ATTORNEY GENERAL OPINION NO. 91-155

Donna Whiteman  
Secretary  
Social and Rehabilitation Services  
Docking State Office Building  
Topeka, Kansas 66612-1570

Re: Minors -- Kansas Code for Care of Children -- Investigation of Child Abuse or Neglect Cases

Synopsis: The department of social and rehabilitation services (SRS) is not prohibited from investigating an abuse or neglect case involving the grandchild of an SRS employee when the employee is not implicated as a perpetrator.


Dear Secretary Whiteman:

As secretary of the department of social and rehabilitation services (SRS), you request our opinion as to whether K.S.A. 1990 Supp. 38-1523 prohibits SRS from investigating allegations of abuse or neglect concerning the grandchild of an SRS employee, when the employee is not implicated as a perpetrator.

The part of the statute in question states:

"[S]uspected child abuse or neglect by persons employed by or of children of persons employed by the state department
of social and rehabilitation services shall be investigated by the appropriate law enforcement agency under the direction of the appropriate county or district attorney, and not by the state department of social and rehabilitation services." K.S.A. 38-1523(c).

This statute makes it clear that SRS will not investigate abuse or neglect cases when the suspected perpetrator is an employee of SRS or the victim is the child of an SRS employee. The statute does not expand the lineage to include grandchildren. "When a statute is plain and unambiguous the court must give effect to the intention of the legislature as expressed, rather than determine what the law should or should not be." Randall v. Seeman, 228 Kan. 395 (1980).

Therefore, since the SRS employee is not a suspect and this involves a grandchild and not a child of the SRS employee, SRS is not prohibited from investigating this case.

Very truly yours,

ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS

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RTS:JLM:MJS:bas