

HOUSE BILL No. 2444

By Committee on Health and Human Services

2-7

9 AN ACT concerning restrictions on persons maintaining, residing, work-
10 ing or volunteering at child care facilities or family day care homes;
11 amending K.S.A. 2006 Supp. 65-516 and repealing the existing section;
12 also repealing K.S.A. 2006 Supp. 65-516a.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2006 Supp. 65-516 is hereby amended to read as
16 follows: 65-516. (a) No person shall knowingly maintain a child care fa-
17 cility or maintain a family day care home if, in the child care facility or
18 family day care home, there resides, works or regularly volunteers any
19 person who:

20 (1) (A) Has a felony conviction for a crime against persons, (B) has
21 a felony conviction under the uniform controlled substances act, (C) has
22 a conviction of any act which is described in articles 34, 35 or 36 of chapter
23 21 of the Kansas Statutes Annotated, and amendments thereto or a con-
24 viction of an attempt under K.S.A. 21-3301 and amendments thereto to
25 commit any such act, or (D) has been convicted of any act which is de-
26 scribed in K.S.A. 21-4301 or 21-4301a and amendments thereto or similar
27 statutes of other states or the federal government;

28 (2) has been adjudicated a juvenile offender because of having com-
29 mitted an act which if done by an adult would constitute the commission
30 of a felony and which is a crime against persons, is any act described in
31 articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and
32 amendments thereto, or is any act described in K.S.A. 21-4301 or 21-
33 4301a and amendments thereto or similar statutes of other states or the
34 federal government;

35 (3) has committed an act of physical, mental or emotional abuse or
36 neglect or sexual abuse as validated by the department of social and re-
37 habilitation services pursuant to K.S.A. ~~38-1523~~ 2006 Supp. 38-2226 and
38 amendments thereto and (A) the person has failed to successfully com-
39 plete a corrective action plan which had been deemed appropriate and
40 approved by the department of social and rehabilitation services, or (B)
41 the record has not been expunged pursuant to rules and regulations
42 adopted by the secretary of social and rehabilitation services;

43 (4) has had a child declared in a court order in this or any other state

1 to be deprived or a child in need of care based on an allegation of physical,
2 mental or emotional abuse or neglect or sexual abuse;

3 (5) has had parental rights terminated pursuant to the *revised* Kansas
4 juvenile *justice* code or K.S.A. ~~38-1581 through 38-1584~~ 2006 *Supp.* 38-
5 2266 *through* 38-2270, and amendments thereto, or a similar statute of
6 other states;

7 (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et
8 seq., and amendments thereto, or an immediate intervention agreement
9 pursuant to K.S.A. 2006 *Supp.* 38-2346, and amendments thereto involv-
10 ing a charge of child abuse or a sexual offense; or

11 (7) has an infectious or contagious disease.

12 (b) No person shall maintain a child care facility or a family day care
13 home if such person has been found to be a person in need of a guardian
14 or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095,
15 and amendments thereto.

16 (c) Any person who resides in a child care facility or family day care
17 home and who has been found to be in need of a guardian or a conser-
18 vator, or both, shall be counted in the total number of children allowed
19 in care.

20 (d) In accordance with the provisions of this subsection (d), the sec-
21 retary shall have access to any court orders or adjudications of any court
22 of record, any records of such orders or adjudications, criminal history
23 record information in the possession of the Kansas bureau of investigation
24 and any report of investigations as authorized by subsection (e) of K.S.A.
25 ~~38-1523~~ 2006 *Supp.* 38-2226 and amendments thereto in the possession
26 of the department of social and rehabilitation services or court of this
27 state concerning persons working, regularly volunteering or residing in a
28 child care facility or a family day care home. The secretary shall have
29 access to these records for the purpose of determining whether or not
30 the home meets the requirements of K.S.A. 65-516 and 65-519 and
31 amendments thereto.

32 (e) No child care facility or family day care home or the employees
33 thereof, shall be liable for civil damages to any person refused employ-
34 ment or discharged from employment by reason of such facility's or
35 home's compliance with the provisions of this section if such *facility or*
36 *home acts in good faith to comply with this section. Within three business*
37 *days subsequent to the receipt of a request of a child care facility or family*
38 *day care home for the review under this section of an individual who*
39 *resides, works or regularly volunteers in such facility or home, the sec-*
40 *retary shall notify in writing the facility or home that such request has*
41 *been received. Within 30 days of the receipt of such request, the secretary*
42 *shall provide to the facility or home a report of the findings of the sec-*
43 *retary on such request.*

- 1 (f) For the purpose of subsection (a)(3), an act of abuse or neglect
2 shall not be considered to have been validated by the department of social
3 and rehabilitation services unless the alleged perpetrator has: (1) Had an
4 opportunity to be interviewed and present information during the inves-
5 tigation of the alleged act of abuse or neglect; and (2) been given notice
6 of the agency decision and an opportunity to appeal such decision to the
7 secretary and to the courts pursuant to the act for judicial review and civil
8 enforcement of agency actions.
- 9 Sec. 2. K.S.A. 2006 Supp. 65-516 and 65-516a are hereby repealed.
- 10 Sec. 3. This act shall take effect and be in force from and after its
11 publication in the statute book.