

Approved: 3-24-98
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Senator Lana Oleen at 11:10 a.m. on March 19, 1998, in Room 254-E of the Capitol.

All members were present except:
Senator Nancey Harrington

Committee staff present: Mary Galligan, Legislative Research Department
Robin Kempf, Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Midge Donohue, Committee Secretary

Conferees appearing before the committee:
Senator Larry Salmans
Representative Nancy Kirk
Representative Dixie Toelkes
Mr. Dennis Highberger, Kansas Department of Health and Environment
Ms. Debra Zehr, Kansas Association of Homes and Services for the Aging
Ms. Jan Johnson, Department of Corrections
Mr. Mike Hutfles, Office of the Secretary of SRS
Ms. Linda Lubensky, Executive Director, Kansas Home Care Association

Others attending: See attached list

Senator Oleen opened the meeting by recalling discussion yesterday regarding **SB 496**, relating to the bid process and request for proposals, during which she reported that the secretaries of administration and corrections had committed to returning sealed bids to bidders. She made available to committee members a memo from the secretary of corrections indicating that the items in question were being returned to the bidders (Attachment #1).

The chair called attention also to a letter from Jack Dalton, chair of the Trustees of the Dodge City Public Library, expressing opposition to **SB 670**, concerning computers and cyperporn, which Mr. Dalton requested be shared with committee members (Attachment #2).

Attention was then directed to the minutes of the March 16 meeting.

Senator Jones moved for approval of the minutes from the March 16 meeting. Senator Becker seconded the motion, and the motion carried.

Staff was then recognized and asked to brief the committee on **Sub. 2972**, concerning background checks of certain employees. Staff reviewed provisions of the bill, explaining that it would amend existing law regarding background checks of employees of adult care homes and home health agencies and, after June 30, 1998, specifically prohibit operation of an adult care home or home health agency if the home or agency employs any person convicted as an adult or adjudicated as a juvenile offender for certain crimes set forth in the bill. It was pointed out that a general exception would be made for persons in the custody of the Secretary of Corrections who provide services under direct supervision in nonpatient areas on the grounds or other areas of the Kansas Soldiers' Home or the Kansas Veterans' Home. It was noted also that the fiscal note was prepared by the Division of Budget for the introduced version of the bill and may not be relevant to the substitute bill.

The chair suspended discussion of **Sub. 2972** to accommodate the appearance of Senator Salmans who was scheduled to offer testimony on **SB 684**, concerning the state lottery commission and background investigation information. Senator Oleen explained that **SB 684** was introduced several days ago following a review of the Lottery budget when the particular issue it addresses was raised and Senator Salmans' testimony would speak to the balloon version of the bill.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E, Statehouse, at 11:10 a.m., on March 19, 1998.

The hearing was opened on:

SB 684 **An act concerning the state lottery committion; relating to powers and duties; concerning background investigation information**

Senator Salmans presented verbal testimony only and stated that his remarks would be brief. He told the committee the bill had been introduced to address the concern that information from background investigations conducted for the Lottery could be received by only one person, and **SB 684** would allow the commissioner, as well as the executive director, to receive and review this information for any improprieties.

Senator Oleen related an incident involving the background investigation of a vendor when calls were being received because current statute was not clear on who was authorized to receive the information. She added that she nor Senator Salmans wanted anyone to think something was amiss, because it is not. She said they, as legislators, need to delineate who is to receive this information, and **SB 684** is a clarifying piece of legislation.

Senator Becker commented that the ultimate responsibility for oversight of the Lottery rests with the legislators and inquired why this information would not come to the oversight committee. Senator Salmans replied that, at this point, it cannot; that the proposed legislation is similar to that for the Racing Commission which allows for the information to be shared only with the commissioner and executive director.

The hearing was then opened on:

Sub 2972: **An act concerning background checks of certain employees**

Representative Nancy Kirk advised that she did not have written testimony to present, but that she was responsible for the language in **Sub. 2972** which is also included in **SB 399** and exempts persons in the custody of the secretary of corrections who provide services to the Kansas soldiers' home and Kansas veterans' home from background checks. Representative Kirk asked the committee to consider an amendment to **Sub. 2972** to include Larned and Osawatomie State Hospital to allow them to use inmates they currently have as long as they are under direct supervision in non-patient areas. She indicated the request for inclusion of these institutions is an effort to make the bill more workable for long-term care.

Representative Dixie E. Toelkes, a proponent of the bill, (Attachment #3), explained the background of **Sub. 2972**, as well as **SB 399**, and told the committee the bill before them today was introduced in response to concerns expressed by many adult care professionals. She said initial intent was to prohibit convicted sex offenders and violent offenders from working in adult care facilities, but the statutes used were too broad in banning possible employees from working. She stated that the two bills, **SB 399** and **Sub. 2972**, were in conflict, as **SB 399** was drafted prior to changes made in the hiring stipulations. She indicated that **Sub. 2972** is a means of straightening it out and urged the committee to report the bill favorably.

Mr. Dennis J. Highberger, attorney for the Department of Health and Environment (KDHE), offered testimony in support of **Sub. 2972** (Attachment #4). He told the committee the department supported the bill as it stands today; that it addresses the department's major concerns with current law. Mr. Highberger noted that the bill makes the same changes to the home health agency statute which KDHE supports because the issues raised are applicable to each statute. He told the committee the bill would have no appreciable fiscal impact on the department.

Responding to questions from the committee, Mr. Highberger advised that provisions of current statutes allow an individual to work while the background check is being conducted. He said their records indicate that 41,000 applications are made annually.

The chair inquired if there were different levels of investigations for child care facilities and adult care facilities and asked Mr. Highberger to provide that information to the committee by the first of next week, along with the number of child care checks, information on who pays for the checks and an explanation of the costs.

Ms. Debra Zehr, Vice President of Policy/Education for the Kansas Association of Homes and Services for the Aging, Topeka, spoke in support of **Sub. 2972**, (Attachment #5). Ms. Zehr told the committee it is good public policy to conduct criminal background checks on employees of adult care homes and home health

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 254-E, Statehouse, at 11:10 a.m., on March 19, 1998.

agencies. She pointed out that the bill clarifies the intent and streamlines the language of the existing statute. She said the Association's members struggle daily with recruitment and retention of frontline staff and are very concerned about the potential impact of the existing statute on their ability to provide good care. Ms. Zehr referenced comments, attached to her written testimony, in this regard from a member facility in Hesston. In doing so, she advised that the last paragraph of those comments should be disregarded as they pertained to the bill in its original form. She concluded by asking the committee to favorably report **Sub. 2972**.

Ms. Jan Johnson, representing the Department of Corrections (DOC), appeared before the committee to request an amendment to **Sub. 2972** (Attachment #6). She asked the committee to consider amending **Sub. 2972** by replacing language contained in Sec. 1, subsection (j) with comparable language contained in **SB 399** which would authorize the use of inmate labor not only at the Veterans' Commission facilities, but also at Larned State Hospital and Osawatomie State Hospital.

Mr. Mike Hutfles, representing the Secretary of Social and Rehabilitation Services (SRS), was recognized by the chair. Mr. Hutfles said the bill before the committee is very important to a different group of people: nursing homes. He pointed out that **SB 399** is very specific to veterans' homes, the Department of Corrections and SRS and, although both are important to different groups of people, they are compatible.

Ms. Linda Lubensky, Executive Director of the Kansas Home Care Association, appeared in opposition to **Sub. 2972**, (Attachment #7). Ms. Lubensky told the committee that **Sub. 2972** was initiated by the nursing home industry in order to create further exemptions to the background check statutes so their providers could hire individuals who they would currently be prohibited from hiring, and that the House committee amended the original bill to include the home care industry. She said home care poses decidedly different risks in regard to personnel and explained those differences. Ms. Lubensky asked the committee to remove home care from the bill and deal solely with its application to the adult care home industry.

The chair asked Ms. Lubensky if the concerns of the Kansas Home Care Association were brought to the attention of the House, and she explained that the home care industry was not part of the bill when hearings were heard before the House; that it was subsequently amended into the bill. Ms. Lubensky indicated she had brought the Association's concerns to the attention of the committee chair after the bill was amended, but that it had been passed out of committee.

Senator Oleen advised that the hearing on **Sub. 2972** would be kept open until next week to allow for additional information that had been requested to be presented.

The chair announced that one of the committee members had requested **SB 606**, concerning cigarettes, be worked, and that would be scheduled for Monday.

Senator Oleen again directed attention to **SB 684** and noted that House committees, because of the lateness in the Session, would not be meeting. She recognized representatives of the Lottery who were present for informational purposes and stated that, as indicated by Senator Salmans' testimony, it does not appear to be a controversial issue. She pointed out that **SB 684** and **Sub. 2972** both deal with background checks and indicated she would entertain a motion to combine the two bills.

Senator Becker moved to amend **SB 684** into **Sub. 2972**. Senator Biggs seconded the motion, and the motion carried.

Senator Oleen advised that the committee would no longer be dealing with **SB 684** but would plan to work **Sub. 2972** on Monday, time permitting.

The meeting adjourned at 12:05 p.m. The next meeting is scheduled for March 23, 1998.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE
GUEST LIST

DATE: 3-19-98

NAME	REPRESENTING
LINDA LUBENSKY	KS Home Care Assoc.
Glen Thompson	Stand Up For KS.
Wendy Fritz	Division of Personnel Services
John Kiefhaber	KS Health Care Assn.
Ditzel	KAHSA
Dennis Hightberger	KDHE
Greg Ziemak	KA Lottery
David Dwyer	Kansas Lottery
Carl Anderson	Kansas Lottery
Kevin Pfeister	KBI
Whitney Jamron	KS Bar Assn.
TOM PALACE	KOMA
STEVE KEARNEY	KOMA
Mike Hein	Hein + Weir
Michael G. Russell	AG'S OFFICE
Bridget Brown	TKC
Wendy Payne Kelleher	USKI



DEPARTMENT OF CORRECTIONS
OFFICE OF THE SECRETARY
Landon State Office Building
900 S.W. Jackson — Suite 400-N
Topeka, Kansas 66612-1284
(913) 296-3317

Bill Graves
Governor

Charles E. Simmons
Secretary

*Mitchell
please make
copies for
committee.*

MEMORANDUM

To: John Houlihan, Director
Division of Purchases

From: Charles E. Simmons, Secretary *[Signature]*

Subject: Proposals Received in Response to RFP #32566

Date: March 16, 1998

The Department of Corrections will not make a contract award pursuant to RFP #32566, which was issued last summer regarding prison capacity expansion. Therefore, I am hereby returning—for disposition as you deem appropriate, including possible return to the vendors—all KDOC review copies of the proposals submitted by outside parties.

Enclosures

cc: Senator Oleen
Representative Kejr

JACK DALTON, Attorney (Retired)
2207 3rd. Avenue
Dodge City, Kansas 67801
(316-227-2794)

March 6, 1998
Senator Tim Huelskamp
State Capitol Building
Topeka, KS 66612

Dear Senator:

I am writing you as chair of the Trustees of the Dodge City Public Library. We oppose Senate Bill 670. Kindly let me tell you why.

Access to pornographic internet material has been a concern of ours for some time. I am sure you have heard all the arguments relative to infringement of first amendment rights. We join with others who have a serious concern about that infringement, and the duty of libraries to avoid censorship of materials. Likewise, we join with others who have a serious concern over government mandating rules and policies of Free Public Libraries. Given your statements of the past that there should be less government, we have difficulty understanding your sponsorship of this bill.

We also share the concern that present blocking software many times blocks other than offensive materials, to the frustration of library patrons.

When I appointed committees for the year, I appointed a committee to study this area. It obviously involves many issues other than those set out above.

Dodge City Public Library serves approximately 186,000 patron requests amounting to nearly a quarter million items checked out per year. We have over 500 of our patrons visiting the library each day. In addition, we house the Southwest Kansas Library Service collection and move about another 22,000 items per year. The Southwest Kansas service is a consortium of 41 Public Libraries, maintaining its headquarters at the Dodge City Facility. In addition it serves 100 school libraries, providing access to the System's collection. The System also furnishes consulting services to all those libraries, interlibrary loans, blind and handicapped services and a myriad of other services. We have staff members with a Masters degree in Library Science and others with very high credentials. I consider them highly qualified to meet this important issue without interference from the State. I am disappointed that you did not contact any of our trustees or staff to familiarize yourself with the manner in which this issue is being met on the level that involves substantially all of your district. I would hope that your support of this bill would wane so that those who are trained in a manner that qualifies them are able to develop a solution.

Your concerned constituent,

Jack Dalton
Copy to Don Lano. Allen

Sen. Federal & State Affairs Comm.
Date: 3-19-98
Attachment: #2

STATE OF KANSAS

DIXIE E. TOELKES
REPRESENTATIVE, 53RD DISTRICT
SHAWNEE COUNTY
3336 SE MEADOWVIEW DR.
TOPEKA, KANSAS 66605
(913) 267-7105



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER: TOURISM
MEMBER: EDUCATION
UTILITIES
JOINT COMMITTEE ON CHILDREN
AND FAMILIES

STATE CAPITOL BUILDING, ROOM 281-W
TOPEKA, KANSAS 66612-1504
(913) 296-7687

March 19, 1998

TESTIMONY ON SUBSTITUTE HB 2972

Madam Chairman Olean and Committee Members,

Thank you for allowing me to speak with you on Sub. HB 2972. This bill makes it illegal to hire convicted sex offenders and convicted violent offenders in adult care homes. In statute this definition includes any facility or agency providing care for adults.

I'd like to provide a time sequence in order to explain the situation before us.

This bill came to you last year as HB 2278, was passed through both houses by a tremendous majority and was signed into law by Governor Graves on May 13, 1997.

The first few days of the 1998 session SB 399 was introduced by Sen. Greta Goodwin at the request of Secretary Simmons to exempt inmates who work on the grounds and away from patient areas at the Soldiers' Home in Winfield. There is a requirement that they work only under direct supervision. SRS also wanted to include Larned and Osawatomie State Hospital. This was not really a necessary step as this bill only affects Adult Care Homes but H&E saw otherwise and they were included. This is acceptable to me. The bill passed the Senate and is now below the line in the House.

This bill Substitute HB 2972 was initiated by Representative Kirk, Representative Samuelson, a representative from the health care industry, and myself. This was done in response to concerns expressed by many adult care professionals.

Sen. Federal & State Affairs Comm.
Date: 3-19-98
Attachment: #3

My original intent was to prohibit convicted sex offenders and convicted violent offenders from working in adult care facilities. The statutes we used were patterned after the child day care statutes and are much too broad in banning possible employees from working. The crimes include nonviolent offenses such as nonpayment of child support, allowing an animal to run free, etc.

We have listed those offenses we call the "Unforgiven". They are never to be allowed to work in adult care situations. The lesser crimes can be considered as the offender has completed the sentence and has not committed another crime within five years.

The problem is the two bills, SB 399 and Sub. HS 2972, are in conflict as SB 399 was drafted prior to the changes we made in the hiring stipulations. We amended the state hospitals into HB 2972 in House Federal and State Affairs Committee. We thought SB 399 was laid to rest and then became aware it was on General Orders earlier this week. This procedure seems to be the way to get it all straightened out.

I ask that you pass this bill out favorably.

Thank you and I will be happy to answer questions.

A handwritten signature in cursive script that reads "Rep. Mike Toebes". The signature is written in black ink and is positioned centrally below the typed text.



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Gary R. Mitchell, Secretary

**TESTIMONY PRESENTED TO
THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE**

Thursday, March 19, 1998

by

Dennis J. Highberger
Kansas Department of Health & Environment

HB 2972

Mr. Chairman and members of the Committee, thank you for the opportunity to appear before you today to discuss House Bill 2972. This bill would amend K.S.A. 39-970 and K.S.A. 65-5117, which prohibit persons who have committed certain acts from working for adult care homes or home health agencies. KDHE supports the bill as it appears before you today.

As it currently appears in the statute book, K.S.A. 39-970 is difficult to interpret in several places and has a number of apparently unintended results. The bill before you addresses KDHE's major concerns with the present law.

- ▶ In some instances, the current law treats juvenile adjudications and diversion agreements more harshly than it does adult convictions. These disparities are corrected by the amended law.
- ▶ The current law does not apply to a person with a misdemeanor conviction for mistreatment of a dependent adult or for sexual battery. Under the amended law, a person with a conviction for either of these crimes would be permanently barred from employment by an adult care home.
- ▶ For all but a few specifically listed crimes, the amended version of the law clearly applies only to felony convictions and adjudications. The language in the current statute is ambiguous and appears to include many misdemeanor adjudications, such as for permitting a dangerous animal to run at large, which arguably are not particularly relevant to whether someone should be allowed to work in an adult care home.
- ▶ Under the current law, a person who has been convicted of any of the prohibited offenses is permanently barred from adult care home or home health agency employment. In practice this has had a harsh effect on some people who have made mistakes in the past but have subsequently turned their lives around. A person who has committed one of the prohibited

TESTIMONY on HB 2972

offenses must either accept the permanent prohibition or go through the time and expense of an expungement proceeding. The amended law allows a person a second chance after 5 years have elapsed from the end of their criminal sentence, without having to obtain an expungement. The permanent ban continues to apply to the most serious crimes, which are listed in the statute.

HB 2972 also makes these same changes to the home health agency statute. KDHE supports this approach, because the issues I have just raised are equally applicable to each statute. Creating different standards for adult care home and home health agency employment would make this law much more difficult for the agency to implement. As it is now before you, this bill would have no appreciable fiscal impact on KDHE.

I thank you for your time and consideration and I would be pleased to answer any questions you might have.



KANSAS ASSOCIATION OF
HOMES AND SERVICES FOR THE AGING

TESTIMONY IN SUPPORT OF HOUSE BILL 2972

To: Senator Lana Oleen, Chair, and Members,
Senate Federal and State Affairs Committee
From: Debra Zehr, Vice President, Policy/Education
Date: Thursday, March 19, 1998

Thank you, Madam Chair, and Members of the Committee for this opportunity to comment on House Bill 2972 on behalf of our members.

The Kansas Association of Homes and Services for the Aging represents more than 150 not-for-profit long-term health care, housing, and community service providers throughout the state. We believe that it is prudent to conduct criminal background checks on employees of adult care homes and home health agencies.

House Bill 2972 is good public policy. KSA 39-970, as it stands now, bars from employment persons who have committed a very broad range of crimes. House Bill 2972 would clarify the intent and streamline the language of the existing statute. It would bar persons who have assisted in suicide or committed violent crimes or abuse, neglect, or exploitation from work with this vulnerable population forever. Other persons who have committed lesser offenses would be "forgiven" and allowed eligibility for such employment once they have repaid their debt to society and have remained crime free for five years.

Our members struggle daily with recruitment and retention of frontline staff, especially in this era of low unemployment. They are very concerned about the potential impact of the existing statute on their ability to provide good care. Some report that they have excellent workers who will have to be terminated under the existing statute. I have attached the comments of one such member from Schowalter Villa, a facility in Hesston with a long tradition of exemplary care.

We ask for your favorable report of House Bill 2972.

Thank you. I would be happy to answer any questions.

Sen. Federal & State Affairs Comm.
Date: 3-19-98
Attachment: #5



SCHOWALTER VILLA

200 West Cedar • P.O. Box 5000 • Hesston, KS 67062-5000 • (316) 327-4261

TO: Senator Lana Oleen, Chair, and members of Federal & State Affairs Committee

FROM: Joyce Bedsworth, MN, MHS, NHA, RN, CS, CNA; Vice President Health Services Schowalter Villa

DATE: March 19, 1998

RE: House Bill 2972

Thank you Madam Chairman, and Members of the Committee. On behalf of Schowalter Villa, I appreciate the opportunity to comment on House Bill #2972.

I am Joyce Bedsworth, Vice President Health Services, functioning in the role of Director of Nursing and Health Services for 8 1/2 years. I am a Master prepared Nurse and a Licensed Nursing Home Administrator in Kansas.

Schowalter Villa is a non-profit Mennonite owned and operated Continuing Care Retirement Community offering a broad range of services to older adults. The services offered range from independent living to those qualifying for Medicare Part A Skilled Nursing services including a special program for persons with memory loss. We currently serve 370 persons. Our mission is to offer **COMPETENT AND COMPASSIONATE CHRISTIAN CARE TO OLDER ADULTS**. Since 1991, we have received 3 Exemplary Awards for quality care from Kansas Department of Health & Environment.

We are very concerned about the impact of the Criminal Background Check law passed last year on our services. At this point we do not yet know how many of our staff will be impacted adversely. We along with all other Long Term Care Facilities in our area struggle daily to staff our organization. Quality workers, at the entry level with salaries of \$11,000 to \$16,000 annually, are extremely difficult to find in a county with an unemployment rate of 2.3.

One of our staff members that we are certain is affected by this legislation is a 38 year old male. In 1982, while intoxicated he committed a robbery and was convicted of this crime, serving two years in a Kansas prison and eight years on probation. He was up front in telling me briefly of this problem. In 1984, while on probation, he returned to work at the same Kansas nursing home prior to the robbery event. In 1997 he moved his family to Hesston and has been employed nearly 1 year with us.

The Kansas CNA registry shows him to be in "good standing". His work is exceptional. He has excellent relationships with staff, supervisors, residents & families.

We believe that this employee should be allowed to continue his work with us. We also believe that other employees may have histories equally unrelated to their current functioning especially when juvenile records are

reviewed. Yet as an employer, we are required to terminate high performing employees who have not worked with us for 5 years (regardless if they have worked in long term care settings for many years). The cost to replace good workers, when we are already desperately short on quality workers, is great as well.

We ask that members of this committee support House Bill 2972. Additionally, can not currently high performing employees be grandfathered in, or at least continue to work until a determination is made that they are ineligible due "to lack of clear and convincing evidence of rehabilitation" by KDHE. In our facility, we will be hard pressed to convince our residents, family members, and employees of our need to discharge hard working, high performing employees due to historic events.

Thank you for your time.

Joye Bedsworth

STATE OF KANSAS



DEPARTMENT OF CORRECTIONS
OFFICE OF THE SECRETARY
Landon State Office Building
900 S.W. Jackson — Suite 400-N
Topeka, Kansas 66612-1284
(913) 296-3317

Bill Graves
Governor

Charles E. Simmons
Secretary

MEMORANDUM

To: Senate Federal and State Affairs Committee
From: Charles E. Simmons *Secretary*
Subject: Substitute for HB 2972
Date: March 19, 1998

Substitute for HB 2972 amends statutory provisions approved last session (in HB 2278) to prohibit persons who have been convicted of certain felony crimes from working in adult care homes. My testimony addresses Section 1, subsection (j), found on page 5 of Sub for HB 2972. This language authorizes inmates in the custody of the Secretary of Corrections to provide services, under conditions specified in the bill, at the Kansas Soldiers' Home and the Kansas Veterans' Home. This language removes ambiguities resulting from the law passed last year regarding the use of inmate labor to perform food service work, grounds maintenance and other support services for the veterans home proposed for Winfield. A similar provision is found in SB 399, which has passed the Senate and is currently on General Orders in the House. However, as approved by the Senate and recommended by the House Appropriations Committee, SB 399 specifically authorizes the use of inmate labor not only at the Veterans' Commission facilities, but also at Larned State Hospital and Osawatomie State Hospital. Although state psychiatric hospitals are not included within the statutory definition of adult care homes, we prefer the language in SB 399 because it also explicitly authorizes the use of inmate workers at the two state mental health institutions—which is a practice currently in place through administrative arrangement between KDOC and SRS.

Therefore, we respectfully request that the committee amend Sub. for HB 2972 by replacing the language contained in Section 1, subsection (j) with the comparable language contained in SB 399.

CES:jj

Sen. Federal & State Affairs Comm
Date: 3-19-98
Attachment: #6



Kansas Home Care Association • 1000 Monterey Way, E2 • Lawrence, Kansas 66049 • (785) 841-8611
Fax (785) 749-5414

To: Senate Committee on Federal and State Affairs
From: Linda Lubensky, Executive Director
Kansas Home Care Association
Date: March 19, 1998
Re: Substitute Bill H.B. 2972

On behalf of the Kansas Home Care Association, I wish to share some concerns with you in regard to Substitute Bill H.B. 2972, relating to background check of employees. This bill was initiated by the nursing home industry in order to create further exemptions to the background check statutes so that their providers could hire some individuals who would be prohibited currently. The House committee chose to amend the original bill to include the home care industry.

Although, I understand the wish of the committee to treat the industries equally, I must point out that home care, by its very nature, poses some decidedly different risks in regard to personnel. Home care paraprofessionals are out in the field alone delivering services. There are stringent supervision requirements, but that supervision is, for the most part, off-site and not in the home, as services are provided. Consequently, home care agencies must do everything possible to insure the reliability and trustworthiness of their employees.

I do understand that Substitute Bill H.B. 2972 creates a category of crimes for which rehabilitation and exemption would not be considered. However, the other category of crimes, for which rehabilitation is possible, are still of great concern due to the opportunities presented when providing services alone in the homes of patients. The homes of vulnerable and isolated adults can provide many temptations for an individual with a criminal history. We do not believe that it is in the interest of the home care providers, nor their patients, to create a mechanism which undermines the intent and scope of the original law. To stay "clean" for five years does not prove rehabilitation, it only proves that in the state of Kansas no further convictions are recorded. We feel that the risks are unacceptable in a service area such as home care.

At these times, home care is under close scrutiny by the public, a multitude of regulators, and Congress. It is incredibly important to support high standards to insure the quality of services provided and the safety of the beneficiaries. We ask that the committee remove home care from the bill and deal solely with its application to the adult care home industry.

Sen. Federal & State Affairs Comm
Date: 3-19-98
Attachment: #7