



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

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MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

ATTORNEY GENERAL OPINION NO. 89- 100

The Honorable Wint Winter, Jr.
State Senator, Second District
737 Indiana
Lawrence, Kansas 66044

Re: Minors -- Kansas Code For Care of Children; Matters
Prior to Filing Petition -- Reporting of Certain
Abuse or Neglect of Children; Court Services
Officers

Synopsis: Court services officers should report suspected
child abuse or neglect pursuant to K.S.A. 1988
Supp. 38-1522. Cited herein: K.S.A. 1988 Supp.
12-4113; K.S.A. 19-4409; 20-162; 20-345; 20-346a;
21-4602; 21-4604; 21-4610; 22-2202, as amended by
L. 1989, ch. 118, § 175; 22-3716; 38-1161; K.S.A.
1988 Supp. 38-1502, as amended by L. 1989, ch.
95, § 7; 38-1522; 38-1527; 38-1528; 38-1565, as
amended by L. 1989, ch. 122, § 1; K.S.A. 38-1624;
38-1661; K.S.A. 1988 Supp. 38-1663, as amended by
L. 1989, ch. 95, § 10 and L. 1989, ch. 92, §
29; 74-5602, as amended by L. 1989, ch. 118, §
183.

* * *

Dear Senator Winter:

As Senator for the Second District, you request our opinion
regarding whether court services officers are required to
report suspected child abuse or neglect pursuant to K.S.A.
1988 Supp. 38-1522.

K.S.A. 1988 Supp. 38-1522(a) lists persons required to report child abuse or neglect when those persons have reason to suspect that a child has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse. The statute does not specifically list court services officers, but does include law enforcement officers among those required to report. K.S.A. 1988 Supp. 38-1502(f), as amended, defines "law enforcement officer" as any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to special crimes.

The issue is whether the definition of law enforcement officer includes court services officers. The definition of law enforcement officer within the Kansas code of criminal procedure states in pertinent part:

"(13) 'Law enforcement officer' means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for violation of the laws of the state of Kansas or ordinances of any municipality thereof or with a duty to maintain or assert custody or supervision over persons accused or convicted of crime, and includes court services officers. . . ."
K.S.A. 22-2202(13), as amended by L. 1989, ch. 118, § 175. (Emphasis added).

Narrower definitions of "law enforcement officer" appear in other acts. For example, K.S.A. 1988 Supp. 74-5602(e), as amended, of the law enforcement training act defines "law enforcement officer" to exclude any city or county employee who is employed solely to perform correctional duties, or whose duties include the issuance of a citation or notice to appear provided such employee is not vested by law with authority to make arrests or carry firearms. Another example is found under K.S.A. 19-4409 whereby county law enforcement officers are appointed. All officers under this statute shall be qualified under the provisions of K.S.A. 74-5601 et seq. (law enforcement training act). A municipal "law enforcement officer" is defined under K.S.A. 1988 Supp. 12-4113(j) as any person who by virtue of office or public employment is vested by law with a duty to maintain public order and to make arrests.

Pursuant to K.S.A. 20-162 the Kansas Supreme Court has the authority to establish the judicial personnel classification system, and to prescribe the powers, duties and functions for each type and class of personnel within the state court system. K.S.A. 20-345 and K.S.A. 20-346a provide for appointment of court services officers in district court.

Court services personnel perform duties within three areas: adult services, juvenile services, and domestic relations. Duties within the adult services area include felony presentence investigation and reports (K.S.A. 21-4604), supervision of felony probation and attendant powers of arrest (K.S.A. 21-4610; K.S.A. 22-3716), and supervision of parole from county jail (K.S.A. 21-4602(4)). Duties within the area of juvenile services include predisposition investigations and reports (K.S.A. 38-1661), juvenile offender probation supervision (K.S.A. 1988 Supp. 38-1663(a), as amended), reintegration of a child in need of care into the family (K.S.A. 38-1565, as amended), and arresting offenders or detaining children in need of care (K.S.A. 38-1624(b) and K.S.A. 1988 Supp. 38-1527).

The Court Services Officer Manual, a personnel manual published by the Office of Judicial Administration (OJA), describes the duties and functions of a court services officer. The OJA manual states that court services officers are not law enforcement officers in regard to arresting juvenile offenders under K.S.A. 38-1624 and detaining children in need of care under K.S.A. 1988 Supp. 38-1527. However, OJA advises that court services officers throughout Kansas believe that it is their duty to report suspected child abuse or neglect, and to insure that this policy is followed statewide, we are informed that OJA intends to publish this policy in the court services officer's manual.

In construing statutes, the legislative intent is to be determined from a general consideration of the entire act, and to this end it is the duty of the court, as far as practicable, to reconcile different provisions so as to make them consistent, harmonious, and sensible. State v. Dubish, 236 Kan. 848 (1985). In order to ascertain legislative intent, courts are not permitted to consider only an isolated part or parts of an act but are required to consider and construe together all parts thereof in *pari materia*. Szoboszlay v. Glessner, 233 Kan. 475 (1983). K.S.A. 1988 Supp. 38-1527 and 38-1528 prescribe different duties for law enforcement officers and court services officers. Also, K.S.A. 38-1624 carefully

distinguishes between the authority of a law enforcement officer and a court services officer. Pursuant to all legislative enactments discussing law enforcement officers, the legislature has shown an intent to distinguish between law enforcement officers and court services officers. However, many of the powers and duties of court services officers resemble those enjoyed by or required of law enforcement officers, e.g. the authority to arrest in certain circumstances. While not defined as law enforcement officers under K.S.A. 38-1624, court services officers fit within the description of law enforcement officers pursuant to K.S.A. 1988 Supp. 38-1502(f), as amended, and K.S.A. 22-2202, as amended.

It is our opinion that court services officers, while not defined as law enforcement officers for all purposes, should report suspected child abuse or neglect pursuant to K.S.A. 1988 Supp. 38-1522. Nevertheless, legislative clarification or specific direction on this matter could eliminate any question concerning the duty of court services officers to report suspected child abuse or neglect and would therefore be most helpful.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Theresa Marcel Nuckolls
Assistant Attorney General