

Approved: 4-11-97
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 11:10 a.m. on April 11, 1997 at the Rail of the Capitol.

All members were present except:

Committee staff present:

Norman Furse, Revisor of Statutes
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Briefing, Discussion and Action on HB 2278 - Restrictions on persons operating, working or volunteering in adult care homes

Staff briefed the Committee on further amendments to HB 2278 as noted in the attached balloon of the bill. (Attachment 1) It was also suggested a technical change needed to be made relating to the phase-in of background checks in subsection (b) be moved to subsection (a) as shown in Section 7 of the bill.

Senator Langworthy made a motion the Committee adopt the amendments in the balloon of the bill as well as the technical change in Section 7, seconded by Senator Lee. The motion carried.

Senator Lee made a motion the Committee recommend **HB 2278 as amended** favorably for passage, seconded by Senator Langworthy. The motion carried.

Adjournment

The meeting was adjourned at 11:20 a.m.

HOUSE BILL No. 2278

By Representatives Toelkes, Adkins, Alldritt, Ballard, Ballou, Beggs, Benlon, Burroughs, Correll, Crow, Dean, Empson, Feuerborn, Findley, Flaharty, Flora, Franklin, Geringer, Gilbert, Grant, Hayzlett, Henderson, Henry, Horst, Howell, Kirk, Krehbiel, Kuether, Landwehr, Larkin, J. Long, Mason, Mayans, Mays, McClure, McKinney, Minor, Nichols, E. Peterson, Phelps, Pottorff, Reardon, Ruff, Sawyer, Sharp, Showalter, Shriver, Sloan, Spangler, Stone, Storm, Thimesch, Tomlinson, Toplikar, Wagle, Weiland, Welshimer and Wempe

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19 AN ACT concerning the department of health and environment; restric-
20 tions on persons operating adult care homes and home health agencies
21 of [and on certain persons] working for [or regularly volunteering to
22 assist] such homes or agencies;

concerning the background of certain persons for employment purposes;

; employment checks by community service providers, mental health centers and independent living agencies

23
24 Be it enacted by the Legislature of the State of Kansas

25 Section 1. (a) [No] person shall knowingly operate an adult care home
26 if, in the adult care home, there works [or, if the operator of the adult
27 care home has elected to make persons who regularly volunteer
28 in the adult care home subject to the requirements of this section,
29 there] regularly volunteers [any person who:

On and after July 1, 1998, no

30 (1) (A) Has a felony conviction for a crime [against persons, (B) has
31 a felony conviction under the uniform controlled substances act, (C) has
32 a conviction of any act] which is described in articles 34, 35 or 36 of chapter
33 21 of the Kansas Statutes Annotated and acts amendatory thereof or sup-
34 plemental thereto, except K.S.A. 21-3605 and amendments
35 thereto,] or a conviction of an attempt under K.S.A. 21-3301 and amend-
36 ments thereto to commit any such act, or ~~(D)~~ [(C)] has been convicted
37 of any act which is described in K.S.A. 21-4301 or 21-4301a and amend-
38 ments thereto or similar statutes of other states or the federal govern-
39 ment;

40 (2) has been adjudicated a juvenile offender because of having com-
41 mitted an act which if done by an adult would constitute the commission
42 of a felony and which is a crime against persons, is any act described in
43 articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated and

(B)

1 acts amendatory thereof or supplemental thereto [except K.S.A. 21-
2 3605 and amendments thereto], or is any act described in K.S.A. 21-
3 4301 or 21-4301a and amendments thereto or similar statutes of other
4 states or the federal government;

5 (3) has committed an act of physical, mental or emotional abuse or
6 neglect or sexual abuse as validated by the department of social and re-
7 habilitation services pursuant to K.S.A. 38-1523 and amendments thereto
8 and (A) the person has failed to successfully complete a corrective action
9 plan which had been deemed appropriate and approved by the depart-
10 ment of social and rehabilitation services, or (B) the record has not been
11 expunged pursuant to rules and regulations adopted by the secretary of
12 social and rehabilitation services;

13 (4) has had a child declared in a court order in this or any other state
14 to be deprived or a child in need of care based on an allegation of physical,
15 mental or emotional abuse or neglect or sexual abuse;

16 (5) has had parental rights terminated pursuant to the Kansas juvenile
17 code or K.S.A. 38-1581 through 38-1584, and amendments thereto, or a
18 similar statute of other states;

19 (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 *et*
20 *seq.*, and amendments thereto, or pursuant to K.S.A. 38-1635 and amend-
21 ments thereto involving a charge of child abuse or a sexual offense;

22 (7) has been found by the department of health and environment or
23 the department of social and rehabilitation services under K.S.A. 39-1401
24 *et seq.* and amendments thereto to have committed an act of abuse, ne-
25 glect or exploitation of a resident; or

26 (8) has been found by the department of social and rehabilitation
27 services under K.S.A. 39-1430 *et seq.* and amendments thereto to have
28 committed an act of abuse, neglect or exploitation of an adult.

29 (b) No person shall operate an adult care home if such person has
30 been found to be a disabled person in need of a guardian or conservator,
31 or both.

32 (c) In accordance with the provisions of this subsection (c), the sec-
33 retary of health and environment shall have access to any [court orders or
34 adjudications of any court of record, any records of such orders or adju-
35 dications] criminal history record information in the possession of the
36 Kansas bureau of investigation and any report of investigations as au-
37 thorized by subsection (e) of K.S.A. 38-1523 and amendments thereto in
38 the possession of the department of social and rehabilitation services [or
39 court of this state] or any reports of investigations, findings or assessments
40 as provided in K.S.A. 39-1402 and amendments thereto, 39-1404 and
41 amendments thereto, 39-1411 and amendments thereto, 39-1433 and
42 amendments thereto and 39-1434 and amendments thereto, in the pos-
43 session of the department of health and environment or the department

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1 of social and rehabilitation services [or court of this state] concerning per-
2 sons working [or regularly volunteering] in an adult care home. The sec-
3 retary shall have access to these records for the purpose of determining
4 whether or not the adult care home meets the requirements of this sec-
5 tion. The Kansas bureau of investigation may charge to the department
6 of health and environment a reasonable fee for providing criminal history
7 record information under this subsection.

8 (d) For the purpose of complying with this section, the operator of
9 an adult care home shall request from the department of health and
10 environment information obtained by the secretary of health and envi-
11 ronment under subsection (c) and information available under subsection
12 (e)(5) [(c)(4)] of K.S.A. 39-936 and amendments thereto, if any, which
13 relates to a person who works [or, if the operator has elected to make
14 persons who regularly volunteer in the adult care home subject to
15 the requirements of this section.] regularly volunteers [in the adult care
16 home, or is being considered for employment [or, if the operator has
17 elected to make persons who regularly volunteer in the adult care
18 home subject to the requirements of this section,] as a volunteer] by
19 the adult care home, for the purpose of determining whether such person
20 is subject to the provision of this section. The operator may rely on verbal
21 information from the department of health and environment to be fol-
22 lowed by written confirmation of the verbal report. For the purpose of
23 complying with this section, the operator of an adult care home shall
24 receive from any employment agency which provides employees of the
25 employment agency to work in the adult care home written certification
26 that such employees are not prohibited from working in the adult care
27 home under this section. [For the purpose of complying with this
28 section, information relating to convictions and adjudications by
29 the federal government or to convictions and adjudications in
30 states other than Kansas shall not be required until such time as
31 the secretary of health and environment determines the search for
32 such information could reasonably be performed and the infor-
33 mation obtained within a two-week period.] [No operator of an adult
34 care home or, the employees of an adult care home or an employment
35 agency, or the operator or employees of an employment agency,
36 shall be liable for civil damages [to any person refused employment or
37 discharged from employment by reason of] such [operator's] compliance
38 with the provisions of this section if such [operator] or employment
39 agency acts in good faith to comply with this section.

For the purpose of complying with this section, a person who operates an adult care home may hire an applicant for employment on a conditional basis pending the results from the department of health and environment of a request for information under this subsection

operator or

resulting from any decision to employ, to refuse to employ or to discharge from employment any person based on

adult care home's

adult care home

40 (e) For the purpose of subsection (a)(3), an act of abuse or neglect
41 shall not be considered to have been validated by the department of social
42 and rehabilitation services unless the alleged perpetrator has: (1) Had an
43 opportunity to be interviewed and present information during the inves-

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1 tigation of the alleged act of abuse or neglect; and (2) been given notice
2 of the agency decision and an opportunity to appeal such decision to the
3 secretary and to the courts pursuant to the act for judicial review and civil
4 enforcement of agency actions.

5 (f) The secretary of health and environment shall charge each
6 person requesting information under this section a fee ~~of \$5~~ for
7 each name about which an information request has been submit-
8 ted to the department under this section.

[equal to cost, not to exceed \$10,

9 [(g) No person who works for an adult care home and who is
10 currently licensed or registered by an agency of this state to pro-
11 vide professional services in the state and who provides such serv-
12 ices as part of the work which such person performs for the adult
13 care home shall be subject to the provisions of this section.]

14 ~~(g) [(h) A family member who acts as a volunteer in caring for
15 a relative in an adult care home [person who volunteers in an adult
16 care home] shall not be subject to the provisions of this section
17 because of such volunteer activity [unless the operator of the adult
18 care home in which such person volunteers elects by written notice
19 to the secretary of health and environment to make all persons
20 who regularly volunteer in such adult care home subject to the
21 requirements of this section].~~

(i) No person who has been employed by the same adult care home for five consecutive years immediately prior to the effective date of this act shall be subject to the provisions of this section while employed by such adult care home.

(j) The operator of an adult care home shall not be required under this section to conduct a background check on an applicant for employment with the adult care home if the applicant has been the subject of a background check under this act within one year prior to the application for employment with the adult care home.

22 ~~(f) [(i)]~~ This section shall be part of and supplemental to the adult
23 care home licensure act.

24 Sec. 2. (a) ~~[No] person shall knowingly operate a home health agency
25 if, for the home health agency, there works [or, if the operator of the
26 home health agency has elected to make persons who regularly
27 volunteer to assist the home health agency subject to the require-
28 ments of this section, there] regularly volunteers to assist the home
29 health agency] any person who:~~

[(k)

[On and after July 1, 1998, no

[(B)

30 (1) (A) Has a felony conviction for a crime ~~[against persons, (B)]~~ has
31 a felony conviction under the uniform controlled substances act, ~~(C) [has
32 a conviction of any act]~~ which is described in articles 34, 35 or 36 of chapter
33 21 of the Kansas Statutes Annotated and acts amendatory thereof or sup-
34 plemental thereto, ~~except K.S.A. 21-3605 and amendments
35 thereto,~~ or a conviction of an attempt under K.S.A. 21-3301 and amend-
36 ments thereto to commit any such act, or ~~(D) [(E)]~~ has been convicted
37 of any act which is described in K.S.A. 21-4301 or 21-4301a and amend-
38 ments thereto or similar statutes of other states or the federal govern-
39 ment;

40 (2) has been adjudicated a juvenile offender because of having com-
41 mitted an act which if done by an adult would constitute the commission
42 of a felony and which is a crime against persons, is any act described in
43 articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated and

1 acts amendatory thereof or supplemental thereto [except K.S.A. 21-
2 3605 and amendments thereto], or is any act described in K.S.A. 21-
3 4301 or 21-4301a and amendments thereto or similar statutes of other
4 states or the federal government;

5 (3) has committed an act of physical, mental or emotional abuse or
6 neglect or sexual abuse as validated by the department of social and re-
7 habilitation services pursuant to K.S.A. 38-1523 and amendments thereto
8 and (A) the person has failed to successfully complete a corrective action
9 plan which had been deemed appropriate and approved by the depart-
10 ment of social and rehabilitation services, or (B) the record has not been
11 expunged pursuant to rules and regulations adopted by the secretary of
12 social and rehabilitation services;

13 (4) has had a child declared in a court order in this or any other state
14 to be deprived or a child in need of care based on an allegation of physical,
15 mental or emotional abuse or neglect or sexual abuse;

16 (5) has had parental rights terminated pursuant to the Kansas juvenile
17 code or K.S.A. 38-1581 through 38-1584, and amendments thereto, or a
18 similar statute of other states;

19 (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 *et*
20 *seq.*, and amendments thereto, or pursuant to K.S.A. 38-1635 and amend-
21 ments thereto involving a charge of child abuse or a sexual offense;

22 (7) has been found by the department of health and environment or
23 the department of social and rehabilitation services under K.S.A. 39-1401
24 *et seq.* and amendments thereto to have committed an act of abuse, ne-
25 glect or exploitation of a resident; or

26 (8) has been found by the department of social and rehabilitation
27 services under K.S.A. 39-1430 *et seq.* and amendments thereto to have
28 committed an act of abuse, neglect or exploitation of an adult.

29 (b) No person shall operate a home health agency if such person has
30 been found to be a disabled person in need of a guardian or conservator,
31 or both.

32 (c) In accordance with the provisions of this subsection (c), the sec-
33 retary of health and environment shall have access to any [court orders or
34 adjudications of any court of record, any records of such orders or adju-
35 dications] criminal history record information in the possession of the
36 Kansas bureau of investigation and any report of investigations as au-
37 thorized by subsection (e) of K.S.A. 38-1523 and amendments thereto in
38 the possession of the department of social and rehabilitation services [or
39 court of this state], or any reports of investigations, findings or assessments
40 as provided in K.S.A. 39-1402 and amendments thereto, 39-1404 and
41 amendments thereto, 39-1411 and amendments thereto, 39-1433 and
42 amendments thereto and 39-1434 and amendments thereto, in the pos-
43 session of the department of health and environment or the department

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1 of social and rehabilitation services ~~[or court of this state]~~ concerning per-
2 sons working ~~[or regularly volunteering]~~ for a home health agency. The
3 secretary shall have access to these records for the purpose of determining
4 whether or not the home health agency meets the requirements of this
5 section. The Kansas bureau of investigation may charge to the department
6 of health and environment a reasonable fee for providing criminal history
7 record information under this subsection.

8 (d) For the purpose of complying with this section, the operator of a
9 home health agency shall request from the department of health and
10 environment information obtained by the secretary of health and envi-
11 ronment under subsection (c), if any, which relates to a person who works
12 for the home health agency ~~[or, if the operator has elected to make~~
13 ~~persons who regularly volunteer to assist the home health agency~~
14 ~~subject to the requirements of this section,]~~ regularly volunteers to
15 assist the home health agency, ~~]~~ or is being considered for employment
16 ~~[or, if the operator has elected to make persons who regularly vol-~~
17 ~~unteer to assist the home health agency subject to the require-~~
18 ~~ments of this section,]~~ as a volunteer ~~]~~ by the home health agency, for
19 the purpose of determining whether such person is subject to the pro-
20 visions of this section. The operator may rely on verbal information from
21 the department of health and environment to be followed by written
22 confirmation of the verbal report. [For the purpose of complying with
23 this section, information relating to convictions and adjudications
24 by the federal government or to convictions and adjudications in
25 states other than Kansas shall not be required until such time as
26 the secretary of health and environment determines the search for
27 such information could reasonably be performed and the infor-
28 mation obtained within a two-week period.] ~~No [operator of a] home~~
29 ~~health agency or, the employees of a home health agency or an em-~~
30 ~~ployment agency, or the operator or employees of an employment~~
31 ~~agency, which provides employees to work for the home health~~
32 ~~agency shall be liable for civil damages [to any person refused employ-~~
33 ~~ment or discharged from employment by reason of such [operator] com-~~
34 ~~pliance with the provisions of this section if such [operator] or employ-~~
35 ~~ment agency acts in good faith to comply with this section.~~

For the purpose of complying with this section,
a person who operates a home health agency may
hire an applicant for employment on a
conditional basis pending the results from the
department of health and environment of a
request for information under this subsection.

operator or

resulting from any decision to employ, to
refuse to employ or to discharge from
employment any person based on

home health agency's

home health agency

36 (e) For the purpose of subsection (a)(3), an act of abuse or neglect
37 shall not be considered to have been validated by the department of social
38 and rehabilitation services unless the alleged perpetrator has: (1) Had an
39 opportunity to be interviewed and present information during the inves-
40 tigation of the alleged act of abuse or neglect; and (2) been given notice
41 of the agency decision and an opportunity to appeal such decision to the
42 secretary and to the courts pursuant to the act for judicial review and civil
43 enforcement of agency actions.

1 (f) The secretary of health and environment shall charge each
2 person requesting information under this section a fee ~~[of \$5]~~ for
3 each name about which an information request has been submit-
4 ted under this section.

equal to cost, not to exceed \$10,

5 [(g) No person who works for a home health agency and who
6 is currently licensed or registered by an agency of this state to
7 provide professional services in this state and who provides such
8 services as part of the work which such person performs for the
9 home health agency shall be subject to the provisions of this sec-
10 tion.]

(i) No person who has been employed by the same home health agency for five consecutive years immediately prior to the effective date of this act shall be subject to the requirements of this section while employed by such adult care home.

11 (g) [(h)] A family member who acts as a volunteer in caring for
12 a relative who is receiving home health services [person who vol-
13 unteers to assist a home health agency] shall not be subject to the
14 provisions of this section because of such volunteer activity ~~[unless
15 the operator of the home health agency for which such person
16 volunteers elects by written notice to the secretary of health and
17 environment to make all persons who regularly volunteer to assist
18 such home health agency subject to the requirements of this sec-
19 tion].~~

(j) The operator of a home health agency shall not be required under this section to conduct a background check on an applicant for employment with the home health agency if the applicant has been the subject of a background check under this act within one year prior to the application for employment with the home health agency.

20 (f) ~~(b)~~ [(i)] This section shall be part of and supplemental to the
21 provisions of article 51 of chapter 65 of the Kansas Statutes Annotated
22 and acts amendatory thereof or supplemental thereto.

23 Sec. ~~3~~ This act shall take effect and be in force from and after its
24 publication in the statute book.

(k)

Sec. 3. The secretary of health and environment shall provide for the implementation of the processing of information requested from the department of health and environment on an incremental basis. This implementation shall be completed so that adult care homes and home health agencies may receive information required under this act no later than July 1, 1998.

9

Sections 4 through 8 attached

And by amending the title accordingly

New Sec. 4. (a) A community service provider as defined in K.S.A. 1996 Supp. 39-1803 and amendments thereto, a mental health center as defined in K.S.A. 65-4432 and amendments thereto and an independent living agency as defined in K.S.A. 65-5101 and amendments thereto may request for the purpose of obtaining background information on applicants for employment with such entity information:

(1) From the department of social and rehabilitation services as to whether such applicant 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. 38-1523 and amendments thereto;

(2) from the department of social and rehabilitation services as to whether such applicant has been found to have committed an act of abuse, neglect or exploitation of a resident as contained in the register of reports under K.S.A. 39-1404 and amendments thereto or an act of abuse, neglect or exploitation of an adult as contained in the register of reports under K.S.A. 39-1434 and amendments thereto;

(3) from the department of health and environment as to whether such applicant has been found to have committed an act of abuse, neglect or exploitation of a resident as contained in the register of reports under K.S.A. 39-1411 and amendments thereto;

(4) from the department of health and environment any information concerning the applicant in the state registry which contains information about unlicensed employees of adult care homes under K.S.A. 39-936 and amendments thereto.

Sec. 5. K.S.A. 39-1404 is hereby amended to read as follows: 39-1404.

(a) The department of social and rehabilitation services or the department of health and environment upon receiving a report that a resident is being, or has been, abused, neglected or exploited, or is in a condition which is the result of such abuse, neglect or exploitation or is in need of protective services, within 24 hours of receiving such report, shall initiate an investigation, including a personal visit with the resident and, within two weeks of receiving such report, shall complete the investigation to determine if the resident is being or has been abused, neglected or exploited or is in a condition which is a result of such abuse, neglect or exploitation. The investigation shall include, but not be limited to, a visit to the named resident and consultation with those individuals having knowledge of the facts of the particular case. Upon completion of the investigation of each case, written findings shall be prepared which shall include a finding of whether there is or has been abuse, neglect or exploitation, recommended action and a determination of whether protective services are needed. If it appears that a crime has

occurred, the appropriate law enforcement agency shall be notified by the department investigating the report.

(b) The secretary of social and rehabilitation services shall maintain a register of the reports received and investigated by the department of social and rehabilitation services, the findings, evaluations and the actions recommended. The register shall be available for inspection by personnel of the department of social and rehabilitation services. The secretary of social and rehabilitation services shall forward a copy of any report of abuse, neglect or exploitation of a resident investigated by the department of social and rehabilitation services to the secretary of health and environment and, in the case of a report of abuse, neglect or exploitation of a resident of an adult family home, to the secretary of aging.

(c) The report received by the department of social and rehabilitation services and the written findings, evaluations and actions recommended shall not be deemed a public record or be subject to the provisions of the open records act. Except as otherwise provided in this section, or in section 4 and amendments thereto the name of the person making the original report to the department of social and rehabilitation services or any person mentioned in such report shall not be disclosed unless the person making the original report specifically requests or agrees in writing to such disclosure or unless a judicial proceeding results therefrom. Except as otherwise provided in this section, no information contained in the register shall be made available to the public in such a manner as to identify individuals.

(d) The secretary of social and rehabilitation services shall forward any finding of abuse, neglect or exploitation alleged to be committed by a provider of services licensed, registered or otherwise authorized to provide services in this state to the appropriate state authority which regulates such provider. The appropriate state regulatory authority may consider the finding in any disciplinary action taken with respect to the provider of services under the jurisdiction of such authority.

(e) The department which investigates the report shall inform the complainant, upon request of the complainant, that an investigation has been made and, if the allegations of abuse, neglect or exploitation have been substantiated, that corrective measures will be taken.

Sec. 6. K.S.A. 39-1411 is hereby amended to read as follows: 39-1411.

(a) The secretary of health and environment shall maintain a register of the reports received and investigated by the department of health and environment under K.S.A. 39-1402 and 39-1403, and amendments to such sections, and the findings, evaluations and actions recommended by the department with respect to such reports. The findings, evaluations and

actions shall be subject to such notice and appeals procedures as may be adopted by rules and regulations of the secretary of health and environment, which rules and regulations shall be consistent with any requirements of state or federal law relating thereto except that the secretary shall not be required to conduct a hearing in cases forwarded to the appropriate state authority under subsection (b). The register shall be available for inspection by personnel of the department of health and environment as specified by the secretary of health and environment and to such other persons as may be required by federal law and designated by the secretary of health and environment by rules and regulations. Information from the register shall be provided as specified in section 4 and amendments thereto. The secretary of health and environment shall forward a copy of any report of abuse, neglect or exploitation of a resident of an adult care home to the secretary of aging.

(b) The secretary of health and environment shall forward any finding of abuse, neglect or exploitation alleged to be committed by a provider of services licensed, registered or otherwise authorized to provide services in this state to the appropriate state authority which regulates such provider. The appropriate state regulatory authority, after notice to the alleged perpetrator and a hearing on such matter if requested by the alleged perpetrator, may consider the finding in any disciplinary action taken with respect to the provider of services under the jurisdiction of such authority. The secretary of health and environment may consider the finding of abuse, neglect or exploitation in any licensing action taken with respect to any adult care home or medical care facility under the jurisdiction of the secretary.

(c) If the investigation of the department of health and environment indicates reason to believe that the resident is in need of protective services, that finding and all information relating to that finding shall be forwarded by the secretary of health and environment to the secretary of social and rehabilitation services.

(d) Except as otherwise provided in this section, the report received by the department of health and environment and the written findings, evaluations and actions recommended shall be confidential and shall not be subject to the open records act. Except as otherwise provided in this section, the name of the person making the original report to the department of health and environment or any person mentioned in such report shall not be disclosed unless such person specifically requests or agrees in writing to such disclosure or unless a judicial or administrative proceeding results therefrom. In the event that an administrative or judicial action arises, no use of the information shall be made until the judge or presiding officer makes a specific finding, in writing, after a

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hearing, that under all the circumstances the need for the information outweighs the need for confidentiality. Except as otherwise provided in this section, no information contained in the register shall be made available to the public in such a manner as to identify individuals.

Sec. 7. K.S.A. 39-1434 is hereby amended to read as follows: 39-1434.

(a) The secretary of social and rehabilitation services shall maintain a statewide register of the reports, assessments received and the analyses, evaluations and the actions recommended. The register shall be available for inspection by personnel of the department of social and rehabilitation services.

(b) Neither the report, assessment or the written evaluation analysis shall be deemed a public record or be subject to the provisions of the open records act. Except as provided in section 4 and amendments thereto, the name of the person making the original report or any person mentioned in such report shall not be disclosed unless the person making the original report specifically requests or agrees in writing to such disclosure or unless a judicial proceeding results therefrom. No information contained in the statewide register shall be made available to the public in such a manner as to identify individuals.