984).

Similarly, because SRS receives federal funds under the Child Abuse Prevention and Treatment Act of 1974, 42 U.S.C. 5101 et seq., it must comply with the relevant federal confidentiality regulation. That regulation, set forth in C.F.R. 1340.14(i), provides that a state may authorize disclosure to a person who is responsible for the child's welfare, under limitations and procedures determined by the state. K.S.A. 1984 Supp. 38-1507, as amended, is not inconsistent with that federal regulation, but rather reflects the language of the federal confidentiality requirement. Accordingly, your constituent's request for access to SRS's records of child abuse is properly governed by K.S.A. 1984 Supp. 38-1507, as amended.

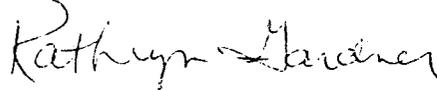
In conclusion, a person has no absolute right to inspect every record bearing his or her name or social security number which is maintained by a public agency, nor does a parent, solely by

virtue of his or her parentage, have an absolute right to inspect records and reports maintained by SRS concerning abuse or neglect of his or her child.

Very truly yours,



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