

Approved: March 12, 1996

Date

MINUTES OF THE HOUSE SELECT COMMITTEE ON DEVELOPMENTAL DISABILITIES.

The meeting was called to order by Chairperson Jo Ann Pottorff at 3:30 p.m. on February 22, 1995 in Room 220-S of the Capitol.

All members were present except: Rep. Susan Wagle
Rep. Carlos Mayans

Committee staff present: Patricia Pierron, Legislative Research Department
Emalene Correll, Legislative Research Department
Gordon Self, Revisor of Statutes
Marian F. Holeman, Committee Secretary

Conferees appearing before the committee: None

Others attending: See attached list

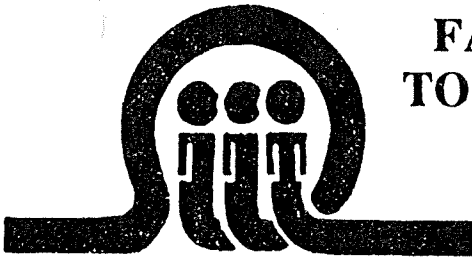
Materials provided members and staff following the February 12, 1996 meeting included written testimony on HB-2957 from Josie Torrez, Families Together, Inc. (Attachment #1); a Fiscal Note for HB-2957 from Gloria M. Timmer, Director of the Budget (Attachment #2). Gloria M. Timmer, Director of the Budget provided the Fiscal Note for HB-2785 (Attachment #3)

Representative Ed McKechnie gave the sub-committee report on HB-2957. The sub-committee recommends passage of the bill as amended in the balloon (Attachment #4). Questions were raised regarding exchange of information necessary for respite care. This bill does not impact that matter at all. The focus of the bill is in Section 2(b). It allows for the free flow of information from institutions to provider(s) and from provider(s) to institutions.

Rep. Ed McKechnie recommended adoption of the balloon on HB-2957. Rep. Geringer seconded the motion. Motion carried. It was moved and seconded to recommend HB-2957 favorable for passage as amended. Motion carried.

Further discussion centered on the gate keepers role, hospital admissions, etc. The general feeling at this time seems to be that we should let the present bill "work" for this year - see how the rules and regulations function and then revisit any problem issues.

The next meeting will be on call. Meeting adjourned at 4:00 p.m.



**FAMILIES
TOGETHER,
INC.**

PARENT CENTER:
* 501 Jackson, Suite 400
Topeka, KS 66603
(913) 233-4777 V/TDD
(913) 233-4787 FAX
1-800-264-6343 Toll free
in Kansas for parents

SATELLITE OFFICES:
* 3330 W. Douglas, Suite 102
Wichita, KS 67203
(316) 945-7747
* 116 E. Chestnut, Suite 103
Garden City, KS 67846
(316) 276-6364

ASSISTING FAMILIES THAT INCLUDE A CHILD WITH A DISABILITY

Date: February 13, 1996
To: Select Committee on Developmental Disabilities
From: Josie Torrez
Re: HB 2957

Thank you for allowing us to provide written testimony on this bill. We were not able to attend the public hearing yesterday due to a conflict in schedules.

Our organization assists families that include children or youth with disabilities. We have three offices in Kansas; one in Garden City, Wichita and Topeka. The majority of our staff are family members of young people with disabilities.

My husband and I are parents of two boys. Chris is 13 years old and Joey is 10. Joey has autism and is fully included in school, home and church.

The bill states that the records of a person residing in or formerly residing in a State Institution shall be privileged and not be disclosed. If all of us really want community services for people with developmental disabilities, and I believe we do, then we must have a friendly exchange of information.

Families Together believes any service provided to people with developmental disabilities must meet their needs. We do side with the family and/or person with the disability as they know what their needs are better than anyone else.

With the flexibility given to the Department of SRS this legislative session, we believe SRS can make a policy of exchange of information.

We always appreciate the opportunity to speak on behalf of families in Kansas that include children or youth with disabilities.

*House Select Committee on
Developmental Disabilities
3-22-96
Attachment #1*

1-1



DIVISION OF THE BUDGET
Room 152-E
State Capitol Building
Topeka, Kansas 66612-1504
(913) 296-2436
FAX (913) 296-0231

Bill Graves
Governor

Gloria M. Timmer
Director

February 12, 1996

The Honorable Jo Ann Pottorff, Chairperson
House Select Committee on Developmental Disabilities
Statehouse, Room 183-W
Topeka, Kansas 66612

Dear Representative Pottorff:

SUBJECT: Fiscal Note for HB 2957 by House Select Committee on Developmental Disabilities

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2957 is respectfully submitted to your committee.

HB 2957 would not require a state mental retardation institution or a community provider to obtain consent from the resident or the guardian of the resident to release the resident's records. This provision would apply only in cases where the responsibility for care of the resident is moved between an institution and a community provider, and the release of the information is necessary to maintain continuity in the resident's care. The bill also makes a technical amendment to current law to exclude Norton State Hospital from the list of institutions for the mentally retarded. Norton State Hospital no longer exists.

The Department of Social and Rehabilitation Services indicates the bill would have no fiscal impact.

Sincerely,

A handwritten signature in cursive script that reads "Gloria M. Timmer".

Gloria M. Timmer
Director of the Budget

cc: Don Pound, SRS

*House Select Committee on
Developmental Disabilities
3-22-96
Attachment #2*

2-1



DIVISION OF THE BUDGET
Room 152-E
State Capitol Building
Topeka, Kansas 66612-1504
(913) 296-2436
FAX (913) 296-0231

Bill Graves
Governor

Gloria M. Timmer
Director

February 20, 1996

The Honorable Jo Ann Pottorff, Chairperson
House Select Committee on Developmental Disabilities
Statehouse, Room 183-W
Topeka, Kansas 66612

Dear Representative Pottorff:

SUBJECT: Fiscal Note for HB 2785 by House Select Committee on Developmental Disabilities

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2785 is respectfully submitted to your committee.

HB 2785 makes several technical changes to current law in order to clarify language and definitions and to eliminate conflicting statements between statutes. Those changes include (1) adding developmental disabilities services to the definition of services for children and families; (2) changing the phrase "retardation services" to "developmental disabilities;" and (3) replacing the phrase "community based mental retardation facility" with the phrase "community facility for the mentally retarded."

The bill has no fiscal impact.

Sincerely,

A handwritten signature in cursive that reads "Gloria M. Timmer".

Gloria M. Timmer
Director of the Budget

House Select Committee on
Developmental Disabilities
3-22-96
Attachment #3

cc: Don Pound, SRS

HOUSE BILL No. 2957

By Select Committee on Developmental Disabilities

2-6

9 AN ACT concerning social and rehabilitation services institutions and
10 community care; communication; amending K.S.A. 76-12b01 and 76-
11 12b11 and repealing the existing sections.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 76-12b01 is hereby amended to read as follows: 76-
15 12b01. When used in this act:

16 (a) "Adaptive behavior" means the effectiveness or degree with which
17 an individual meets the standards of personal independence and social
18 responsibility expected of that person's age, cultural group and commu-
19 nity.

20 (b) "Care" means supportive services, including, but not limited to,
21 provision of room and board, supervision, protection, assistance in bath-
22 ing, dressing, grooming, eating and other activities of daily living.

23 (c) "Institution" means a state institution for the mentally retarded
24 including the following institutions: Kansas neurological institute, ~~Norton~~
25 ~~state hospital~~, Parsons state hospital and training center and Winfield state
26 hospital and training center.

27 (d) "Mental retardation" means significantly subaverage general in-
28 tellectual functioning existing concurrently with deficits in adaptive be-
29 havior and manifested during the period from birth to age 18.

30 (e) "Respite care" means temporary, short-term care not exceeding
31 90 days per calendar year to provide relief from the daily pressures in-
32 volved in caring for a mentally retarded person.

33 (f) "Restraint" means the use of a totally enclosed crib or any material
34 to restrict or inhibit the free movement of one or more limbs of a person
35 except medical devices which limit movement for examination, treatment
36 or to insure the healing process.

37 (g) "Seclusion" means being placed alone in a locked room where
38 the individual's freedom to leave is thereby restricted and where such
39 placement is not under continuous observation.

40 (h) "Secretary" means the secretary of social and rehabilitation serv-
41 ices or the designee of the secretary.

42 (i) "Significantly subaverage general intellectual functioning" means
3 performance which is two or more standard deviations from the mean

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1 score on a standardized intelligence test specified by the secretary.

2 (j) "Superintendent" means the chief administrative officer of the

3 institution or the designee of the chief administrative officer.

4 (k) "Training" means the provision of specific environmental, phys-

5 ical, mental, social and educational interventions and therapies for the

6 purpose of halting, controlling or reversing processes that cause, aggra-

7 vate or complicate malfunctions or dysfunctions of development.

8 Sec. 2. K.S.A. 76-12b11 is hereby amended to read as follows: 76-

9 12b11. (a) The records of any resident or former resident of a state in-

10 stitution for the mentally retarded that are in the possession of the insti-

11 tution shall be privileged and shall not be disclosed except under any of

12 the following conditions:

13 (1) Upon the written consent of: (A) The resident or former resident,

14 if an adult who has no guardian; (B) the resident's or former resident's

15 guardian, if any; or (C) a parent, if the resident or former resident is

16 under 18 years of age. The superintendent of the institution which has

17 the records may refuse to disclose portions of such records if the super-

18 intendent states, in writing, that the disclosure will be injurious to the

19 welfare of the resident or former resident.

20 (2) Upon the sole consent of the superintendent of the institution

21 which has the records after a written statement by the superintendent

22 that the disclosure is necessary for the care, training or treatment of the

23 resident or former resident. The superintendent may make the disclosure

24 to the resident or former resident, the resident's next of kin, any state or

25 national accreditation agency or any scholarly investigator without making

26 that determination, but, before the disclosure is made, the superintendent

27 shall require a pledge from any state or national accreditation agency or

28 scholarly investigator that such agency or investigator will not disclose the

29 name of any resident or former resident to any person not otherwise

30 authorized by law to receive that information.

31 (3) Upon the order of any court of record after a determination by

32 the court that the records are necessary for the conduct of proceedings

33 before it and are otherwise admissible as evidence.

34 (4) To any other person if such disclosure is required by federal law

35 or regulation implementing a federal grant-in-aid program in which the

36 state is participating.

37 (5) As provided in K.S.A. 74-5515 and amendments thereto.

38 ~~(b) To the extent the provisions of K.S.A. 1986 Supp. 65-5601 to 65-~~

39 ~~5605, inclusive, and amendments thereto are applicable to the records of~~

40 ~~any resident or former resident of a state institution for the mentally~~

41 ~~retarded that are in the possession of the institution, the provisions of~~

42 ~~K.S.A. 1986 Supp. 65-5601 to 65-5605, inclusive, and amendments~~

43 ~~thereto shall control the disposition of information contained in such re-~~

proposed resident,

proposed resident,

proposed resident's,

proposed resident,

proposed resident,

proposed resident,

proposed resident,

person's

proposed resident,

(b) For the purposes of promoting the continuity of care between serv-

ices provided in an institution and by a community provider, either in

arranging admission to an institution, in making the determinations re-

quired as a function of the periodic reviews required by K.S.A. 76-12b05

and amendments thereto, or in planning for the discharge of a person

from an institution to community care, the consent of a resident, former

resident or proposed resident, or of the person's guardian, if one has been

appointed, or of their parent, if the person is a minor, shall not be required

for the release of records or exchange of information concerning that per-

son between a state institution and any community developmental disa-

bility organization, as defined in K.S.A. 39-1803 and amendments thereto.

(c) Except as provided for in sub-

sections (a) or (b) above, to

proposed resident,

4-3

1 cords.

2 ~~(c) For the purposes of promoting the continuity of care between serv-~~
3 ~~ices provided in an institution and by a community provider, either in~~
4 ~~arranging admission to an institution, in making the determinations re-~~
5 ~~quired as a function of the periodic reviews required by K.S.A. 76-12b05~~
6 ~~and amendments thereto, or in planning for the discharge of a person~~
7 ~~from an institution to community care, the consent of a resident, former~~
8 ~~resident or proposed resident, or of the person's guardian, if one has been~~
9 ~~appointed, or of their parent, if the person is a minor, shall not be required~~
10 ~~for the release of records or exchange of information concerning that per-~~
11 ~~son between a state institution and any community developmental disa-~~
12 ~~bility organization, as defined in K.S.A. 39-1803 and amendments thereto.~~

13 Sec. 3. K.S.A. 76-12b01 and 76-12b11 are hereby repealed.
14 Sec. 4. This act shall take effect and be in force from and after its
15 publication in the statute book.