

Approved 3-14-88 Date

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 March 4, 1988 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research  
Norman Furse, Revisors Office  
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Tuck Duncan

Tuck Duncan appeared in support of SB-702. Written testimony was presented to the committee on March 3, Attachment 7. Mr. Duncan stated this bill would continue in existence the advisory board of occupational therapists which provides input to the Board of Healing Arts. There is no occupational representation on the Healing Arts Board, therefore, this advisory group provides a mechanism to make suggestions and recommendations to the Board. Senator Morris moved to pass out SB-702 favorable for passage. Senator Salisbury seconded the motion and the motion carried. Senator Vidricksen will carry the bill.

Chairman Ehrlich called on Senator Bond to continue work on SB-686, Attachment 1, on page 4. Senator Bond stated that SB-517 was merged into SB-686 and most of the content appeared starting on line 0142 and following. Mr. Bond told the committee that the bill does not mandate testing of the convicted felon but did provide that a court may test a convicted felon if requested. New Section 8 (attachment 4, March 2, 1988) was necessary to permit Kansas school children to attend public schools should they have the HIV virus or AIDS. New section 9 provides for a form of notification to those handling an AIDS victim's body. It also invokes confidentiality and immunity from liability. Attachment 2

Senator Bond made the motion to accept the amendments of New Section 9, those that appear on page 6 and the renumbering of sections in the bill. Senator Reilly seconded the motion and the motion carried.

Senator Bond moved SB-686 be reported favorable as amended. Senator Salisbury seconded the motion and the motion carried. Senator Bond will carry SB-686.

Various comments were voiced commending the bipartisan subcommittee for it's work and Senator Bond as subcommittee chairman was also commended.

Senator Reilly requested staff furnish him with a very detailed supplemental note prior to the time the bill comes to the Senate floor.

Senator Francisco told the committee he would be presenting an amendment dealing with tracking when the bill is debated on the Senate floor.

The subcommittee report on HB-2504 was presented in the form of a balloon bill, Attachment 3. Senator Bond moved the adoption of the subcommittee report with a second by Senator Francisco. The motion carried.

Senator Bond stated the balloon bill picks up a new phrase, "taxing subdivision" which is any subdivision that is able to levy a tax. The amendment on line 0048 would permit any governing body of a taxing subdivision to elect by majority vote of all members whether or not they wish to be subject to the Randolph-Sheppard Act.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 526-S Statehouse, at 10:00 a.m./~~p.m.~~ on March 4, 1988

Senator Bond moved to report HB-2504 favorable as amended. Senator Mulich seconded the motion and the motion carried. Senator Francisco will carry the bill.

Senator Salisbury, subcommittee chairperson, presented a balloon of SB 585 stating difficulties with the bill were not totally resolved. The subcommittee strengthened intermediate sanctions on homes that are not reaching standards. Concern was expressed as to whether citation records would remain on the record should new ownership or management be put in place. Attachment 4

Senator Bond made a conceptual motion to conceptionally insert new ownership or new management. Senator Reilly seconded the motion and the motion carried.

Senator Salisbury stated that one issue addressed but not in statute was the agreement of state regulation to coincide with Federal was so that no sanctions will be made on the deficiency of 24 hour nursing until such time as federal law brings it into place.

Senator Salisbury made the motion to adopt the committee report. Senator Reilly seconded the motion and the motion carried.

Senator Francisco expressed concern over the term "significantly and adversely" and stated he was not comfortable with the language. Senator Francisco moved that the amendment offered by the Health Care Association be considered. (Shown as attachment 2, February 17, 1988).

Senator Salisbury stated she personally felt the wording was satisfactory and that the deficiencies should be cited if they occurred.

Senator Bond stated the definition of terms would be endless and felt some discretion must be left with the agencies and if one could not trust them the Governor should be told a change of personnel was needed.

The meeting adjourned at 10:57 a.m. and will meet again on Monday, March 7, 1988 at 10:00 a.m. in Room 526-S.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE March 4, 1988

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

(PLEASE PRINT) NAME AND ADDRESS		ORGANIZATION
Jim Snyder	TOPEKA	KFDA
Lewis Allen	Topoka	KHCA
Dick Hummel	TOPEKA	KACA
Paul Klotz	Topoka	ASSOC of CHURCHES
Allen Jackson	"	SRS
Marilyn Bradt	Lawrence	VINH
Mark Intermill	Topoka	KCOA
Mack Smith	Topoka	Mortuary Arts Board
John Bruce	"	K's Home for Aging
Chip Wheeler	Topoka	K's Medical Society
GARY Pophis	"	K's OPT ASSN
Lyndon Drew	"	KDOA
Tom Burgess	Topoka	Affiliated Fitness Centers
Richard Morrissey		KDAE
L. K. Hulet	Topoka	KDHE
Mary Ann Mahel	"	BSRB
Ken Baker	"	K's Assoc of Prof. Psychologists
John Peterson		K's Assoc of Prof Psychologists
Tom Bell		KHA

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3-4-88

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

~~Greg Glavin~~ ~~Topka~~

~~KUG~~

~~Val Smith~~ ~~Topka~~

~~KOTA~~

Tuck Duncan Topka

KANSAS OCCUPATIONAL-  
THERAPY ASSOCIATION

Sherman A. Parks, Jr. Topka.

Ks Chiropractic Assn.

# SENATE BILL No. 686

By Committee on Public Health and Welfare

2-23

0016 AN ACT concerning AIDS; requiring reporting cases of AIDS to  
 0017 the secretary of health and environment; granting certain  
 0018 powers to and imposing certain duties upon the secretary;  
 0019 providing for confidentiality of certain information; declaring  
 0020 certain acts unlawful and providing penalties for violations;  
 0021 requiring testing of persons convicted of certain crimes and  
 0022 providing counseling for certain victims thereof; amending  
 0023 K.S.A. 65-128 and repealing the existing section.

requiring notification of death from AIDS to accompany cer-  
 tain dead bodies transported for disposition

0024 *Be it enacted by the Legislature of the State of Kansas:*

0025 New Section 1. As used in sections 1 to 6, inclusive, and  
 0026 amendments thereto, unless the context clearly requires other-  
 0027 wise:

0028 (a) "AIDS" means the disease acquired immune deficiency  
 0029 syndrome.

0030 (b) "HIV" means the human immunodeficiency virus or any  
 0031 other identified causative agent of AIDS.

0032 (c) "Secretary" means the secretary of health and environ-  
 0033 ment.

0034 (d) "Seropositive" means the presence of antibody to HIV as  
 0035 detected by appropriate laboratory tests.

0036 (e) "Physician" means any person licensed to practice medi-  
 0037 cine and surgery.

0038 New Sec. 2. (a) Whenever any physician has information  
 0039 indicating that a person is suffering from or has died from AIDS,  
 0040 such knowledge or information shall be reported immediately to  
 0041 the secretary of health and environment, together with the name  
 0042 and address of the person who has or is suspected of having  
 0043 AIDS, or the name and former address of the deceased individ-  
 0044 al who had or was suspected of having such a disease.

0045 (b) Any physician who reports the information required to be

0046 reported under subsection (a) in good faith and without malice to  
 0047 secretary of health and environment shall have immunity  
 0048 from any liability, civil or criminal, that might otherwise be  
 0049 incurred or imposed in an action resulting from such report. Any  
 0050 such physician shall have the same immunity with respect to  
 0051 participation in any judicial proceeding resulting from such  
 0052 report.

0053 (c) Information required to be reported under subsection (a)  
 0054 of this section and information relating to HIV or AIDS obtained  
 0055 through laboratory tests conducted by the department of health  
 0056 and environment shall be confidential and shall not be disclosed  
 0057 or made public, upon subpoena or otherwise, beyond the dis-  
 0058 closure necessary under subsection (a) of this section or subsec-  
 0059 tion (a) of section 3 and amendments thereto or the usual report-  
 0060 ing of laboratory test results to persons specifically designated by  
 0061 the secretary of health and environment as authorized to obtain  
 0062 such information, except such information may be disclosed:

0063 (1) If no person can be identified in the information to be  
 0064 disclosed and the disclosure is for statistical purposes;

0065 (2) if all persons who are identifiable in the information to be  
 0066 disclosed consent in writing to its disclosure;

0067 (3) if the disclosure is necessary, and only to the extent  
 0068 necessary, as specified by rules and regulations of the secretary,  
 0069 to protect the public health;

0070 (4) if a medical emergency exists and the disclosure is to  
 0071 medical personnel qualified to treat AIDS, except that any in-  
 0072 formation disclosed pursuant to this paragraph shall be disclosed  
 0073 only to the extent necessary to protect the health or life of a  
 0074 named party; or

0075 (5) if the information to be disclosed is required in a court  
 0076 proceeding involving a minor and the information is disclosed in  
 0077 camera.

0078 New Sec. 3. The secretary of health and environment shall  
 0079 investigate cases of AIDS and maintain a supervision over such  
 0080 cases during their continuance. The secretary may adopt and  
 0081 enforce rules and regulations for the prevention and control of  
 0082 AIDS and for such other matters relating to cases of AIDS as may

relating to HIV or AIDS and persons suffering therefrom or  
 infected therewith

008 necessary to protect the public health.

008. b) Any information relating to AIDS which is required to be  
0085 disclosed or communicated under subsection (a) of this section  
0086 shall be confidential and shall not be disclosed or made public  
0087 beyond the disclosure necessary under subsection (a) of this  
0088 section or subsection (a) of section 2 and amendments thereto to  
0089 persons specifically designated by the secretary as authorized to  
0090 obtain such information, except as otherwise permitted by sub-  
0091 section (c) of section 2 and amendments thereto.

0092 (c) The secretary may enter into agreements with any county  
0093 or joint board of health to perform duties required to be per-  
0094 formed by the secretary under subsection (a) as specified by such  
0095 agreement. The confidentiality requirements of subsection (b)  
0096 shall apply to any duties performed pursuant to such an agree-  
0097 ment.

0098 New Sec. 4. Notwithstanding any other law to the contrary, a  
0099 physician who knows that a patient has or may be infected with  
0100 the etiologic agent for acquired immunodeficiency syndrome or  
0101 that a patient has tested positive for the presence of the HIV  
0102 antigen or seropositive for the presence of the antibody to HIV  
0103 may disclose such information to other health care personnel  
0104 who because of their involvement with the care of the patient are  
0105 subject to risk of exposure to HIV. The information shall be  
0106 confidential and shall not be disclosed by such health care  
0107 personnel except as may be necessary in providing treatment for  
0108 such patient.

0109 New Sec. 5. Any person violating; refusing or neglecting to  
0110 obey any provision of sections 1 to 4, inclusive, of this act or of  
0111 the rules and regulations adopted by the secretary of health and  
0112 environment for the prevention and control of AIDS shall be  
0113 guilty of a class C misdemeanor.

0114 New Sec. 6. [a] The secretary shall prepare for distribution  
0115 to the district courts of the state educational material explaining  
0116 the nature, causes and effects of AIDS and other information  
0117 relating to AIDS as may be appropriate. The clerks of the district  
0118 courts or judges thereof, when applied to for a marriage license,  
c shall provide copies of such educational material to the parties to

120 the proposed marriage.

121 ] The secretary shall establish and maintain test sites  
122 throughout the state where the anonymous testing for HIV may  
123 be undertaken.

New Sec. 7.

124 New Sec. [7]. (a) As used in this section:

8

125 (1) "AIDS test" means a test approved by the secretary of  
126 health and environment to detect antibodies to the probable  
127 causative agent for the disease acquired immune deficiency  
128 syndrome.

129 (2) "A positive reaction" means a positive AIDS test with a  
130 positive confirmatory test as specified by the secretary.

131 (b) Upon conviction of a person for rape under K.S.A. 21-3502  
132 and amendments thereto, indecent liberties with a child under  
133 K.S.A. 21-3503 and amendments thereto, aggravated indecent  
134 liberties with a child under K.S.A. 21-3504 and amendments  
135 thereto, criminal sodomy under K.S.A. 21-3505 and amendments  
136 thereto, aggravated criminal sodomy under K.S.A. 21-3506 and  
137 amendments thereto, sexual battery under K.S.A. 1987 Supp.  
138 21-3517 and amendments thereto, aggravated sexual battery  
139 under K.S.A. 1987 Supp. 21-3518 and amendments thereto, in-  
140 cest under K.S.A. 21-3602 and amendments thereto or aggravated  
141 incest under K.S.A. 21-3603 and amendments thereto, the court  
142 upon motion of the victim or county or district attorney may  
143 order the convicted person to submit to an AIDS test. If the test  
144 results in a positive reaction, the court shall order the convicted  
145 person to submit to a secondary, corroborative AIDS test. If the  
146 test results in a negative reaction, the court shall order the  
147 convicted person to submit to another AIDS test six months after  
148 the first test was administered.

149 (c) The results of any AIDS test ordered under this section  
150 shall be disclosed to the convicted person and to the victim or  
151 victims of the crimes for which the person was convicted. If a  
152 victim is a minor, the test results shall be disclosed to the parent  
153 or legal guardian of the minor. If a secondary, corroborative  
154 AIDS test ordered under this section results in a positive reac-  
155 tion, the results shall be reported to the secretary of health and  
156 environment and such counseling as directed by the secretary of



157 n and environment shall be provided to the victim or  
158 victims.

159 (d) The costs of any test ordered under this section and the  
160 cost of any counseling provided under this section shall be paid  
161 from amounts appropriated for such purposes upon warrants of  
162 the director of accounts and reports issued pursuant to vouchers  
163 approved by the secretary of health and environment or a person  
164 designated by the secretary. Restitution to the state for payment  
165 of such costs shall be included by the court in any order requir-  
166 ing the convicted person to pay restitution.

167 (e) When a court orders a convicted person to submit to an  
168 AIDS test under this section, the withdrawal of the blood may be  
169 performed only by: (1) A person licensed to practice medicine  
170 and surgery or a person acting under the supervision of any such  
171 licensed person; (2) a registered professional nurse or a licensed  
172 practical nurse; or (3) a qualified medical technician. No person  
173 authorized by this subsection to withdraw blood, no person  
174 assisting in the performance of the AIDS test nor any medical  
175 care facility where blood is withdrawn or tested that has been  
176 ordered by the court to withdraw or test blood shall be liable in  
177 any civil or criminal action when the act is performed in a  
178 reasonable manner according to generally accepted medical  
179 practices in the community where performed.

180 (f) The results of tests and reports to the secretary of health  
181 and environment required under this section, and information  
182 contained therein, shall be confidential and shall not be di-  
183 vulged to or open to inspection by any person other than the  
184 person or persons conducting a test of the blood, the secretary of  
185 health and environment or the secretary's authorized represent-  
186 atives, the convicted person, the victim or victims of the crime  
187 and such persons as otherwise authorized by state or federal law.  
188 Any person who divulges or opens to inspection such results or  
189 reports, or information therein, to any person not authorized by  
190 this section to receive the same is guilty of a class A misde-  
191 meanor.

192 (g) The secretary of health and environment shall adopt such  
193 rules and regulations as necessary to implement the provisions of

0194 this section.

0196 Sec. 8. K.S.A. 65-128 is hereby amended to read as follows:

1New Sec. 9. See attached.

0197 65-128. (a) For the protection of the public health and for the  
0198 control of infectious or contagious diseases, the secretary of  
0199 health and environment by rules and regulations shall designate  
0200 such diseases as are infectious or contagious in their nature, and  
0201 the secretary of health and environment is authorized to adopt  
0202 rules and regulations for the isolation and quarantine of such  
0203 diseases and persons afflicted with or exposed to such diseases  
0204 as may be necessary to prevent the spread and dissemination of  
0205 diseases dangerous to the public health.

10

0206 (b) As used in K.S.A. 65-118, 65-119, 65-122, 65-123, 65-126  
0207 and 65-129, and any amendments thereto, "infectious or con-  
0208 tagious disease" means any disease designated by the secretary  
0209 of health and environment as an infectious or contagious disease  
0210 in accordance with subsection (a) of this section *but shall not*  
0211 *include the disease acquired immune deficiency syndrome or*  
0212 *human immunodeficiency virus or any other causative agent of*  
0213 *acquired immune deficiency syndrome.*

11

0214 Sec. 9. K.S.A. 65-128 is hereby repealed.

0215 Sec. 10. This act shall take effect and be in force from and  
after its publication in the statute book.

12

New Sec. 9. (a) When a person who has been diagnosed as having AIDS dies, the attending physician or, if there is no attending physician, a family member or person making arrangements for the disposition of the dead body who knows of such diagnoses shall prepare a written notification to accompany the body when it is transported for disposition.

(b) Any person who transports a dead body for disposition and who has been notified that the person had been diagnosed as having AIDS at the time of death pursuant to the provisions of subsection (a) shall present notification thereof accompanying the dead body to any embalmer, funeral director or other person taking possession of the dead body.

New Sec. 9. (a) When a person who has been diagnosed as having AIDS dies, the attending physician or, if there is no attending physician, a family member <sup>or</sup> person making arrangements for the disposition of the dead body who knows of such diagnosis, shall indicate, on a form promulgated by the secretary, that the deceased person had AIDS. The completed form shall accompany the body when it is transported for disposition.

(b) Any person who transports a dead body for disposition and who has been notified that the deceased person had been diagnosed as having AIDS pursuant to the provisions of subsection (a) shall present notification thereof accompanying the dead body to any embalmer, funeral director or other person taking possession of the dead body.

(c) Any person who completes the form required in subsection (a) in good faith and without malice shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed in an action resulting from such report.

(d) Any information relating to AIDS which is required to be disclosed or communicated under subsection (a) and (b) of this section shall be confidential and shall not be disclosed or made public beyond the disclosure necessary under subsection (a) and (b) of this section.

HOUSE BILL No. 2504

By Committee on Public Health and Welfare

2-25

0018 AN ACT concerning vending facilities operated by blind persons  
 0019 licensed by the division of services for the blind of the  
 0020 department of social and rehabilitation services; establishing  
 0021 the state committee of blind vendors; amending K.S.A. 75-  
 0022 3337, 75-3338, 75-3339, 75-3341 and K.S.A. 1986 Supp. 75-  
 0023 3342 and repealing the existing sections; and also repealing  
 0024 K.S.A. 75-3343.

0025 *Be it enacted by the Legislature of the State of Kansas:*

0026 Section 1. K.S.A. 75-3337 is hereby amended to read as fol-  
 0027 lows: 75-3337. For the purpose of providing blind persons with  
 0028 remunerative employment, enlarging the economic opportuni-  
 0029 ties of the blind, and stimulating the blind to greater efforts in  
 0030 striving to make themselves self-supporting, blind persons li-  
 0031 censed under the provisions of 20 U.S.C. 107, of 1936, and acts  
 0032 amendatory thereto, an act of the congress of the United States of  
 0033 America commonly known as the Randolph-Sheppard vending  
 0034 stand act, shall be authorized to operate vending facilities on any  
 0035 state, county, and city or other property in authorizing the  
 0036 operation of vending facilities on state, county, and city property  
 0037 preference priority shall be given, so far as wherever feasible, to  
 0038 blind persons licensed by the division of services for the blind of  
 0039 the department of social and rehabilitation services; and. The  
 0040 head of each department, or agency or instrumentality of the  
 0041 state of Kansas in control of the maintenance, operation, and  
 0042 protection of state property shall after consultation with the  
 0043 secretary of social and rehabilitation services, prescribe rules  
 0044 and regulations designed to assure such preference priority,  
 0045 including exclusive assignment of vending machine income to  
 0046 achieve and protect such preference priority for such licensed

taxing subdivision

r

and taxing subdivision

which is subject to the provisions of this act,

governing body of a taxing subdivision

which is subject to the provisions of this act

shall

047 blind persons without adversely affecting the interests of the  
048 state of Kansas.

049 Sec. 2. K.S.A. 75-3338 is hereby amended to read as follows:  
050 75-3338. As used in this act, unless the context otherwise re-  
051 quires:

052 (a) The term "State of Kansas" shall include ~~includes~~ *includes* politi-  
053 cal subdivisions of the state of Kansas, except schools; ~~cities of~~  
054 ~~the third class~~ and townships.

055 (b) The term "Blind person" means a person whose central  
056 visual acuity does not exceed 20 over 200, in the better eye with  
057 correcting lens or whose visual acuity if better than 20 over 200,  
058 is accompanied by a limit to the field of vision in the better eye to  
059 such a degree that its widest diameter subtends an angle of no  
060 greater than 20 degrees.

061 (c) The term "Vending facility" includes, but is not limited  
062 to, automatic vending machines, cafeterias, snack bars, cart ser-  
063 vice, shelters, counters; and such other appropriate auxiliary  
064 equipment as rules and regulations of the division of services for  
065 the blind of the department of social and rehabilitation services  
066 prescribe and as are necessary for the sale of the articles or  
067 services referred to in paragraph (4) of subsection (a) of K.S.A.  
068 75-3339 and amendments thereto, which are, or may be operated  
069 by blind licensees.

070 Sec. 3. K.S.A. 75-3339 is hereby amended to read as follows:  
071 75-3339. (a) The division of services for the blind of the depart-

072 ment of social and ~~rehabilitations~~ *rehabilitation* services shall:

073 (1) Make surveys of concession vending opportunities for  
074 blind persons on state, county, city and other property;

075 (2) make surveys throughout the state of Kansas of industries  
076 with a view to obtaining information that will assist blind per-  
077 sons to obtain employment;

078 (3) make available to the public, especially to persons and  
079 organizations engaged in work for the blind, information ob-  
080 tained as a result of such surveys;

081 (4) issue licenses to blind persons who are citizens of the  
082 United States for the operating of vending facilities on state,  
083 county, city and other property for the vending of foods, bever-

The board of county commissioners of any county and the governing body of any city or taxing subdivision by majority vote of all the members thereof may elect not to be subject to the provisions of K.S.A. 75-3337 to 75-3343, inclusive, and amendments thereto and to section 6 and amendments thereto.

0084 ages; and other such articles or services dispensed automatically  
0085 manually and prepared on or off the premises in accordance  
0086 with all applicable health laws, as determined by the licensing  
0087 agency; and

0088 (5) take such other steps, including the adoption of rules and  
0089 regulations as may be necessary and proper to carry out the  
0090 provisions of this act.

0091 (b) The division of services for the blind ~~shall~~, in issuing  
0092 each such license for the operation of a vending facility, *shall*  
0093 give preference to blind persons who are in need of employ-  
0094 ment. Each such license shall be issued for an indefinite period  
0095 but may be terminated by ~~said~~ *the division* if ~~it~~ *the division* is  
0096 satisfied that the facility is not being operated in accordance with  
0097 the rules and regulations prescribed by such division. Such  
0098 licenses shall be issued only to applicants who are blind as  
0099 defined by subsection (b) of K.S.A. 75-3338 *and amendments*  
0100 *thereto*.

0101 (c) The division of services for the blind, with the approval of  
0102 the head of the department, ~~or agency or~~ instrumentality of the  
0103 *state of Kansas* in control of the maintenance, operation, and  
0104 protection of the ~~state, county and city or other~~ property on  
0105 which the vending facility is to be located but subject to rules  
0106 and regulations prescribed pursuant to the provisions of this act,  
0107 shall select a location for such vending facility and the type of  
0108 facility to be provided.

taxing subdivision

0109 (d) In the design, construction, or substantial alteration or  
0110 renovation of each public building ~~after July 1, 1970~~, for use by  
0111 any department, agency, or instrumentality of the state of Kansas,  
0112 except the state park and resources authority and the Kansas  
0113 turnpike authority, there shall be included, after consultation  
0114 with the division of services for the blind, a satisfactory site or  
0115 sites with space and electrical and plumbing outlets and other  
0116 necessary requirements suitable for the location and operation of  
0117 a vending facility or facilities by a blind person or persons. No  
0118 space shall be rented, leased, or otherwise acquired for use by  
0119 any department, agency, or instrumentality of the state of Kansas  
0120 ~~after July 1, 1970~~, except the state park and resources authority

taxing subdivision

Kansas department of wildlife and parks

taxing subdivision

Kansas department of wildlife and parks

0121 and the Kansas turnpike authority, unless such space includes,  
 0122 er consultation with the division of services for the blind, a  
 0123 satisfactory site or sites with space and electrical and plumbing  
 0124 outlets and other necessary requirements suitable for the loca-  
 0125 tion and operation of a vending facility or facilities by a blind  
 0126 person or persons. All departments, agencies, and instrumen-  
 0127 talities of the state of Kansas, except the state park and resources  
 0128 authority and the Kansas turnpike authority, shall consult with  
 0129 the secretary of social and rehabilitation services or ~~his or her~~ *the*  
 0130 *secretary's* designee and the division of services for the blind in  
 0131 the design, construction, or substantial alteration or renovation of  
 0132 each public building used by them, and in the renting, leasing,  
 0133 or otherwise acquiring of space for their use, to insure that the  
 0134 requirements set forth in this subsection are satisfied. This  
 0135 subsection shall not apply when the secretary of social and  
 0136 rehabilitation services or ~~his or her~~ *the secretary's* designee and  
 0137 the division of services for the blind determine that the number  
 0138 of people using the property is insufficient to support a vending  
 0139 facility.

taxing subdivisions

Kansas department of wildlife and parks

0140 Sec. 4. K.S.A. 75-3341 is hereby amended to read as follows:  
 0141 75-3341. (a) An arbitration board ~~of three persons consisting of~~  
 0142 ~~one person designated by the vending facilities advisory com-~~  
 0143 ~~mittee who shall serve as chairperson, one person designated by~~  
 0144 ~~the head of the state department or agency controlling state~~  
 0145 ~~property over which a dispute arises, and a third person who is~~  
 0146 ~~not an employee of the departments concerned selected by the~~  
 0147 ~~two~~ shall hear appeals as provided in subsection ~~(b) (c)~~ of this  
 0148 section.

0149 (b) *The arbitration board shall consist of one person desig-*  
 0150 *nated by the state committee of blind vendors, one person*  
 0151 *designated by the head of the department, agency or instru-*  
 0152 *mentality of the state of Kansas controlling property over which*  
 0153 *a dispute arises and a third person selected jointly by the two*  
 0154 *persons so designated. Such third person shall serve as chair-*  
 0155 *person and shall not be an employee of either party to the*  
 0156 *dispute.*

taxing subdivision

0157 ~~(b) (c)~~ If, in the opinion of the division of services for the



0158 blind, any department, ~~or~~ agency or instrumentality of the state  
 0159 of Kansas in control of the maintenance, operation, and protec-  
 0160 tion of state property is failing to comply with the provisions of  
 0161 this act, or any *rules and regulations* issued thereunder, it shall  
 0162 appeal to the board. The board shall, within 30 days' written  
 0163 notice of appeal, conduct a hearing and render its decision which  
 0164 shall be in writing and shall be binding. If the board determines  
 0165 that the acts or practices of any such department, ~~or~~ agency or  
 0166 instrumentality of the state of Kansas are in violation of this act,  
 0167 or the *rules and regulations* issued ~~thereunder~~ *under this act*, the  
 0168 head of the affected department, ~~or~~ agency or instrumentality of  
 0169 the state of Kansas shall promptly cause such acts or practices to  
 0170 be terminated, and shall take such other action as may be  
 0171 necessary to carry out the decision of the board. All decisions of  
 0172 the board shall be published in the Kansas register.

taxing subdivision

a public record and shall be made available upon request to interested parties

0173 Sec. 5. K.S.A. 1986 Supp. 75-3342 is hereby amended to read  
 0174 as follows: 75-3342. Notwithstanding other provisions of this act,  
 0175 any blind person suffering legal wrong because of any agency  
 0176 action by a department, agency or instrumentality of the state of  
 0177 Kansas, or adversely affected or aggrieved by such action within  
 0178 the meaning of this act or other relevant statutes, shall be  
 0179 entitled to and shall have standing for judicial review thereof in  
 0180 accordance with the act for judicial review and civil enforcement  
 0181 of agency actions.

taxing subdivision

0182 New Sec. 6. (a) There is hereby established the state com-  
 0183 mittee of blind vendors. The director of the division of services  
 0184 for the blind shall provide for the biannual election of the  
 0185 committee which shall be fully representative of all blind ven-  
 0186 dors licensed by the division of services for the blind. The  
 0187 committee shall be composed of seven members and shall be  
 0188 elected by blind vendors licensed by the division of services for  
 0189 the blind. A majority of the members of the committee shall be  
 0190 blind vendors licensed by the division of services for the blind.

0191 (b) The committee's responsibilities shall include:  
 0192 (1) Participation with the division of services for the blind in  
 0193 major administrative decisions in policy and program develop-  
 0194 ment concerning the vending facility program;

0195 (2) receiving grievances of blind licensees and serving as  
0196 advocate for such licensees;

0197 (3) participation with the division of services for the blind in  
0198 the development and administration of a transfer and promotion  
0199 system for blind licensees;

0200 (4) participation with the division of services for the blind in  
0201 developing training and retraining programs; and

0202 (5) sponsorship with the assistance of the division of services  
0203 for the blind of meetings and instructional conferences for blind  
0204 licensees.

0205 (c) Members of the committee attending meetings of such  
0206 committee, or attending a subcommittee meeting thereof autho-  
0207 rized by such committee, shall be paid amounts provided in  
0208 subsection (e) of K.S.A. 75-3223 and amendments thereto from  
0209 appropriations to the department of social and rehabilitation  
0210 services.

0211 (d) The secretary of social and rehabilitation services, in  
0212 accordance with the provisions of this section, shall adopt rules  
0213 and regulations establishing the composition of and method of  
0214 election to the committee.

0215 Sec. 7. K.S.A. 75-3337, 75-3338, 75-3339, 75-3341 and 75-  
0216 3343 and K.S.A. 1986 Supp. 75-3342 are hereby repealed.

0217 Sec. 8. This act shall take effect and be in force from and  
0218 after its publication in the statute book.

## SENATE BILL No. 585

By Committee on Public Health and Welfare

2-8

0016 AN ACT concerning the adult care home licensure act; relating  
0017 to the issuance of correction orders, citations and assessments;  
0018 prohibiting new admissions to adult care homes in certain  
0019 cases; amending K.S.A. 39-945 and 39-946 and repealing the  
0020 existing sections.

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

0022 Section 1. K.S.A. 39-945 is hereby amended to read as fol-  
0023 lows: 39-945. A correction order may be issued by the secretary  
0024 of health and environment or the secretary's designee to a person  
0025 licensed to operate an adult care home whenever the state fire  
0026 marshal or the marshal's representative or a duly authorized  
0027 representative of the secretary of health and environment in-  
0028 spects or investigates an adult care home and determines that the  
0029 adult care home is not in compliance with the provisions of  
0030 article 9 of chapter 39 of the Kansas Statutes Annotated or ~~rule~~  
0031 ~~and regulation~~ *rules and regulations* promulgated thereunder  
0032 which *individually or jointly* affects significantly and adversely  
0033 the health, safety, nutrition or sanitation of the adult care home  
0034 residents. The correction order shall be served upon the licensee  
0035 either personally or by certified mail, return receipt requested.  
0036 The correction order shall be in writing, shall state the defi-  
0037 ciency, cite the specific statutory provision or rule and regulation  
0038 alleged to have been violated, and shall specify the time allowed  
0039 for correction.

0040 Sec. 2. K.S.A. 39-946 is hereby amended to read as follows:  
0041 39-946. (a) If upon reinspection by the state fire marshal or the  
0042 marshal's representative or a duly authorized representative of  
0043 the secretary of health and environment it is found that the  
0044 licensee of the adult care home which was issued a correction

      , which reinspection shall be conducted within 14 days  
from the day the correction order is served upon the  
licensee,

order has not corrected the deficiency or deficiencies specified  
in the order, the secretary of health and environment or the  
secretary's designee shall issue a citation listing the uncorrected  
deficiency or deficiencies. The citation shall be served upon the  
licensee of the adult care home either personally or by certified  
mail, return receipt requested. The citation shall also specify  
whether the uncorrected deficiencies have an endangering rela-  
tionship to the health, safety or sanitation of the adult care home  
residents.

(b) The secretary of health and environment may assess a  
civil penalty in an amount not to exceed ~~one hundred dollars~~  
~~(\$100)~~ \$500 per day per deficiency against the licensee of an  
adult care home for each day subsequent to the day following the  
issuance of a citation pursuant to this section time allowed for  
correction of the deficiency as specified in the correction order  
that the adult care home has not corrected the deficiency or  
deficiencies listed in the citation correction order, but the max-  
imum assessment shall not exceed ~~five hundred dollars (\$500)~~  
\$2,500. A written notice of assessment shall be served upon the  
licensee of an adult care home either personally or by certified  
mail, return receipt requested.

(b) *If the secretary of health and environment finds that  
some or all deficiencies cited in the correction order have also  
been cited against the adult care home as a result of any  
inspection or investigation which occurred within 18 months  
prior to the inspection or investigation which resulted in such  
correction order, the secretary of health and environment may  
double the civil penalty assessed against the licensee of the  
adult care home, the maximum not to exceed \$5,000.*

(c) All civil penalties assessed shall be due and payable  
within ~~ten (10)~~ 10 days after written notice of assessment is  
served on the licensee, unless a longer period of time is granted  
by the secretary. If a civil penalty is not paid within the applica-  
ble time period, the secretary of health and environment may file  
a certified copy of the notice of assessment with the clerk of the  
district court in the county where the adult care home is located.

The notice of assessment shall be enforced in the same manner

4-2

Before the assessment of a civil penalty, the secretary shall consider the following factors in determining the amount of the civil penalty to be assessed: (1) The severity of the violation; (2) the good faith effort exercised by the adult care home to correct the violation; and (3) the adult care home's history of compliance with the rules and regulations.

a judgment of the district court.

0000 New Sec. 3. (a) At any time the secretary of health and  
 0084 environment initiates any action concerning an adult care home  
 0085 in which it is alleged that there has been a substantial failure to  
 0086 comply with the requirements, standards or rules and regula-  
 0087 tions established under the adult care home licensure act, that  
 0088 conditions exist in the adult care home which are life threatening  
 0089 or endangering to the residents of the adult care home, that the  
 0090 adult care home is insolvent, or that the adult care home has  
 0091 deficiencies which significantly and adversely affect the health,  
 0092 safety, nutrition or sanitation of the adult care home residents,  
 0093 the secretary may issue an order, pursuant to the emergency  
 0094 proceedings provided for under the Kansas administrative pro-  
 0095 cedure act, prohibiting any new admissions into the adult care  
 0096 home until further determination by the secretary. This remedy  
 0097 granted to the secretary is in addition to any other statutory  
 0098 authority the secretary has relating to the licensure and operation  
 0099 of adult care homes and is not be construed to limit any of the  
 0100 powers and duties of the secretary under the adult care home  
 0101 licensure act.

0102 (b) This section shall be part of and supplemental to the adult  
 0103 care home licensure act.

0104 Sec. 4. K.S.A. 39-945 and 30-946 are hereby repealed.

0105 Sec. 5. This act shall take effect and be in force from and  
 0106 after its publication in the statute book.

New Sec. 4. (a) The secretary shall issue annually to each adult care home a report summarizing by category of licensure, violation and frequency of occurrence those violations which have resulted in the issuance of correction orders and civil penalties within the preceding twelve-month period.

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

5

6