

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Senator Roy M. Ehrlich at  
Chairperson

10:00 a.m./~~p.m.~~ on February 8, 1985 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Conferees appearing before the committee:

Barbara Sabol, Secretary, Health and Environment  
Dr. Ronald Harper, Department on Aging  
John Grace, Executive Director, Kansas Association of Homes for Aging  
Jim Johnson, Kansas Association of Child Care Workers  
Sister Diane Hill, O.S.B., Services to Aging, Kansas City, Kansas

SB-90 - establishing central registry of unlicensed former employees of adult care homes and providing confidentiality of certain information.

Barbara Sabol, Secretary, Department of Health and Environment gave testimony and presented written testimony on SB-90 presenting the official position of her department. Attachment I

Dr. Ronald Harper, Department on Aging, testified and distributed written testimony on SB-90. The Kansas Department on Aging routinely shares and receives information from the Departments of Social and Rehabilitation Services and Health and Environment for elderly abuse and other complaints. The Department on Aging has a nursing home ombudsman program that is responsible for investigating complaints that it receives that are associated with adult care facility residents. The department recommends that the bill be amended to make the registry available to the Department on Aging.

John Grace, Executive Director, Kansas Association of Homes for Aging testified and distributed written testimony in support of SB-90. The association will be making an intensive effort to assist administrators in developing a program that properly recruits and screens employees, orientates new employees about problems of abuse and reporting requirements.

SB-93 - requiring reports relating to employees of certain homes for children, establishing a central registry and providing confidentiality of certain information.

Barbara Sabol, Department of Health and Environment testified and presented written testimony on SB-93. Secretary Sabol pointed out to the committee that by using HB-2695, 1984, with recommended changes to go before the House Public Health and Welfare Committee, perhaps those protections are sufficient at this point in time, for children in child care facilities.

Jim Johnson, Kansas Association of Child Care Workers testified and presented written testimony supporting SB-93.

The Chairman called attention to a letter from Sister Diane Hill, O.S.B. Consultant for Special Services, Services to Aging, Kansas City, Kansas, supporting SB-89 which was distributed to the committee.

The meeting adjourned.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE  
DATE 2-8-85

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

Marilyn Bratt Lawrence

KINH

Ronald Harper

KDOA

John Grace

KS Assoc Home for Aging

DICK HUMMEL

KS HEALTH CARE ASSN

Frances Kastner

Ks Food Dealers Assn

Lynelle King

Ks St. Nurses' Assn

J.G. Holloway

KDFE

JERRY SLAUGHTER

KS Milk

Karen Ball

AP

Jim McBride

United Way  
CHRISTIAN SCIENCE COMMITTEE  
ON PUBLICATION FOR KANSAS

KEITH R. LANDIS

Jim Johnson

Kansas Association of Child Care Workers

Ann Cat

Intern - Sen. Karr

M. Hoover

Tereka Convent

John Peterson

Ks Assn of Lic Private Child Care Agencies

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON SENATE BILL 90

PRESENTED TO THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

FEBRUARY 5, 1985

This is the official position taken by the Kansas Department of Health and Environment on Senate Bill 90.

BACKGROUND INFORMATION:

Senate Bill 90 would establish a registry of all unlicensed persons employed by adult care homes with information concerning the individual's work history that would be available to potential adult care home employers. The bill addresses the important issue of preventing the abuse of vulnerable residents in adult care homes.

ISSUES:

- 1 Section 1 of the bill includes all unlicensed persons employed by adult care homes in the registry. Experience indicates that those most likely to be involved in abuse are persons who provide direct care to residents. These include medication aides and nurse aides but generally would not include dietary, housekeeping, and maintenance employees. We estimate that there are 10,000 unlicensed nursing employees in adult care homes at the present time and approximately 7,000 unlicensed employees working in other areas of adult care homes.
- 2 The bill does not provide an opportunity for the individuals who are the subjects of the reports to the registry to be advised of the information being reported about them. The department is concerned that the bill will cause the state to become involved in many expensive appeals and challenges to the accuracy of the information in the registry.
- 3 The registry will be difficult to administer in that the department will have no means to assure that the required reports are submitted.
- 4 The registry will be expensive to maintain, both for the state and for the adult care home licensees who will be required to submit numerous reports.
- 5 Because the greatest risk of abuse appears to lie with unlicensed nursing employees in adult care homes, the department has recommended bills to the House Committee on Public Health and Welfare that would establish authority for the Secretary of Health and Environment to "decertify" medication aides and nursing home aides who violate specified standards, including abuse or neglect of adult care home residents.

Atch. 1  
2/8/85

DEPARTMENT'S POSITION:

Because of the issues raised with the implementation of a registry as proposed in Senate Bill 90, the department recommends that the committee consider the alternative of legislation to assure that unlicensed nursing employees of adult care homes who commit abuse can be prevented from being employed in other adult care homes. Another alternative would be to implement specific restrictions on who may be employed as an unlicensed nursing employee in an adult care home, such has been done with licensed child care facilities. House Bill 2695, passed in the 1984 legislative session, prohibits persons who have been convicted of felonies or have been validated as having committed an act of abuse by the Department of Social and Rehabilitation Services from working with children in licensed day care settings.

Presented by: Barbara J. Sabol, Secretary  
Kansas Department of Health  
and Environment

## TESTIMONY ON SB 90

### Bill Brief:

Establishes central registry of unlicensed former employees of adult care homes and provides confidentiality of certain information.

### Bill Provisions:

- Each adult care home shall provide information to the licensing agency about each unlicensed employee.
- Information includes: (1) former employers, length of service and reason for employee leaving the employee's last employer; (2) reason for employee's termination of service from the adult care home if known and whether employee was in good standing.
- The licensing agency shall maintain a central registry.
- Information in the registry relating to an individual shall be confidential except to law enforcement agencies, SRS and to each adult care home considering employment of the individual whose name appears on the registry.
- Information in the registry shall include any information provided by law enforcement agencies or the Secretary of SRS regarding a specific individual.
- This statute would become part of the adult care home licensure act.

### Testimony:

The Kansas Department on Aging routinely shares and receives information from the Departments of Social and Rehabilitaton Services and Health and Environment for elderly abuse and other complaints. The Department on Aging has a nursing home ombudsman program that is responsible for investigating complaints that it receives that are associated with adult care facility residents.

### Recommended Changes:

The Department on Aging recommends that the bill be amended on line 0041 as shown on the attachment to make registry information available to the Department on Aging.

## SENATE BILL No. 90

By Senators Ehrlich, Allen, Arasmith, Burke, Hoferer, D. Kerr,  
F. Kerr, Langworthy, Montgomery, Morris, Reilly, Salisbury,  
Talkington, Thiessen, Vidricksen, Walker, Winter and Yost

1-25

0018 AN ACT concerning adult care homes; requiring reports relating  
0019 to unlicensed employees of such homes; establishing a central  
0020 registry and providing confidentiality of certain information.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. (a) Each adult care home shall report to the li-  
0023 censing agency the name, address and social security number of  
0024 each unlicensed person initially employed by such home on and  
0025 after July 1, 1985. In addition, the home shall report to the  
0026 licensing agency the name and address of the previous employer  
0027 of such employee, if any, the length of service for the employee  
0028 with the previous employer and the reason for the employee  
0029 leaving the employee's last employer. Upon each such em-  
0030 ployee's termination of service, for whatever reason, the home  
0031 shall notify the licensing agency as to whether the employee was  
0032 in good standing at the time of termination and the reason for  
0033 termination, if known.

0034 (b) The licensing agency shall place the information received  
0035 under subsection (a) in a central registry maintained for that  
0036 purpose. Information received under subsection (a) relating to  
0037 specific individuals shall be confidential and shall not be open to  
0038 the public, except that the licensing agency may make informa-  
0039 tion relating to a specific individual available: (1) To law en-  
0040 forcement agencies; (2) to the department of social and rehabili-  
0041 tation services; and (3) to each adult care home which has  
0042 employed or is considering the employment of the individual  
0043 whose name appears on the registry. Information made available  
0044 to a home under this subsection shall include any information  
0045 provided by law enforcement agencies or the secretary of social

... (3) to the department on aging; and  
(4) to each ...

0046 and rehabilitation services in regard to the specific individual  
0047 employed or being considered for employment by the home.

0048 (c) This section shall be part of and supplemental to the adult  
0049 care home licensure act.

0050 Sec. 2. This act shall take effect and be in force from and  
0051 after its publication in the statute book.



The Organization of  
Nonprofit Homes and  
Services for the Elderly

Kansas Association of Homes for the Aging  
One Townsite Plaza  
Fifth and Kansas Avenue  
Topeka, Kansas 66603

913-233-7443

TESTIMONY RE: SENATE BILL 90  
by  
JOHN R. GRACE  
EXECUTIVE DIRECTOR  
KANSAS ASSOCIATION OF HOMES FOR THE AGING

Good morning Mr. Chairman and Members of Committee

Our association supports Senate Bill 90.

Senate Bill 90 would create a registry of all unlicensed employees who had at one time or another been employed in an adult care home. The employer before hiring a person, could then check with the registry on the previous work record of the person. In effect, this would create a "tracking system" for all unlicensed employees of adult care homes.

As a former administrator of an adult care home for seven years, I can attest to the fact that the greatest challenge facing employers in adult care homes, is the recruitment, screening, and motivating of qualified and caring people. Senate Bill 90 would provide another "tool" for the administrator in facing this challenge.

There are a number of issues involved in addressing this overall problem of abuse in adult care homes. What is needed is a comprehensive program that looks at all of the "pieces of this puzzle".

For example, Equal Employment Opportunity Law is very clear on what information can be released regarding a former workers record. In addition, the information released may not in fact be the real reason why the person was terminated. Some persons are discharged for suspicion of abuse even though the stated reason might be tardiness.

We do know that the Kansas Bureau of Investigation does keep a record of all persons convicted of a crime in Kansas. This information is available to an employer who requests this in writing. The record would only state "assault, battery, etc." and not "abuse or neglect". Social and Rehabilitative Services also keeps a registry on each facility and person who is reportedly abused.

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Testimony Re:  
Senate Bill 90

And what about those persons who have never worked in an adult care home and they apply for a position for the first time? These persons would not be included on the registry. Nor would a person from out of state be included on the registry.

As you can see there are a number of components to the issue of what this bill is addressing. The Bill is good as far as it goes. We believe that to examine properly all of these issues and arrive at a comprehensive program, perhaps through an interim committee, might result in a more effective and long range solution to the problem.

Our association will be making an intensive effort along with the Departments on Aging Long Term Care Ombudsman to assist administrators in developing a program that properly recruits and screens employees, orientates new employees about the problem of abuse and reporting requirement, and on encouraging the facility to hold in-service training throughout the year on this issue.

Thank you.

2/7/85

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON SENATE BILL 93

PRESENTED TO THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

FEBRUARY 5, 1985

This is the official position taken by the Kansas Department of Health and Environment on Senate Bill 93.

BACKGROUND INFORMATION:


Senate Bill 93 represents a new approach toward the national and Kansas goal of reducing the incidence of child abuse occurring in licensed day care settings. The bill would establish a registry of all persons employed in day care work to assist the facilities in checking the background of a prospective employee as part of the hiring process. The department shares the concern of the bill's authors about child abuse in licensed day care settings. Last year the Department of Health and Environment and the Department of Social and Rehabilitation Services recommended legislation (House Bill 2695) identifying persons who would be prohibited from working with children in licensed day care settings in an effort to screen out potential abusers.

ISSUES:

- 1 The bill relates the reporting requirement to employees of boarding homes and family day care homes; however, about 6,500 of the 7,500 licensed/registered facilities do not have employees but are operated within a private home. The population with direct contact with children in these homes includes any one who resides, works, or regularly volunteers in the facility. We estimate that this group includes at least 20,000 persons.
- 2 The bill does not provide for the individuals who are the subjects of reports to the registry to be informed of the information that is being submitted. The department is concerned that the maintenance of the registry will place the state in the position of having to afford opportunities for expensive appeals and challenges to the information in the registry.
- 3 The registry proposed in the bill will be difficult to administer in that there will be no effective means for the department to ensure that required reports are submitted.
- 4 The proposed registry will be apparently expensive to maintain, both for the department and for the homes who will be required to submit numerous reports.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
BUREAU OF ADULT AND CHILD CARE FACILITIES  
Topeka, Kansas 66620

MEMORANDUM

Date: July, 1984  
TO: Child Care Licensees/Registrants  
FROM: Richard Morrissey, Director   
Bureau of Adult and Child Care Facilities  
SUBJECT: Implementation of the 1984 Amendment to Statutes Governing the  
Licensing and Registration of Child Care Facilities (House Bill 2695).

K.S.A. 65-516, one of the statutes governing licensing of boarding homes for children (child care facilities) and family day care homes (registered facilities), was amended effective July 1, 1984. This amendment applies to the following:

Child Care Centers/Preschools; Licensed Day Care Homes/Group Day Care Homes; Registered Family Day Care Homes; Family Foster Homes; Group Boarding Homes; Residential Centers; Detention Centers; Maternity Centers; Child Placing Agencies; and Day Care Referral Agencies.

The amendment expands the previous statutory prohibitions against persons who may reside, work or volunteer in a child care facility (see statute enclosed). You will need to develop the necessary policies to meet the requirements of this statute.

The Kansas Department of Health and Environment will assume responsibility for initiating any screening necessary. At the time of initial application and license or registration renewal, applicants will be asked to submit to KDHE names, addresses and date of birth of all persons residing, working or volunteering in the facility. Such persons may be screened for record of felony convictions and will be screened for any validated incidents of child abuse/neglect.

Enclosure: Statute

HOUSE BILL NO. 2695

Section 1. K.S.A. 1983 Supp. 65-516 is hereby amended to read as follows: 65-516. (a) No person shall maintain a boarding home for children or maintain a family day care home if, in such boarding home or family day care home, there resides, works or volunteers any person who:

(1) Has a felony conviction or has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated or has committed an act of physical, mental or emotional abuse or neglect or sexual abuse as validated by the department of social and rehabilitation services pursuant to K.S.A. 1983 Supp. 38-1523 and amendments thereto;

(2) has had a child declared to be deprived or a child in need of care;

(3) has had a child removed from the home pursuant to the Kansas juvenile code or the Kansas code for care of children or a similar statute of other states;

(4) has signed a diversion agreement pursuant to K.S.A. 22-2906 et seq., and amendments thereto, or pursuant to K.S.A. 1983 Supp. 38-1635 and amendments thereto involving a charge of child abuse or a sexual offense;

(5) has been found to be unfit to have custody of a minor child pursuant to K.S.A. 60-1610 and amendments thereto; or

(6) has an infectious or contagious disease.

(b) No person shall maintain a boarding home for children or maintain a family day care home if such person has been found to be a disabled person in need of a guardian or conservator, or both.

(c) Any person who resides in the home and who has been found to a disabled person in need of a guardian or conservator, or both, shall be counted in the total number of children allowed in care.

(d) The secretary shall have access to any court orders or adjudications of any court of record or any records of such orders or adjudications and any report of investigations as authorized by subsection (e) of K.S.A. 1983 Supp. 38-1523 and amendments thereto in the possession of the department of social and rehabilitation services concerning persons residing in a boarding home for children or a family day care home in order to determine whether or not the home meets the requirements of K.S.A. 65-516 and 65-519 and amendments thereto.

Sec. 2. K.S.A. 65-519 is hereby amended to read as follows: 65-519.(a) The secretary shall issue a certificate of registration to any person who applies for registration on forms furnished by the secretary, who attests to the safety of the family day care home for the care of children and who certifies that no person described in paragraphs (1), (2), (3), (4), (5) or (6) of subsection (a) of K.S.A. 65-516 and amendments thereto resides, works or volunteers in the family day care home.

(b) The secretary shall furnish each applicant for registration a family day care home safety evaluation form to be completed by the applicant and submitted with the registration application.

(c) The certificate of registration shall be renewed annually in the same manner provided for in this section.

Sec. 3. K.S.A. 1983 Supp. 65-516 and 65-519 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Jim Johnson  
2-8-85



KANSAS  
ASSOCIATION  
OF CHILD CARE  
WORKERS

February 5, 1985

Dear Senator Erlich and Members of the Committee:

The Kansas Association of Child Care Workers would like to recognize the authors of S.B. 93 for their efforts to improve the quality of residential care for children in Kansas. The concept behind S.B. 93 is an admirable one. Our organization is based upon providing quality and professional care to children and youth in residential centers. One mission of the Kansas Association of Child Care Workers and of the National Organization of Child Care Worker Associations, which we are a member of, is for parenting child care professionals to set high standards for themselves so as to improve the quality of residential care in Kansas.

We support the concept of removing abusive, neglectful or unethical practitioners from the profession. We also support the use of effective screening mechanisms so that abusive or unqualified adults will not be responsible for the charge of children in residential settings. We, as an organization, are aware of the need to remove incompetent practitioners from the field as well as developing some mechanisms to avoid placing these individuals in such a highly responsible position.

We thank you for your investment of time and attention to these issues.

Respectfully submitted,

Jim Johnson  
Legislative Liason  
Kansas Association of  
Child Care Workers

JJ:ep

SERVICES TO THE AGING

A CATHOLIC CHURCH OFFICE  
OF THE  
ARCHDIOCESE OF KANSAS CITY IN KANSAS

229 SOUTH 8th STREET  
KANSAS CITY, KANSAS 66101  
PHONE (913) 621-1504

February 4, 1985

The Honorable Roy Ehrlich, Chairman  
Senate Public Health and Welfare Committee  
Room 138-N  
State Capitol  
Topeka, KS 66612

Dear Senator Ehrlich:

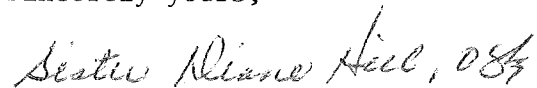
Your legislative efforts and support are requested for SB 89.

On behalf of the many elderly who live in the twenty-one counties served by this office, as well as all elderly Kansans, we ask your urgent assistance in establishing legislation that will strengthen the statutes to address the problems of physical, psychological, and material abuse of the elderly in their homes.

Without such legislation, the often unreported, but serious abuse of the elderly will continue.

Thank you for your time and efforts on behalf of the elderly, and be assured, they will be most grateful for your assistance.

Sincerely yours,



Sister Diane Hill, O.S.B.  
Consultant for Special Services

DH:kt