

2021 Kansas Statutes

38-2313. Fingerprints and photographs. (a) Fingerprints or photographs shall not be taken of any juvenile who is taken into custody for any purpose, except that:

- (1) Fingerprints or photographs of a juvenile may be taken if authorized by a judge of the district court having jurisdiction;
- (2) a juvenile's fingerprints shall be taken, and photographs of a juvenile may be taken, immediately upon taking the juvenile into custody or upon first appearance or in any event before final sentencing, before the court for an offense which, if committed by an adult, would constitute the commission of a felony, a class A or B misdemeanor or assault, as defined in K.S.A. 2021 Supp. 21-5412(a), and amendments thereto;
- (3) fingerprints or photographs of a juvenile may be taken under K.S.A. 21-2501, and amendments thereto, if the juvenile has been: (A) Prosecuted as an adult pursuant to K.S.A. 38-2347, and amendments thereto; or (B) taken into custody for an offense described in K.S.A. 38-2302(s)(1) or (s)(2), and amendments thereto;
- (4) fingerprints or photographs shall be taken of any juvenile admitted to a juvenile correctional facility; and
- (5) photographs may be taken of any juvenile placed in a juvenile detention facility. Photographs taken under this paragraph shall be used solely by the juvenile detention facility for the purposes of identification, security and protection and shall not be disseminated to any other person or agency except after an escape and necessary to assist in apprehension.

(b) Fingerprints and photographs taken under subsection (a)(1) or (a)(2) shall be kept readily distinguishable from those of persons of the age of majority. Fingerprints and photographs taken under subsections (a)(3) and (a)(4) may be kept in the same manner as those of persons of the age of majority.

(c) Fingerprints and photographs of a juvenile shall not be sent to a state or federal repository, except that:

- (1) Fingerprints and photographs may be sent to the state and federal repository if authorized by a judge of the district court having jurisdiction;
- (2) a juvenile's fingerprints shall, and photographs of a juvenile may, be sent to the state and federal repository if taken under subsection (a)(2) or (a)(4); and
- (3) fingerprints or photographs taken under subsection (a)(3) shall be processed and disseminated in the same manner as those of persons of the age of majority.

(d) Fingerprints or photographs of a juvenile may be furnished to another juvenile justice agency, as defined by K.S.A. 38-2325, and amendments thereto, if the other agency has a legitimate need for the fingerprints or photographs.

(e) Any fingerprints or photographs of an alleged juvenile offender taken under the provisions of K.S.A. 38-1611(a)(2), prior to its repeal, may be sent to a state or federal repository on or before December 31, 2006.

(f) Any law enforcement agency that willfully fails to submit any fingerprints or photographs required by this section shall be liable to the state for the payment of a civil penalty, recoverable in an action brought by the attorney general, in an amount not exceeding \$500 for each report not made. Any civil penalty recovered under this subsection shall be paid into the state general fund.

(g) The director of the Kansas bureau of investigation shall adopt any rules and regulations necessary to implement, administer and enforce the provisions of this section, including time limits within which fingerprints shall be sent to a state or federal repository when required by this section.

(h) Nothing in this section shall preclude the custodian of a juvenile from authorizing photographs or fingerprints of the juvenile to be used in any action under the Kansas parentage act, K.S.A. 2021 Supp. 23-2201 et seq., and amendments thereto.

History: L. 2006, ch. 169, § 13; L. 2007, ch. 23, § 1; L. 2011, ch. 30, § 163; L. 2012, ch. 162, § 68; L. 2016, ch. 46, § 31; July 1.