



STATE OF KANSAS

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November 6, 1985

ATTORNEY GENERAL OPINION NO. 85-150

M. Moran Tomson  
Stanton County Attorney  
P.O. Box 310  
111 North Main Street  
Johnson, Kansas 67855-0310

Re: Infants--Kansas Code for Care of Children--  
Investigation of Reports of Suspected Child  
Abuse or Neglect

Synopsis: The Department of Social and Rehabilitation Services has authority, pursuant to K.S.A. 1984 Supp. 38-1523, to conduct an investigation on school premises upon receiving a report of suspected child abuse or neglect. Such a report may be oral or written and may be made by anyone, including personnel within the department. A 16 year-old boy who is living by himself may fit within the definition of a neglected child in the Kansas Code for Care of Children, and therefore may be the subject of such an investigation. Cited herein: K.S.A. 1984 Supp. 38-1501; 38-1502, as amended by L. 1985, Ch. 144, §1, Ch. 145, §3; K.S.A. 1984 Supp. 38-1521; 38-1522, as amended by L. 1985, Ch. 147, §8; K.S.A. 1984 Supp. 38-1523.

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Dear Mr. Tomson:

You seek the opinion of this office concerning the application of K.S.A. 1984 Supp. 38-1523(g) to a particular set of facts. Specifically, you question whether the Department of Social and Rehabilitation Services (SRS) has authority to interview a 16 year-old boy on school premises when there is no apparent indication of child abuse. You indicate that the boy involved has been residing on his own, apart from his natural parents, and that his father has recently been arrested on criminal charges. You also state that SRS has intervened to take custody of three minor girls, presumably sisters of the boy in question.

The Kansas Code for Care of Children, K.S.A. 1984 Supp. 38-1501 et seq. and amendments, is designed to provide for the "care, custody, guidance, control and discipline" of children in Kansas. The code applies to any "child in need of care," defined in K.S.A. 1984 Supp. 38-1502(a), as amended by L. 1985, Ch. 144, §1, Ch. 145, §3, as "a person less than 18 years of age who" falls within one of the listed categories. A 16 year old living on his own would technically fall within the definition of a child in need of care in that he is "without adequate parental care, control or subsistence."

The question before us, however, is whether such a child would be considered an abused or neglected child for purposes of K.S.A. 1984 Supp. 38-1521 et seq. and amendments. K.S.A. 1984 Supp. 38-1523 provides that SRS shall "receive and investigate reports of child abuse or neglect for the purpose of determining whether the report is valid and whether action is required to protect the child from further abuse or neglect." K.S.A. 1984 Supp. 38-1523(g) provides further that the schools, SRS and law enforcement agencies shall cooperate with each other in such investigations, and that the investigations may take place on school premises.

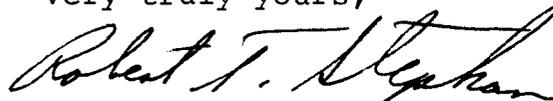
Abuse and neglect are both very broad terms which encompass a wide variety of situations. "Physical, mental or emotional abuse or neglect" is defined at K.S.A. 1984 Supp. 38-1502(b), as amended by L. 1985, Ch. 144, §1, Ch. 145, §3, as "the infliction of physical, mental or emotional injury or the causing of deterioration of a child" which "may include, but shall not be limited to, failing to maintain reasonable care and treatment, . . . to the extent that the child's health or emotional well-being is endangered." Again, a 16-year old boy living on his own could fall within this definition. Thus, SRS would be authorized to investigate a report of neglect concerning this boy.

Pursuant to K.S.A. 1984 Supp. 38-1522, reports of child abuse or neglect may come from any of a number of sources and may be either written or oral. In this case, a report may have come from law enforcement personnel who were involved in the apprehension of the boy's father, SRS personnel who were involved in taking custody of the three minor girls, or anyone else who knew of the situation. The report may have been oral and thus there might be no record of it. If such a report was made, it would appear that SRS is within its authority in coming onto school premises to investigate that report.

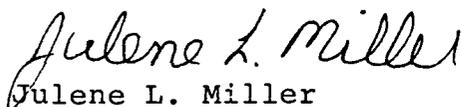
There are, however, common sense considerations which should be taken into account as well. The main purpose of K.S.A. 1984 Supp. 38-1523(g) is to provide a setting for investigations which is non-threatening to the child, and which is on "neutral ground." If the boy is living by himself, his own home might be just as non-threatening and neutral as the school. The school might not, therefore, be the ideal setting for an interview in this particular case. On the other hand, there might be good reasons to do the interview at school even though the boy has a separate residence of his own. The statutes do not restrict SRS investigations on school premises to situations where the school is the only secure and neutral place. The controlling factor should be the child's best interest.

K.S.A. 1984 Supp. 38-1501 provides that the code "shall be liberally construed, to the end that each child within its provisions shall receive the care, custody, guidance, control and discipline, . . . as will best serve the child's welfare and the best interests of the state." Some 16 year-old boys may be very self-sufficient and mature and capable of living on their own. This determination cannot be made, however, without some initial investigation, including an interview with the child. It is therefore our opinion that SRS has the authority to interview a 16 year-old boy at school if there has been a report, written or oral, of abuse or neglect concerning that child.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Julene L. Miller  
Assistant Attorney General