

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on February 15, 2001 in Room 210 Memorial Hall

All members were present except: Representative Geraldine Flaharty, Excused
Representative Brenda Landwehr, Excused

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department
Norman Furse, Revisor of Statute's Office
June Evans, Secretary

Conferees appearing before the committee:

Others attending: See Attached Sheet

The Chairperson asked Representative Showalter to give an update on Representative Flaharty's condition and stated a get well card would be passed for signature for Rep Flaharty.

Testimony was distributed by Jolene Grabill, a proponent to **HB 2154** that had a hearing February 14 (Attachment 1).

Testimony was distributed by Ann Spies, Alzheimer's Association, a proponent to **HB 2229** that had a hearing on February 12 (Attachment 2).

The Chairperson opened the hearing on **HB 2457 - Licensure of Physician Assistants**.

Norman Furse, Revisor of Statute's Office, gave a briefing on **HB 2457**, stating this was clean-up, repealing Supp. 65-1626b and 65-2836a and amended into 65-1626 and 65-1635a.

Douglas E. Smith, Executive Director, Kansas Academy of Physician Assistants, provided written testimony in support of **HB 2457** and requested another technical change to remove the "s" on page 6, line 2, page 9; lines 39 and 40; and page 13, line 35 (Attachment 3).

The Chairperson stated we don't ordinarily work a bill the day of the hearing but due to time restraints this will be an exception, since it is technical in nature, if the committee wants to work it and asked the committee's pleasure.

Representative Kirk moved and Representative Morrison seconded to accept the amendment and remove the "s" from "physician's" as requested. The motion carried

Representative Storm moved and Representative Lightner seconded to move **HB 2457** out favorably as amended. The motion carried.

The Chairperson stated a balloon has been provided by the Department of Corrections on **HB 2127** that had a hearing February 1 (Attachment 4). KDHE and the Department of Corrections have gotten together and agreed on the balloon.

Tim Madden, Department of Corrections, reviewed the balloon.

Representative Morrison moved and Representative Storm seconded to accept the amendment provided by the Department of Corrections. The motion carried.

Representative Long moved and Representative DeCastro seconded to move **HB 2127** out favorably as amended. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 210, Memorial Hall at 1:30 p.m. on February 15.

The Chairperson asked the committee's wishes on **HB 2059**.

Ron Hein, Legislative Counsel, National Kidney Foundation of Kansas and Western/Missouri furnished a balloon clarifying administration of the program (Attachment 5).

Norman Furse, Revisor of Statutes, briefed the committee on the balloon stating it clarifies the role of the medical center and makes it clear that the program is going to be administered with moneys available.

Representative Showalter moved and Representative Welshimer seconded to adopt the balloon on **HB 2059** provided by Mr. Hein. The motion carried.

Representative Welshimer moved and Representative DeCastro seconded to move **HB 2059** out favorably as amended. The motion carried.

The Chairperson asked what the committee's wishes were on **HB 2015**. KDHE and Washburn University have gotten together on this and agreed on amendment.

An amendment was distributed that said "state institution" means any residential facility or hospital that is operated and maintained by a state agency as defined in K.S.A. 75-3701; or, (ii) a summer instructional camp operated for not more than five weeks by a postsecondary educational institution defined in K.S.A. 2000 Supp. 74-3201b and amendments thereto which provides instruction to children, all of whom are 10 years of age and older, and which is accredited by an agency or organization acceptable to the Secretary of health and environment.

Representative Long moved and Representative Morrison seconded to adopt amendment that Washburn/KDHE had approved.

Representative Kirk questioned if this would cover Washburn who originally brought the bill.

Representative Morrison stated Washburn wanted the date changed to the Register from the statute book.

The Chairperson stated that "state institution" takes care of the fact that Washburn University does not have to be included by name.

Ken Hackler, attorney for Washburn University, stated they received this language late this morning from KDHE and Washburn would be covered by definition included in post secondary institutions which will, as soon as **SB 8** passes, include all state education institutions, regent schools, technical and vocational schools, and Washburn University. If this definition of state institution is adopted can take out proposed amendment that is in existing bill.

It was brought up that Washburn requested the date be changed to "after published in the Kansas register" rather than statute book.

Representative Lightner had some questions on the bill.

Representative DeCastro asked if this would not exempt private schools like Kansas Newman etc?

This bill does not talk to private schools so there is no change.

There were questions and the Chairperson said would pursue more answers and come back to **HB 2015** next week.

The Chairperson asked what the Committee's pleasure was on **HB 2154**.

Norman Furse, Revisor of Statutes, briefed the committee on the amendment (Attachment 6). KDHE did

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 210, Memorial Hall at 1:30 p.m. on February 15.

not respond to fax of amendment.

Representative Long moved and Representative Showalter seconded to accept balloon. The motion carried.

Representative Morrison moved and Representative Lightner seconded to move **HB 2154** out as amended and let Representative Bethell carry the bill on the floor.

Representative Kirk moved and Representative Morrison seconded a Substitute motion to strike all references to “private contractor” wherever it appears.

Representative Kirk withdrew her Substitute Motion.

Representative Morrison and Representative Lightner withdrew their motion to move out **HB 2154**.

Representative Kirk moved and Representative Morrison seconded to strike “private contractor” on the basis we believe a private contractor could not fulfill the obligations set out in the bill, removing lines 34-41 on page 2 and page 3 line 4, “or from an approved private contractor”. The motion carried.

Representatives DeCastro and Patterson wished to be recorded as voting NO.

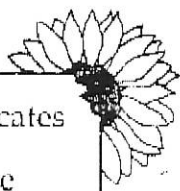
Representative Long moved and Representative Showalter seconded to move **HB 2154** out favorably as amended. The motion carried.

The Chairperson asked staff to brief the committee on the balloon to **HB 2313**.

Representative Long moved and Representative Showalter seconded to adopt the balloon on **HB 2313**.

Representative Long moved and Representative Merrick seconded to pass **HB 2313** out favorably as amended. The motion carried.

The meeting adjourned at 2:40 p.m. and the next meeting will be February 19.



Kansas Advocates
for
Better Care

913 Tennessee Street, Suite 2
Lawrence, Kansas 66044-6904
phone: (785) 842-3088
fax: (785) 749-0029
website: www.kabc.org

TESTIMONY OF KANSAS ADVOCATES FOR BETTER CARE
TO THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES
ON HOUSE BILL 2154, EMPLOYMENT OF CARE SERVICES PROVIDERS
Wednesday, February 14, 2001

Chairman Boston and Members of the Committee, Kansas Advocates for Better Care, the statewide non-profit organization that promotes quality long term care for adult care home residents, thanks you for allowing our comments to be heard.

The concepts detailed in HB2154 propose needed amendments in noted statutes and Kansas Advocates is pleased to support the bill. We supported a similar bill last session.

Vulnerable adults need the protections initiated in this bill. This can be illustrated by the data from the Health Occupations Credentialing office within the Department of Health and Environment. Background checks under the current statute have discovered a significant number of persons who should not be providers of care for vulnerable persons. The improvements proposed in HIB 2154 will no doubt prove helpful in discovering others who should not be allowed to be employed as care providers. Our vulnerable populations, whether minors, elders, or disabled adults, should not be left defenseless against abusive, neglectful and/or exploitive care-provider employees.

This bill also allows for rapid turn-around of information so that the employers of care providers can know quickly if the person in question is truly suitable as a care provider.

There may need to be further amendments to the statutes as information becomes available. Future consideration of additional categories of offenses may be necessary, upon studying results of cases pertaining to findings of abuse, neglect or exploitation by the Department of Health and Environment.

A statewide, non-profit organization founded in 1975 as KINH, whose mission is advocating quality long-term care.



TO: Rep. Garry Boston, Chairman
House Health and Human Services Committee

FROM: Anne Spiess
Alzheimer's Association – Kansas Chapters

DATE: February 14, 2001

RE: HB 2229

The Kansas Chapters of the Alzheimer's Association wish to express their support for HB 2229, the legislative initiative of the Kansas Association of Homes and Services for the Aging (KAHSA).

While we support all four provisions of their legislative initiative, we particularly support their adequate and effective staffing proposal. These provisions are very similar to our own platform, which calls for incentives to assure adequate compensation, training and career development opportunities.

The Topeka Chapter of the Alzheimer's Association stands ready to share their resources on dementia-specific models of care for nursing facilities. Also, the Kansas Chapters of the Alzheimer's Association have been working with nursing facilities throughout the state on a voluntary basis to provide dementia-specific staff training for front line workers. This training is in addition to the regular staff training provided by nursing facilities. The Dementia Trainer's Course is the outcome of over a year of collaborative effort by ten member organizations, including KAHSA, and state agencies of the Kansas Dementia Training Initiative.

Again, we support HB 2229 and look forward to continuing to work with KAHSA to incorporate dementia-specific training into their Senior Caregiving Initiative.

**TESTIMONY OF THE
KANSAS ACADEMY OF PHYSICIAN ASSISTANTS**

HOUSE BILL NO. 2457

HOUSE HEALTH AND HUMANS SERVICE COMMITTEE

FEBRUARY 15, 2001

Chairman Boston and Members of the House Health and Humans Service Committee:

Thank you for the opportunity to present testimony on House Bill No 2457.

This is a clean-up bill to Substitute for Senate Bill No 599 from the 2000 Legislative session. In last years Senate bill, physician assistants in Kansas changed their form of regulation from registration to licensure.

As a part of that legislative process and number of statutes that referenced physician assistants were changed. House Bill No 2457 picks up statutes that were overlooked in that process last year.

We would like to bring to the Committee's attention another technical change that needs to be addressed in this bill. Specifically, on page 6, line 2; page 9, lines 39 and 40; and page 13, line 35, the term physician's assistant should have the "s" removed to reflect the definition used on page 15 of this bill and in the physician assistant licensure act.

We appreciate your consideration and request that you recommend House Bill No. 2457 favorable for passage with these amendments.

Thank You

Douglas E. Smith
Executive Director
Kansas Academy of Physician Assistants

H&HS
2-22-01
Atch #3

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
(785) 296-3317


Bill Graves
Governor


Charles E. Simmons
Secretary

Memorandum

Date: February 14, 2001

To: House Health and Human Services Committee

From: Charles E. Simmons 
Secretary of Corrections

Clyde D. Graeber 
Secretary of Department of
Health and Environment

Re: HB 2127

The Departments of Corrections and Health and Environment have discussed HB 2127 relative to its impact on each agency as well its public policy aspects. The Department of Health and Environment expressed two concerns in regard to HB 2127 at the Committee hearing of February 1, 2001. First, that approval of tests for infectious diseases by KDHE would subject KDHE to a significant administrative and fiscal burden in the compilation and maintenance of a listing of approved tests. The second issue concerned the scope of HB 2127. As a result of our discussions, the Departments of Corrections and Health and Environment recommend that HB 2127 be amended to delete reference to approval by KDHE of the testing to be conducted. Additionally, it is recommended that HB 2127 be amended to provide for consultation by the Secretary of Corrections with a medical care provider prior to seeking an order for infectious disease testing. With those amendments, the Departments of Corrections and Health and Environment urge favorable consideration of HB 2127 by the Committee.

Section (h) of HB 2127 provides, "Infectious disease tests" means approved by the secretary of health and environment for detection of infectious diseases". This provision serves no purpose in the delivery of medical care in the community. While KDHE certifies laboratories conducting diagnostic medical tests, KDHE does not regulate the tests ordered by medical providers. Therefore, striking the language of HB 2127 beginning on page 1, line 40 through the end of line

HHS
2-15-01
Atch #4

41 would nonetheless result in the testing conducted pursuant HB 2127 to be conducted in the same manner as is applicable to testing for infectious diseases in the community.

In regard to the scope of HB 2127, the Departments of Health and Environment and Corrections concur that the benefit of HB 2127 is derived from its responsiveness to developments in medical treatment and disease detection as well as the onset of previously unknown diseases in regard to the health and safety of corrections employees. The responsiveness of HB 2127 to these changes is due to its use of the term "infectious disease" rather than identification of each disease by name and hopefully making timely amendments as needed.

Additionally, HB 2127 is responsive to the diverse manner and effect of exposure that can occur relative to communicable diseases. For example, while most sexually transmitted diseases are communicable only through sexual conduct or a blood transfusion, that limitation of course is irrelevant if a corrections employee has been sexually assaulted by an offender. HB 2127 allows for the testing for specific diseases based upon the nature of the exposure experienced by the employee.

In regard to the concern of the scope of HB 2127, insertion of the phrase "or the secretary's designee upon consultation with a medical care provider" after "corrections" on page 2, line 23 serves to provide a medical basis for specific infectious disease testing. This amendment provides the flexibility needed to respond to the health and safety of corrections staff, while at the same time limit the scope of HB 2127 to testing which is medically appropriate.

Consistent with the purpose of HB 2127, it is also recommend that all of the references to HIV and hepatitis B be struck. Therefore, line 24, page 1; and line 25, page 1 should be struck in their entirety. At line 42, page 2 the phrase "HIV infection or hepatitis B" should be struck and the phrase "an infectious disease" inserted in its place.

A balloon incorporating these recommended amendments is attached. Favorable consideration of HB 2127 with the recommended amendments is urged.

w/attachment

HEIN AND WEIR, CHARTERED

Attorneys-at-Law

5845 SW 29th Street, Topeka, KS 66614-2462

Telephone: (785) 273-1441

Telefax: (785) 273-9243

Ronald R. Hein

Email: rhein@hwchtd.com

Stephen P. Weir*

Email: sweir@hwchtd.com

*Admitted in Kansas & Texas

February 15, 2001

Rep. Garry Boston, Chairman
House Health and Human Services Committee
300 SW 10th Room 156E
Topeka, KS 66612

Re: HB 2059

Dear Rep. Boston:

Attached to this letter are balloon amendments to HB 2059, which creates a renal disease fund to benefit victims of kidney disease under the administration of the KU Medical Center. You may recall that Marlin Rein, at the hearing on this bill, questioned whether the Medical Center was the appropriate agency to administer the act. We have met with Dr. Donald Hagen, Executive Vice Chancellor, and Marlin Rein regarding their concerns with the bill. The result of that meeting is the proposed amendment attached.

With the adoption of the amendments, the KU Medical Center would not have any problem with this bill. We have also agreed to meet as this bill progresses should there be the need to look at any other technical amendments to insure that this program would be administered properly. On behalf of the National Kidney Foundation of Kansas and Western Missouri, I would urge the committee to adopt the amendments and approve HB 2059 as amended.

Sincerely,



Ronald R. Hein
Legislative Counsel
National Kidney Foundation of Kansas and
Western/Missouri

RRH:djc

Enclosure

cc: House Health and Human Services Committee Members
Marlin Rein, KU Medical Center
Randy Williams, CEO, NKF Kansas and Western Missouri

Ha HS
2-15-01

Atch #5

HOUSE BILL No. 2059

By Health Care Reform Legislative Oversight Committee

1-18

9 AN ACT relating to health care; establishing a state renal disease fund.

10

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

12 Section 1. (a) The university of Kansas ~~school of medicine~~ shall es-
13 tablish a program for the care and treatment of persons suffering from
14 chronic renal diseases who require lifesaving medications and transpor-
15 tation to treatment for such renal disease.

medical center

, to the extent moneys are appropriated or grants or other funds are received therefor,

16 (b) The executive vice chancellor of the university of Kansas ~~school~~
17 ~~of medicine~~ shall appoint support staff ~~to help in the administration of~~
18 ~~this act~~ and develop standards for determining eligibility for care and
19 treatment under this program.

medical center

necessary to administer the program

20 (c) The executive vice chancellor is hereby given the authority to
21 adopt the necessary rules and regulations to properly administer and en-
22 force the provisions of this act.

In lieu of administering the program the executive vice chancellor may contract with an external organization for administration of the act.

23 (d) There is hereby created in the state treasury the renal disease
24 fund. The executive vice chancellor may accept moneys from any source
25 and such moneys shall be credited to the renal disease fund. All expend-
26 itures from the renal disease fund shall be made in accordance with ap-
27 propriation acts upon warrants of the director of accounts and reports
28 issued pursuant to vouchers approved by the executive vice chancellor or
29 by a person or persons designated by the executive vice chancellor.

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

(e) all expenditures for costs of the program established by this act, including costs of administration and all services therefor, shall be made out of the renal disease fund.

HOUSE BILL No. 2154

By Committee on Appropriations

1-24

9 AN ACT concerning providers of care services; employment of persons
10 by such providers; amending K.S.A. 39-970 and K.S.A. 2000 Supp. 65-
11 5117 and repealing the existing sections.

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

14 Section 1. K.S.A. 39-970 is hereby amended to read as follows: 39-
15 970. (a) (1) ~~On and after July 1, 1998;~~ No person shall knowingly operate
16 an adult care home if, in the adult care home, there works any person
17 who has been convicted of or has been adjudicated a juvenile offender
18 because of having committed an act which if done by an adult would
19 constitute the commission of capital murder, pursuant to K.S.A. 21-3439
20 and amendments thereto, first degree murder, pursuant to K.S.A. 21-
21 3401 and amendments thereto, second degree murder, pursuant to sub-
22 section (a) of K.S.A. 21-3402 and amendments thereto, voluntary man-
23 slaughter, pursuant to K.S.A. 21-3403 and amendments thereto, assisting
24 suicide pursuant to K.S.A. 21-3406 and amendments thereto, mistreat-
25 ment of a dependent adult, pursuant to K.S.A. 21-3437 and amendments
26 thereto, rape, pursuant to K.S.A. 21-3502 and amendments thereto, in-
27 decent liberties with a child, pursuant to K.S.A. 21-3503 and amendments
28 thereto, aggravated indecent liberties with a child, pursuant to K.S.A. 21-
29 3504 and amendments thereto, aggravated criminal sodomy, pursuant to
30 K.S.A. 21-3506 and amendments thereto, indecent solicitation of a child,
31 pursuant to K.S.A. 21-3510 and amendments thereto, aggravated inde-
32 cent solicitation of a child, pursuant to K.S.A. 21-3511 and amendments
33 thereto, sexual exploitation of a child, pursuant to K.S.A. 21-3516 and
34 amendments thereto, sexual battery, pursuant to K.S.A. 21-3517 and
35 amendments thereto, or aggravated sexual battery, pursuant to K.S.A. 21-
36 3518 and amendments thereto, *an attempt to commit any of the crimes*
37 *enumerated herein*, pursuant to K.S.A. 21-3301 and amendments thereto,
38 *a conspiracy to commit any of the crimes enumerated herein*, pursuant
39 *to K.S.A. 21-3302 and amendments thereto, or criminal solicitation of any*
40 *of the crimes enumerated herein*, pursuant to K.S.A. 21-3303 and amend-
41 *ments thereto*, or similar statutes of other states or the federal
42 government.

43 (2) ~~On and after July 1, 1998;~~ A person operating an adult care home

listed in this subsection (a)(1)

HLHS
2-15-01
Atch #2

6-2

1 may employ an applicant who has been convicted of any of the following
 2 if five or more years have elapsed since the applicant satisfied the sen-
 3 tence imposed or was discharged from probation, a community correc-
 4 tional services program, parole, postrelease supervision, conditional re-
 5 lease or a suspended sentence; or if five or more years have elapsed since
 6 the applicant has been finally discharged from the custody of the com-
 7 missioner of juvenile justice or from probation or has been adjudicated a
 8 juvenile offender, whichever time is longer: A felony conviction for a
 9 crime which is described in: (A) article 34 of chapter 21 of the Kansas
 10 Statutes Annotated and amendments thereto, except those crimes listed
 11 in subsection (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas
 12 Statutes Annotated and amendments thereto, except those crimes listed
 13 in subsection (a)(1) and K.S.A. 21-3605 and amendments thereto; (C) a
 14 conviction of an attempt under K.S.A. 21-3301 and amendments thereto
 15 to commit any act listed in this subsection or subsection (a)(1); or (D) an
 16 attempt to commit any of the crimes enumerated herein, pursuant to
 17 K.S.A. 21-3301 and amendments thereto; (D) a conspiracy to commit any
 18 of the crimes enumerated herein, pursuant to K.S.A. 21-3302 and amend-
 19 ments thereto; or (E) similar statutes of other states or the federal
 20 government.

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

24 (c) (1) The secretary of health and environment shall have access to
 25 any criminal history record information in the possession of the Kansas
 26 bureau of investigation regarding felony convictions or adjudications of a
 27 juvenile offender which if committed by an adult would be a felony con-
 28 cerning persons working in an adult care home. The secretary shall have
 29 access to these records for the purpose of determining whether or not
 30 the adult care home meets the requirements of this section. The Kansas
 31 bureau of investigation may charge to the department of health and en-
 32 vironment a reasonable fee for providing criminal history record infor-
 33 mation under this subsection.

34 (2) The operator of an adult care home shall be deemed in compliance
 35 with this section provided that the operator obtains the same or better
 36 criminal history record information from a private contractor approved
 37 by the Kansas bureau of investigation. If a private contractor determines
 38 that a person is prohibited from working in an adult care home under
 39 this section, the private contractor shall notify the department of health
 40 and environment of such person's name and the reasons for such
 41 determination.

42 (d) For the purpose of complying with this section, the operator of
 43 an adult care home shall request information regarding only felony con-

- listed in this subsection or subsection (a)(1)
- or (E) criminal solicitation of any of the crimes listed in this subsection or subsection (a)(1), pursuant to K.S.A. 21-3303 and amendments thereto;
- (F)
- , convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, and adjudications of a juvenile offender which if committed by an adult would have been a felony conviction

3.6

1 *victions and adjudications of a juvenile offender which if committed by*
 2 *an adult would have been a felony conviction* from the department of
 3 health and environment information obtained by the secretary of health
 4 and environment or from an approved private contractor which relates
 5 to a person who works in the adult care home, or is being considered for
 6 employment by the adult care home, for the purpose of determining
 7 whether such person is subject to the provision of this section. For the
 8 purpose of complying with this section, the operator of an adult care home
 9 shall receive from any employment agency which provides employees to
 10 work in the adult care home written certification that such employees are
 11 not prohibited from working in the adult care home under this section.
 12 For the purpose of complying with this section, information relating to
 13 convictions and adjudications by the federal government or to convictions
 14 and adjudications in states other than Kansas shall not be required until
 15 such time as the secretary of health and environment determines the
 16 search for such information could reasonably be performed and the in-
 17 formation obtained within a two-week period. For the purpose of com-
 18 plying with this section, a person who operates an adult care home may
 19 hire an applicant for employment on a conditional basis pending the re-
 20 sults from the department of health and environment of a request for
 21 information under this subsection. No adult care home, the operator or
 22 employees of an adult care home or an employment agency, or the op-
 23 erator or employees of an employment agency, shall be liable for civil
 24 damages resulting from any decision to employ, to refuse to employ or
 25 to discharge from employment any person based on such adult care
 26 home's compliance with the provisions of this section if such adult care
 27 home or employment agency acts in good faith to comply with this
 28 section.

29 (e) The secretary of health and environment shall charge each person
 30 requesting information under this section a fee equal to cost, not to ex-
 31 ceed \$10, for each name about which an information request has been
 32 submitted to the department under this section.

33 (f) No person who works for an adult care home and who is currently
 34 licensed or registered by an agency of this state to provide professional
 35 services in the state and who provides such services as part of the work
 36 which such person performs for the adult care home shall be subject to
 37 the provisions of this section.

38 (g) (1) *The secretary of health and environment shall provide to each*
 39 *person requesting information under this section the criminal history rec-*
 40 *ord information concerning felony convictions and adjudications as pro-*
 41 *vided, including any felony convictions of offenses other than those enu-*
 42 *merated in subsection (a), regardless of whether the information discloses*
 43 *that the subject of the request has been convicted of an offense enumerated*

information regarding only felony convictions, convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, and adjudications of a juvenile offender which if committed by an adult would have been a felony conviction and

, convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, and adjudications of a juvenile offender which if committed by an adult would have been a felony conviction

6-4

1 in subsection (a) of this section.

2 (2) The secretary of health and environment shall provide each person
3 requesting information under this section with the criminal history record
4 information [regarding any felony conviction] within three business days
5 of receipt of such information from the Kansas bureau of investigation.

6 (3) The secretary of health and environment shall provide each person
7 requesting information under this section, in writing and within three
8 business days after receipt of such information from the Kansas bureau
9 of information, whenever the criminal history record information reveals
10 that the subject of the request has not been convicted of an offense enu-
11 merated in subsection (a) of this section.

12 ~~(g)~~ (h) A person who volunteers in an adult care home shall not be
13 subject to the provisions of this section because of such volunteer activity.

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

18 ~~(i)~~ (j) The operator of an adult care home shall not be required under
19 this section to conduct a background check on an applicant for employ-
20 ment with the adult care home if the applicant has been the subject of a
21 background check under this act within one year prior to the application
22 for employment with the adult care home. The operator of an adult care
23 home where the applicant was the subject of such background check may
24 release a copy of such background check to the operator of an adult care
25 home where the applicant is currently applying.

26 ~~(j)~~ (k) No person who is in the custody of the secretary of corrections
27 and who provides services, under direct supervision in nonpatient areas,
28 on the grounds or other areas designated by the superintendent of the
29 Kansas soldiers' home or the Kansas veterans' home shall be subject to
30 the provisions of this section while providing such services.

31 (l) For the purpose of this section, the Kansas bureau of investigation
32 shall only report felony convictions to the secretary of health and envi-
33 ronment when a background check is requested.

34 ~~(k)~~ (m) This section shall be part of and supplemental to the adult
35 care home licensure act.

36 Sec. 2. K.S.A. 2000 Supp. 65-5117 is hereby amended to read as
37 follows: 65-5117. (a) (1) ~~On and after July 1, 1998~~; No person shall know-
38 ingly operate a home health agency if, for the home health agency, there
39 works any person who has been convicted of or has been adjudicated a
40 juvenile offender because of having committed an act which if done by
41 an adult would constitute the commission of capital murder, pursuant to
42 K.S.A. 21-3439 and amendments thereto, first degree murder, pursuant
43 to K.S.A. 21-3401 and amendments thereto, second degree murder, pur-

[, convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto,
and adjudications of a juvenile offender which if committed by an adult
would have been a felony conviction

5-9

1 suant to subsection (a) of K.S.A. 21-3402 and amendments thereto, vol-
 2 untary manslaughter, pursuant to K.S.A. 21-3403 and amendments
 3 thereto, assisting suicide, pursuant to K.S.A. 21-3406 and amendments
 4 thereto, mistreatment of a dependent adult, pursuant to K.S.A. 21-3437
 5 and amendments thereto, rape, pursuant to K.S.A. 21-3502 and amend-
 6 ments thereto, indecent liberties with a child, pursuant to K.S.A. 21-3503
 7 and amendments thereto, aggravated indecent liberties with a child, pur-
 8 suant to K.S.A. 21-3504 and amendments thereto, aggravated criminal
 9 sodomy, pursuant to K.S.A. 21-3506 and amendments thereto, indecent
 10 solicitation of a child, pursuant to K.S.A. 21-3510 and amendments
 11 thereto, aggravated indecent solicitation of a child, pursuant to K.S.A. 21-
 12 3511 and amendments thereto, sexual exploitation of a child, pursuant to
 13 K.S.A. 21-3516 and amendments thereto, sexual battery, pursuant to
 14 K.S.A. 21-3517 and amendments thereto, or aggravated sexual battery,
 15 pursuant to K.S.A. 21-3518 and amendments thereto, *an attempt to com-*
 16 *mit any of the crimes enumerated herein,* pursuant to K.S.A. 21-3301 and
 17 *amendments thereto, a conspiracy to commit any of the crimes enumer-*
 18 *ated herein,* pursuant to K.S.A. 21-3302 and amendments thereto, or
 19 *criminal solicitation of any of the crimes enumerated herein,* pursuant to
 20 K.S.A. 21-3303 and amendments thereto, or similar statutes of other states
 21 or the federal government.

listed in this subsection (a)(1)

22 (2) ~~On and after July 1, 1998,~~ A person operating a home health
 23 agency may employ an applicant who has been convicted of any of the
 24 following if five or more years have elapsed since the applicant satisfied
 25 the sentence imposed or was discharged from probation, a community
 26 correctional services program, parole, postrelease supervision, conditional
 27 release or a suspended sentence; or if five or more years have elapsed
 28 since the applicant has been finally discharged from the custody of the
 29 commissioner of juvenile justice or from probation or has been adjudi-
 30 cated a juvenile offender, whichever time is longer: A felony conviction
 31 for a crime which is described in: (A) article 34 of the Kansas Statutes
 32 Annotated and amendments thereto, except those crimes listed in sub-
 33 section (a)(1); (B) articles 35 or 36 of chapter 21 of the Kansas Statutes
 34 Annotated and amendments thereto, except those crimes listed in sub-
 35 section (a)(1) and K.S.A. 21-3605 and amendments thereto; (C) ~~a con-~~
 36 ~~viction of an attempt under K.S.A. 21-3301 and amendments thereto to~~
 37 ~~commit any act listed in this subsection or subsection (a)(1), or (D) an~~
 38 ~~attempt to commit any of the crimes enumerated herein, pursuant to~~
 39 ~~K.S.A. 21-3301 and amendments thereto; (D) a conspiracy to commit any~~
 40 ~~of the crimes enumerated herein, pursuant to K.S.A. 21-3302 and amend-~~
 41 ~~ments thereto; or (E) similar statutes of other states or the federal~~
 42 ~~government.~~

or (E) criminal solicitation of any of the crimes enumerated herein,
 pursuant to K.S.A. 21-3303 and amendments thereto;

(F)

43 (b) No person shall operate a home health agency if such person has

1 been found to be a disabled person in need of a guardian or conservator,
2 or both.

3 (c) (1) The secretary of health and environment shall have access to
4 any criminal history record information in the possession of the Kansas
5 bureau of investigation regarding any felony convictions ~~or adjudications~~
6 ~~of a juvenile offender which if committed by an adult would be a felony~~
7 concerning persons working for a home health agency. The secretary shall
8 have access to these records for the purpose of determining whether or
9 not the home health agency meets the requirements of this section. The
10 Kansas bureau of investigation may charge to the department of health
11 and environment a reasonable fee for providing criminal history record
12 information under this subsection.

13 (2) The operator of a home health agency shall be deemed in compli-
14 ance with this section provided that the operator obtains the same or
15 better criminal history record information from a private contractor ap-
16 proved by the Kansas bureau of investigation. If a private contractor
17 determines that a person is prohibited from working in an adult care home
18 under this section, the private contractor shall notify the department of
19 health and environment of such person's name and the reasons for such
20 determination.

21 (d) For the purpose of complying with this section, the operator of a
22 home health agency shall request ~~information regarding only felony con-~~
23 ~~victions and adjudications of a juvenile offender which if committed by~~
24 ~~an adult would have been a felony~~ from the department of health and
25 environment ~~information obtained by the secretary of health and envi-~~
26 ~~ronment~~ ~~or from an approved private contractor,~~ which relates to a per-
27 son who works for the home health agency or is being considered for
28 employment by the home health agency, for the purpose of determining
29 whether such person is subject to the provisions of this section. For the
30 purpose of complying with this section, information relating to convictions
31 and adjudications by the federal government or to convictions and adju-
32 dications in states other than Kansas shall not be required until such time
33 as the secretary of health and environment determines the search for such
34 information could reasonably be performed and the information obtained
35 within a two-week period. For the purpose of complying with this section,
36 a person who operates a home health agency may hire an applicant for
37 employment on a conditional basis pending the results from the depart-
38 ment of health and environment of a request for information under this
39 subsection. No home health agency, the operator or employees of a home
40 health agency or an employment agency, which provides employees to work for the
41 of an employment agency, which provides employees to work for the
42 home health agency shall be liable for civil damages resulting from any
43 decision to employ, to refuse to employ or to discharge from employment

6-9
], convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto,
and adjudications of a juvenile offender which if committed by an adult
would have been a felony conviction

information regarding only felony convictions, convictions under K.S.A.
21-3437 and 21-3517, and amendments thereto, and adjudications of a
juvenile offender which if committed by an adult would have been a
felony conviction and

6-9

1 any person based on such home health agency's compliance with the
2 provisions of this section if such home health agency or employment
3 agency acts in good faith to comply with this section.

4 (e) The secretary of health and environment shall charge each person
5 requesting information under this section a fee equal to cost, not to ex-
6 ceed \$10, for each name about which an information request has been
7 submitted under this section.

8 (f) No person who works for a home health agency and who is cur-
9 rently licensed or registered by an agency of this state to provide profes-
10 sional services in this state and who provides such services as part of the
11 work which such person performs for the home health agency shall be
12 subject to the provisions of this section.

13 (g) (1) *The secretary of health and environment shall provide each*
14 *person requesting information under this section with the criminal history*
15 *record information provided by the Kansas bureau of investigation, in-*
16 *cluding any felony convictions of offenses other than those enumerated in*
17 *subsection (a), regardless of whether the information discloses that the*
18 *subject of the request has been convicted of an offense enumerated in*
19 *subsection (a) of this section.*

concerning felony convictions, convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto, and adjudications of a juvenile offender which if committed by an adult would have been a felony conviction

20 (2) *The secretary of health and environment shall provide each person*
21 *requesting information under this section with the criminal history record*
22 *information within three business days of receipt of such information from*
23 *the Kansas bureau of investigation.*

24 (3) *The secretary of health and environment shall provide each person*
25 *requesting information under this section, in writing and within three*
26 *business days after receipt of such information from the Kansas bureau*
27 *of information, a report of no conviction whenever the criminal history*
28 *record information reveals that the subject of the request has not been*
29 *convicted of an offense enumerated in subsection (a) of this section or any*
30 *other felony.*

31 (g) (h) A person who volunteers to assist a home health agency shall
32 not be subject to the provisions of this section because of such volunteer
33 activity.

34 (h) (i) No person who has been employed by the same home health
35 agency for five consecutive years immediately prior to the effective date
36 of this act shall be subject to the requirements of this section while em-
37 ployed by such home health agency.

38 (i) (j) The operator of a home health agency shall not be required
39 under this section to conduct a background check on an applicant for
40 employment with the home health agency if the applicant has been the
41 subject of a background check under this act within one year prior to the
42 application for employment with the home health agency. The operator
43 of a home health agency where the applicant was the subject of such

8-9

1 background check may release a copy of such background check to the
2 operator of a home health agency where the applicant is currently
3 applying.

4 (k) For the purpose of this section, the Kansas bureau of investigation
5 shall only report felony convictions ~~as enumerated in subsection (a) of this~~
6 ~~section and other felony convictions~~ to the secretary of health and envi-
7 ronment when a background check is requested.

8 (j) (l) This section shall be part of and supplemental to the provisions
9 of article 51 of chapter 65 of the Kansas Statutes Annotated and acts
10 amendatory thereof or supplemental thereto.

11 Sec. 3. K.S.A. 39-970 and K.S.A. 2000 Supp. 65-5117 are hereby
12 repealed.

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

, convictions under K.S.A. 21-3437 and 21-3517, and amendments thereto,
and adjudications of a juvenile offender which if committed by an adult
would have been a felony conviction