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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 a suspect in the case. Cited
herein: K.S.A. 1990 Supp. 38-1523.

* * *

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).

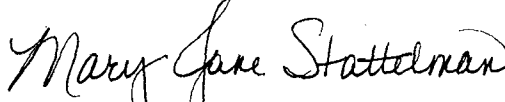
This statute makes it clear that SRS will not investigate abuse or neglect cases when the suspected perpetrator is an employee of SRS or the victim is the child of an SRS employee. The statute does not expand the lineage to include grandchildren. "When a statute is plain and unambiguous the court must 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



Mary Jane Stattelmann
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RTS:JLM:MJS:bas