

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Vice Chairperson Ward Loyd at 3:30 p.m. On March 7, 2001 in Room 313-S of the Capitol.

All members were present except:

Representative Geraldine Flaharty - Excused
Representative Michael O'Neal - Excused
Representative Doug Patterson - Excused

Committee staff present:

Jerry Ann Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes Office
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Melissa Wangemann, Legal Counsel, Office of the Secretary of State
Professor Peter Cotorceanue, Kansas Judicial Council, Probate Law Advisory Subcommittee
Christina Ross-Baze, Child Care Licensing, Kansas Department of Health & Environment
Senator Chris Steineger
Ken Davis, Wyandotte County Collation
Trudy Racine, Department of Social & Rehabilitation Services
Becky Woerz, Kansas Association of Child Care & Resources Agency
Shirley Norris, Self, Topeka

SB 175 - consumer protection act; esquestration orders

The Vice Chairman announced that no conferees had signed up to testify and the bill would be rescheduled if time permits.

Hearings on **SB 20 - eliminate bond requirements for professional fund-raiser for charitable organization**, were opened.

Melissa Wangemann, Legal Counsel, Office of the Secretary of State, explained that the bill would repeal a section of the Kansas Charitable Organizations & Solicitations Act to bring Kansas into compliancy with a recent ruling from the Tenth Circuit Court of Appeals. The Senate amended the original bill to raise the civil penalty for violations of the act from \$2,000 to \$5,000. (Attachment 1)

Hearings on **SB 20** were closed.

Hearings on **SB 30 -invalidity of certain provisions of wills, trusts and other instruments when preparer is beneficiary**, were opened.

Professor Peter Cotorceanue, Kansas Judicial Council, Probate Law Advisory Subcommittee, appeared before the committee as proponent of the bill. He commented that the bill addresses a situation where a person who drafts a will and names themselves as beneficiary would have to make sure that all conditions listed are met and that the testator read or knew the contents of the will and had the opportunity for other legal advice. (Attachment 2)

Hearings on **SB 30** were closed.

Hearings on **SB 195 release of information in records of child care facilities**, were opened.

Senator Chris Steineger appeared before the committee to explain the Senate amendment which adds a new definitions of "child" and "child care" so part time child care facilities and activities would not fall under the statute.

Ken Davis, Wyandotte County Collation, explained that Wyandotte County has been in the process of

organizing programs which encompass after-school activities, Saturday youth academies, workshops and youth summer program. They have found that all of these types of programs have to be licensed by Kansas Department of Health & Environment (KDHE). This becomes a burdensome process for organizations trying to help out children. The Wyandotte County Collation has tried to work with KDHE in hopes of relaxing the regulations and licensing procedures but have not agreed to any modifications and therefore the amendment was requested in the Senate. He provided a summary of what other states do with regard to licensing part-time activities for children. ([Attachment 3](#))

Christina Ross-Baze, Child Care Licensing, Kansas Department of Health & Environment, supports the original bill but has concerns about new sections 2 & 3 because they would have difficulty implementing them. ([Attachment 4](#))

When asked if KDHE had a proposal Ms. Ross-Baze responded that they would like to continue to define what should and shouldn't be licensed. Members of the committee suggested that if KDHE didn't like the new sections then they should give the committee a proposal.

Trudy Racine, Department of Social & Rehabilitation Services, also supported the original bill but has concerns with new section 2. They believe that the new definition exempts certain programs operated for school-age children from the regulation of KDHE. If the proposed bill is passed they may not be able to provide federal funding for these types of organizations. ([Attachment 5](#))

Becky Woerz, Kansas Association of Child Care & Resources Agency, opposed the bill because it is not in the best interest of children. ([Attachment 6](#))

Shirley Norris, Self, Topeka , stated that without the licensing requirements many children would be put at risk. ([Attachment 7](#))

The Kansas Juvenile Justice Authority & Johnson County Health Department did not appear before the committee but requested that their testimony in opposition of the bill be included in the minutes. ([Attachments 8 & 9](#))

Hearings on **SB 195** were closed.

The committee meeting adjourned at 5:30 p.m. The next meeting is scheduled for March 21, 2001.

RON THORNBURGH
Secretary of State



First Floor, Memorial Hall
120 SW 10th Ave.
Topeka, KS 66612-1594
(785) 296-4564

TESTIMONY BEFORE THE HOUSE JUDICIARY COMMITTEE
ON SB 20
MARCH 7, 2001

The Secretary of State requested the introduction of SB 20 and supports its passage. SB 20 amends the Kansas Charitable Organizations and Solicitations Act to bring Kansas law into compliance with a recent decision of the Tenth Circuit Court of Appeals.

The Charitable Organizations and Solicitations Act governs charitable organizations and the professional fundraisers and professional solicitors that raise money for the organizations. The act requires these groups to register with the Secretary of State. A professional fundraiser must also include a \$5,000 bond with its registration. SB 20 repeals the bond requirement, bringing Kansas statutory law into compliance with recent case law.

The Tenth Circuit Court of Appeals invalidated Utah's statutory requirement of a fundraiser's bond in American Target Advertising v. Giani, 199 F. 3d 1241 (Jan. 2000), *cert. denied* 121 S.Ct. 34 (Oct. 2000). The court determined that the bond was an unconstitutional infringement on freedom of speech.

The Kansas bond is significantly lower than Utah's bond, which is \$25,000 compared to the Kansas bond requirement of \$5,000. However, the court opinion appears to invalidate all bonds, regardless of amount. This interpretation was the consensus of several Secretary of State Offices and Attorney General Offices in the Tenth Circuit, including the Utah Assistant Attorney General who argued the case.

The Senate Judiciary Committee amended the bill to raise the civil penalty for violations of the act from \$2,000 to \$5,000, making the Charitable Organizations and Solicitations Act consistent with the Kansas Consumer Protection Act, which imposes a \$5,000 civil penalty. The committee also incorporated the provisions of K.S.A. 50-676 *et seq.*, the consumer protection laws that allow a civil penalty of \$10,000 when the offense is committed against an elderly or disabled person.

I appreciate the opportunity to appear today and will be happy to answer questions.

Melissa Wangemann, Legal Counsel
Deputy Assistant Secretary of State

**KANSAS JUDICIAL COUNCIL
TESTIMONY ON 2001 SB 30
March 7, 2001**

The Judicial Council Probate Law Advisory Committee undertook a study of K.S.A. 59-605 because of a conflict between the statute and Rule 1.8(c) of the Kansas Rules of Professional Conduct. The members of the Committee are: Gerald L. Goodell, Chair, Topeka; Cheryl C. Boushka, Overland Park; Hon. Sam K. Bruner, Olathe; Tim Carmody, Overland Park; Michael L. Clutter, Topeka; Peter A. Cotorceanu, Topeka; Martin B. Dickinson, Jr., Lawrence; Jack R. Euler, Troy; Senator Greta Goodwin, Winfield; Mark Knackendoffel, Manhattan; Justice Edward Larson, Topeka; Philip D. Ridenour, Cimarron; and Willard B. Thompson, Wichita.

K.S.A. 59-605 currently reads as follows:

If it shall appear that any will was written or prepared by the sole or principal beneficiary in such will, who, at the time of writing or preparing the same, was the confidential agent or legal adviser of the testator, or who occupied at the time any other position of confidence or trust to such testator, such will shall not be held to be valid unless it shall affirmatively appear that the testator had read or knew the contents of such will, and had independent advice with reference thereto.

Rule 1.8(c) of the Kansas Rules of Professional Conduct reads as follows:

A lawyer shall not prepare an instrument giving the lawyer or a person related to the lawyer as parent, child, sibling, or spouse any substantial gift from a client, including a testamentary gift, except where the client is related to the donee.

1

In addition, two appellate opinions, In Re Estate of Barclay, 215 Kan. 129 (1974), and In Re Estate of Koch, 18 Kan.App.2d 188 (1993) have both construed K.S.A. 59-605 to make the statute inapplicable unless the confidential agent or legal advisor received in excess of one-half of the estate. In essence, the words "principal beneficiary" have been construed to require a gift in excess of 50% of the estate before the statute becomes operable.

As amended, K.S.A. 59-605 is expanded to include not only the will, but also a trust. In addition, it takes the approach of not invalidating the entire will (as the current statute does), but rather of invalidating the provision that violates the statute. Such provisions are valid if the scrivener is related by blood or marriage or if the testator or grantor had independent legal advice.

The Committee is of the opinion that similar rules should apply to preparation of deeds and other instruments, but since the time the bill was requested the Committee has concluded that the language in section two should be reconsidered and requests that it be stricken pending further work by the Committee.

RULE 1.8 Conflict of Interest: Prohibited Transactions

(a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:

- (1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in a manner which can be reasonably understood by the client; and
- (2) the client is given a reasonable opportunity to seek the advice of independent counsel in the transaction; and
- (3) the client consents in writing thereto.

(b) A lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client consents after consultation, except as permitted or required by Rule 1.6 or Rule 3.3.

(c) A lawyer shall not prepare an instrument giving the lawyer or a person related to the lawyer as parent, child, sibling, or spouse any substantial gift from a client, including a testamentary gift, except where the client is related to the donee.

(d) Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

- (1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and
- (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

(f) A lawyer shall not accept compensation for representing a client from one other than the client unless:

- (1) the client consents after consultation;
- (2) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and
- (3) information relating to representation of a client is protected as required by Rule 1.6.

(g) A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client consents after consultation, including disclosure of the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.

(h) A lawyer shall not make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless permitted by law and the client is independently represented in making the agreement, or settle a claim for such liability with an unrepresented client or former client without first advising that person in writing that independent representation is appropriate in connection therewith.

(i) A lawyer related to another lawyer as parent, child, sibling or spouse shall not represent a client in a representation directly adverse to a person who the lawyer knows is represented by the other lawyer except upon consent by the client after consultation regarding the relationship.

(j) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:

- (1) acquire a lien granted by law to secure the lawyer's fee or expenses; and
- (2) contract with a client for a reasonable contingent fee in a civil case.

59-501. Definitions. As used in K.S.A. 59-502 through 59-514, inclusive:

(a) "Children" means biological children, including a posthumous child; children adopted as provided by law; and children whose parentage is or has been determined under the Kansas parentage act or prior law.

(b) "Issue" includes adopted children of deceased children or issue.

59-605. Preparation of will by principal beneficiary. If it shall appear that any will was written or prepared by the sole or principal beneficiary in such will, who, at the time of writing or preparing the same, was the confidential agent or legal adviser of the testator, or who occupied at the time any other position of confidence or trust to such testator, such will shall not be held to be valid unless it shall affirmatively appear that the testator had read or knew the contents of such will, and had independent advice with reference thereto.

Testimony in Support of S.B. 195

Kansas House Judiciary Committee

March 7, 2001

Presented by Ken Davis, MPH, Outreach Director
School of Allied Health, University of Kansas Medical Center

Representing a Wyandotte County Coalition:

- KU Health Partners
- Unified Government of Wyandotte County/KCK
- United Way of Wyandotte County
- Youth Opportunity Unlimited (YOU)
- Wyandotte Interfaith Sponsoring Council (WISC)

BACKGROUND:

A growing emphasis on creating positive youth programs in urban communities, such as America's Promise, prompted faith-based organizations, community agencies, federal and private funding sources to collaborate in the development of organized opportunities for youth. These programs include after-school activities, Saturday youth academies, skill development workshops, summer youth programs, and other responsive scenarios to meet identified community youth needs.

The community support and emphasis placed on youth in Wyandotte County led several community-minded organizations to initiate local efforts, which would meet these needs. Organizations, which demonstrated a willingness to "step up to the plate," planned to rely upon existing resources in the form of facilities, adult volunteers, and consortia collaboration to meet these community challenges. Many were entering this arena for the first time, or were expanding parochial programs in collaboration with other participating groups. The organizations include many local churches, YWCA, YMCA, Boys and Girls Clubs; HUD funded housing network sites, neighborhood centers, and other local entities.

An unforeseen and sometimes ignored hurdle to these initiatives became evident in May, 2000, when the organizers learned that such programs must be compliant with the State of Kansas' Childcare Licensing requirements. The childcare licensure process is administered by the Kansas Department of Health and Environment, and is implemented locally through the Wyandotte County Health Department.

ISSUE:

The statute which grants the Kansas Department of Health and Environment (KDHE) the authority to license Kansas childcare facilities (K.S.A. 65-501, et seq.), and the KDHE regulations promulgated (K.A.R. 28-4-420, et seq.), apply to any program that serves children under 16 years of age, and exceed three (3) hours per day, regardless of their seasonality or partial-day characteristic.

The issue raised is whether the basic statutory definition and legislative intent was meant to apply across the board, as KDHE regulations do, to include after-school, weekend or summer youth programs. Alternatively, should certain school-age programs be exempt from the childcare licensure requirements.

IMPACT:

Under current law, one set of rules fits all youth programs, therefore, summer youth programs, before- and after-school programs, tutorial skill development programs, community-based youth programs, sports-related camps, and wide array of initiatives directed at school-age youth are all subject to these same set of rules.

The childcare licensure process includes a number of costly administrative, facility requirements, for example: staff credentialing; special building code blueprints submitted to the state fire Marshall; municipal zoning and business permits; child health assessments; requirements for minimum allocated space (35 sq. ft./ child); and playground equipment.

These licensure requirements create severe burdens for community organizations, churches and not-for-profit organization, which desire to provide a limited niche of programs, using their existing facilities and community volunteers.

LEGISLATIVE RELIEF:

The statutory authority (K.S.A. 65-501, et seq.) merits legislative revision to help clarify the definition of childcare, and its applicability to school-age summer youth programs, before- and after-school programs, tutorial skill development programs, community-based youth programs, or sports-related camps.

Approximately twenty (20) states have developed separate school-age care regulations. At least 16 states specify regulations for after-school programs, such as child-to-staff ratios, within their overall child care regulations. Some have provided tailored regulations that apply only to before- and after-school and summer day camp programs.

KDHE is in the process of revising its regulations to address school-age care separately from pre-school regulations. The proposed regulations are expected sometime this year. This regulatory distinction is both welcome and long overdue. We applaud KDHE's efforts to accommodate the concerns that have been raised.

However, in addition to this regulatory proposal the basic statutory definition needs to be revised to clarify the legislative intent regarding after-school, weekend or summer youth programs, and potentially exempt certain school-age programs from the licensure requirements.

Currently, under KSA 65-503(c)(1) "childcare facility" means:

- (A) A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both, except children related to the person by blood, marriage or legal adoption;
- (B) A children's' home orphanage, maternity home, day care facility or other facility of type determined by the secretary to require regulations under the provision of this act;
- (C) A child placement agency or child care resource and referral agency, or a facility maintained by such an agency for the purpose of caring for children under 16 years of age;
- (D) Any receiving or detention home for children under 16 years of age provided or maintained by, or receiving aid from, any city or county or the state.

LEGISLATIVE OPTIONS:

1) Exempt after-school, weekend and summer school –age programs.

Texas has exempted specified after-school programs from licensing requirements.

Kentucky has exempted youth development agencies from childcare licensure if they are tax-exempt, provide services year-round outside school hours for youth age 6 or older, and have no fee or scheduled care arrangements with the parent or guardian.

New Hampshire has exempted school-age programs located in schools from having to provide documentation pertaining to fire, health and zoning.

Hawaii has exempted after school, weekend, and summer programs conducted by the Department of Education or the county for programs serving children age 5 or older. It also exempted programs that provide exclusively specialized training or skill development for children, such as, athletic sports, foreign language, dance, drama, music, or martial arts.

Minnesota has exempted park and recreation programs that primarily provide social and recreational activities to school age children.

Tennessee has exempted childcare facilities operating nine hours per week, in connection with a church, business, or recreation facility, when the parent is not in an employment-related activity.

Iowa has exempted church-based programs, which operate while parents are attending a church activity, and the program operates one day per week.

2) Offer amnesty to programs while they seek licensure.

Colorado allows the issuance of a one-time provisional six-month license.

Connecticut has granted childcare licensing amnesty and provided exemptions for retroactive penalties, while allowing low-interest loans to be used for helping childcare programs to comply with regulatory requirements.

3) Provide incentives for after-school programs.

Minnesota authorizes school districts to allow certain groups to use school facilities for school-age childcare programs. Requires that school-age childcare programs have access to school facilities if the facilities are not in use. Allows school districts to establish rules regarding school-age programs. Encourages school districts to coordinate school-age care programs with other education programs; instruction and services provided by the district, government or nonprofit agencies.

California has established the After-School Learning and Safe Neighborhoods Partnership Program to create incentives for after-school enrichment programs for children from kindergarten to ninth grade. The purpose is to encourage educational enrichment, tutoring, homework assistance, and recreational activities, while preserving a safe environment. Programs are required to operate at school sites during certain numbers of days and until a certain hour, and allow local programs to operate during summer and vacation. All students in the school are eligible. Requires competitive awards and minimum percentages of students who are eligible for free or reduced, meals. Requires a 50% match from local school districts. Requires an interagency collaborative planning process.

RATIONALE TO APPROVE SENATE BILL 195, AS AMENDED:

SB 195 is not intended to dilute, nor weaken the protective safeguards for childcare in Kansas. The intent is to clarify and provide direction to KDHE, encouraging the regulatory agency to develop user-friendly regulations, which will permit faith-based organizations, community agencies, and school districts to develop and promote beneficial school-age youth programs during out-of-school time frames.

Senate Bill 195, as amended provides the statutory definition of childcare and appropriately exempts a limited number of school-age programs, which provide partial-day programs at little or no cost to the parents.

SB 195 seeks to define "childcare:"

Sec. 2. K.S.A. 2000 Supp. 65-502(b) "Child care" means the care, supervision and guidance of a child by a person other than the child's parent, guardian or custodian for a period of time less than 24 hours per day on a regular basis.

SB 195 seeks to define "school-age:"

Sec. 2. K.S.A. 2000 Supp. 65-502(d) "School age" means a child who has reached the legal age to attend school.

SB 195 seeks to exclude a pediatrics unit in a hospital:

New Section 3(a) A child care center for sick children operated as part of a pediatrics unit in a hospital licensed by the department of health and environment, as defined pursuant to K.S.A. 65-425, and amendments thereto; or

SB 195 seeks to exclude emergency, homeless or domestic violence shelter:

New Section 3(b) child care provided on-site to children of parents residing in an emergency, homeless or domestic violence shelter.

SB 195 seeks to exempt school age programs on a limited basis:

Sec. 2. K.S.A. 2000 Supp. 65-502 (b)

(1) An instructional program for children who are attending a program as provided under K.S.A. 2000 Supp. 72-8238, and amendments thereto, administered by any of the following:

- (A) A public or nonpublic school system accredited by the department of education or the state board of regents; or
- (B) a nonpublic school system, which is not accredited by the department of education or the state board of regents.

(2) A summer program established by the school board of a school district as provided under K.S.A. 2000 Supp. 72-8237, and amendments thereto.

(3) Short-term classes of less than two weeks' duration held between school terms or during a break within a school term.

(4) A school age program **operated not more than one day per week by volunteers**, which meets all of the following conditions:

- (A) Not more than 11 children are served per volunteer;
- (B) The program operates for less than four hours during any 24 hour period; and
- (C) The program is **provided at no cost to a child's parent, guardian or custodian**.

(5) A school age program administered by a political subdivision of the state which is **primarily for recreational or social purposes** and is limited to children who are **six years of age or older and attending school**.

(6) An after school program continuously offered throughout the school year to children who are at least six years of age and enrolled in school. The program **must be provided with a nominal membership fee or at no cost**.

(7) A special activity program which **meets less than four hours per day** for the sole purpose of the special activity. **Special activity programs include but are not limited to, music or dance classes, organized athletic or sports programs, recreational classes, scouting programs and hobby or craft clubs or classes**.

(8) A nationally **accredited camp**.

(9) A structured school age program for the purpose of **providing therapeutic, rehabilitative or supervisory services** to children under any of the following:

- (A) A purchase of service or managed care contract with the department; or
- (B) An arrangement approved by a juvenile court order.

Thank you, for your consideration and support of SB 195, as amended.

RI . REHORN
REPRESENTATIVE, 32ND DISTRICT
WYANDOTTE COUNTY
STATE CAPITOL, ROOM 278-N
TOPEKA, KS 66612-1504
(785) 296-7680

STATE OF KANSAS



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
BUSINESS, COMMERCE AND LABOR
FEDERAL AND STATE AFFAIRS
JUDICIARY

October 16, 2000

The Honorable Clyde Graeber
Kansas Department of
Health and Environment
400 SW 8th Street, Suite 200
Topeka, KS 66603

Dear Secretary Graeber:

I am writing regarding an issue that has many in our community concerned about the future of volunteer youth activities. More specifically, the apparent recent application of the Kansas Statutes for Licenses for Child Care facilities to summer, after-school, sports and church sponsored programs typically targeted for older children with a shorter duration and run by volunteers.

I have discussed this issue with Mayor Carol Marinovich, Mayor-CEO of Kansas City, Kansas, John Mendez, Director of Neighborhood Affairs for the city of Kansas City, Kansas, Terry Woodburry, head of our local United Way, Ken Davis, Outreach Director at Kansas University Medical Center and Irene Caudillo, Director of Youth Opportunities Unlimited. I have also reviewed correspondence directed to you from Sister Theresa at the Wyandotte Interfaith Sponsoring Council.

I have the following questions:

1. It appears that these programs were not even aware they were subject to KDHE regulation until a recent incident in Wyandotte County. These Wyandotte County agencies have asked for clarification and direction, but it does not appear to have come to the attention of anyone any where else. Are KDHE regulations for these type of programs being enforced in any of the other 104 counties?

Secretary Clyde Graeber

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2. I have read and reread K.S.A. 65-503. It is pretty clear to me that the statute attempts to regulate pre-school and day care facilities. How do you bring the type of programs referred to earlier in this letter under the definition of child care facility as defined by the act?

I would appreciate your response and would gladly come to Topeka to discuss this with you if you would like.

Sincerely,



Rick Rehorn

TRR/pak

cc: Mayor Carol Marinovich
John Mendez
Terry Woodburry
Ken Davis
Irene Caudillo
Sister Theresa Bangert



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

October 25, 2000

The Honorable Rick Rehorn
House of Representatives
State Capitol, Room 278-N
Topeka, Kansas 66612-1504

Re: Child Care Facility Questions

Dear Representative Rehorn:

In your letter dated October 16, 2000, you requested the Kansas Department of Health and Environment's (KDHE) interpretation of K.S.A. 65-503 as it related to various youth programs and asked whether the statutes and regulations governing the operation of child care facilities were enforced equally throughout the state.

The definition of "child care facility" in K.S.A. 65-503 includes various types of facilities that provide care to children. That definition includes:

- (a) A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both, . . . ; and,
- (b) a . . . day care facility or other facility of a type determined by the secretary to require regulation under the provisions of this act; . . .

The KDHE has interpreted these provisions to include any place where children or youth under 16 years of age are cared for away from their parents on an ongoing basis, with several exceptions. The Department does not interpret this definition to include care provided in the child's home, care provided on an infrequent basis, where the sole purpose is for instruction, or when the activities and the persons operating the facilities are regulated by another agency.

The definition of "child care facility" is interpreted by the KDHE to assure that children being cared for away from their parents are provided appropriate care, but without regulating every activity in which a child or youth may participate. Examples of activities which are not regulated include babysitting on a one-time basis, piano or dance lessons, and sports practices. The interpretation is also not extended to sports and other camps that are operated for two weeks or less, unless enrollment is continued for

Honorable Rick Rehorn
October 25, 2000
Page Two

consecutive two-week periods. Summer programs, as provided by K.S.A. 72-8237, and extraordinary school programs, as provided by K.S.A. 72-8238, are also not regulated by the KDHE, as well as education provided during regular school hours.

The KDHE is currently working on revising regulations for programs caring for school-age children so that those programs can serve the needs of the children in our communities while meeting the minimum standards of care necessary for school-age children.

In response to your question regarding the enforcement of child care statutes and regulations throughout the state, the KDHE attempts to apply the statutes and regulations equally and fairly to all child care facilities regardless of the location of the facility and regardless of whether the facility is in an urban or rural area of the state.

Sincerely,

A handwritten signature in black ink, appearing to read "Clyde D. Graeber", with a long horizontal flourish extending to the right.

Clyde D. Graeber
Secretary

CDG:EL

cc: Eugene Lueger, Attorney



KANSAS

DEPARTMENT OF HEALTH & ENVIRONMENT

BILL GRAVES, GOVERNOR

Clyde D. Graeber, Secretary

PROGRAMS FOR SCHOOL AGE CHILDREN AND YOUTH DOES YOUR PROGRAM REQUIRE LICENSURE WITH THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT?

1. Does the program serve children or youth Kindergarten age through age 16? **Yes Go to 2**
No - License not required

2. If the program operates **YEAR-ROUND** more than one day per week, does the program serve children and youth three or more hours and less than 24 hours per day? **OR**

If the program operates **YEAR-ROUND** only one day per week, are children and youth in attendance more than 5 consecutive hours? **OR**

If the program operates **SUMMER ONLY**, does the program operate more than 3 hours daily and more than two consecutive weeks? **OR**

If the program operates **SUMMER ONLY**, does the program operate only one day per week and are the children in attendance more than 5 consecutive hours? **OR**

If the program operates during the **SCHOOL YEAR ONLY**, does the program serve children and youth before and/or after school hours? **OR**

Yes Go to 3
No - License not required

3. Are the parents or guardians of the child or youth on the premise of the facility and its grounds and readily accessible to meet the needs of their child or youth?

Yes- License not required
No - Go to 4

4. Are all children or youth served by the program related to the person by blood, marriage or legal adoption?

Yes-License not required
No-Go to 5

5. Apply for License.

Division of Health
Bureau of Consumer Health

Child Care Licensing and Registration Section
900 SW Jackson, Suite 620
(785) 296-1270

Topeka, KS 66612-1220
FAX (785) 296-0803



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

TO: School Age Child Care Stakeholders

FROM: Christine Ross-Baze, Director, Child Care Licensing and Registration
Janet Nutter, Administrator, Child Care Unit

DATE: December 29, 2000

RE: PROPOSED DEFINITION OF SCHOOL AGE CARE FOR COMMENT

Below is the proposed definition of school age care to be used by the Kansas Department of Health and Environment to determine what and when school age programs require licensure. The department will be sending invitations within the next two weeks for "School Age Regulation Task Forces". Six meetings are being planned in locations throughout the state to discuss the proposed definition below as well as other regulations. We look forward to your comments.

PROPOSED DEFINITION

Child care means the provision of regular ongoing supervision of children or youth subject to licensure by the Kansas Department of Health and Environment.

School age means a child or youth who is kindergarten age through 12th grade.

School age child care program means supervised activities, programs, education or services for children or youth who are kindergarten age or older, offered before or after the regular academic school day or on days when school is not in session including the summer months. School age child care program includes day care programs, youth development programs, faith based programs, recreation programs, sports programs, special skill building programs, instructional programs, day camps, day treatment programs and day reporting programs.

The following school age child care (facilities, centers, programs) must obtain a license to operate a child care facility from the Kansas Department of Health and Environment:

The program holds itself out as providing child care services to the public or charges fees for child care regardless of the number of hours children attend; or

The program operates in a way that allows children, kindergarten age through 6th grade, to attend 10 hours a week or more during the school year and the program is not an extraordinary school program as defined in K.S.A. 72-8238 and amendments to it; or

The program operates in a way that allows children, kindergarten age through 6th grade or youth,

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7th grade through 12th grade, to attend 10 hours a week or more for more than two consecutive weeks within a 3 week period during the summer months and the program is not a "summer program" pursuant to K.S.A. 72-8237 and amendments to it (ie summer school); or

The program is a day treatment program for children or youth who attend 10 hours a week or more for more than two consecutive weeks;

The program is a day reporting program.

LICENSE EXEMPT PROGRAMS

Programs for school age children that do not meet the above criteria, that operate in a way that allows school age children to attend supervised activities, programs or services on an infrequent, limited basis, for single skill building or educational enrichment purposes and that do not hold themselves out as providing child care or charge for child care services are not subject to licensure by the Kansas Department of Health and Environment.

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KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

March 5, 2001

Ken Davis
School of Allied Health
University of Kansas Medical Center
3901 Rainbow Blvd. 1004 Murphy
Kansas City, Kansas 66160-7600

Dear Ken:

This letter is to confirm our telephone conversation today regarding the status of the proposed definition and draft regulations for school age programs. I am also confirming the Department's intent to draft regulations that provide adequate safeguards for children and youth attending these programs and to work closely with school age program providers to identify, minimize or eliminate regulations or processes that create unnecessary or burdensome barriers to providing school age programs in the community.

The Department has conducted the first round of 6 meetings across the state to define what types of programs should be licensed and what types of programs should be exempt. In addition we asked for comments and recommendations on issues you have brought to our attention such as square footage requirements, fire safety requirements, staff qualifications and health records on children and youth and whether requirements should be different based on the length of time children and youth are attending the program.

Over 250 persons were invited to participate and 125 attended the meetings. Many more persons have indicated their intention to attend the next round of meetings. The proposed definition attached is a consensus of the comments from the first 6 meetings.

The second round of 6 meetings are scheduled for the month of March to solicit consensus on the draft of proposed regulations to govern school age programs. The Department has also worked closely with the State Fire Marshal's Office to communicate concerns expressed about the code footprint. The State Fire Marshal's Office has been responsive to the concerns expressed and has taken steps to modify the code footprint requirement. In addition, they have compiled a list of persons willing to develop code footprints for under \$300.

The proposed regulations will be mailed out this week and will be used as a basis for discussions in the next round of meetings. As I said on the telephone, all the proposed regulations are on the table for discussion and reaction. It is again our intention to get consensus on what should be the minimum standards for these types of programs.

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The Department recognizes that many of these programs are operated for a few hours every day after school and that many are operated as a community service on a limited budget. Some do not charge any fees to parents. The part day nature of some of these programs and the limited fiscal resources available to them are being taken into consideration in the drafting of the school age regulations. The bottom line for the Department is that parents of children and youth attending these programs should be assured that sufficient safeguards are in place to minimize health and safety risks to their children.

The draft that will be used for discussion in the meetings, incorporates comments given to us in the first round of meetings. The draft attempts to address the square footage issue and use of rooms in a manner consistent with school age programs and based on the type of activity. Further the health record requirements and staff qualifications are more liberal to accommodate the nature of school age programs.

In addition to these efforts, the Department has attempted to be responsive to the issues of the current school age programs operating in Wyandotte County and has been supportive in encouraging the use of SRS grant funds to assist the Wyandotte County school age programs in meeting licensing requirements. The Wyandotte County Health Department also held training sessions for staff and clinics to aid in getting the programs licensed.

I understand that your concern is that the new regulations will not be in effect before the summer programs start up. The Department does have some flexibility in applying regulations. The next round of meetings will be completed this month and we should have the draft of the new regulations by the end of April, 2001. Based on past practice, we can offer to use the draft as a guide lines to field test the proposed regulations if requested by the applicants of new summer programs. The Department will make every effort to view the new summer programs in light of the proposed regulations.

In closing the Department is committed to developing regulations appropriate for the types of school age programs we have discussed. We do recognize the need for these programs to operate for the benefit of children and families and we are making every effort to make accommodations where we can and uphold basic health and safety safeguards appropriate for these programs. The consensus building process we are going through will ultimately result in a more user friendly set of requirements. It does however take longer to go through the process. I also wish we were farther along in the process. However, the Department is committed to working with you, WISC, and providers of school age programs and others to develop appropriate standards that will enable these programs to operate.

Thank you for calling me and expressing your concerns. I hope this letter and our conversation assures you that the Department is committed to working to address your concerns.

Sincerely,



Christine Ross-Baze
Director

c Clyde Graeber, Secretary
Dr. Moser, Division Director
Abby Baucom, MARC

Ken - This is an excerpt from the draft procedures concerning what programs need to be licensed.

Proposed New Regulations

28-4-580. Procedures.

(a) License required.

(1) Each school age program meeting one or more of the following criteria shall obtain a license to operate a child care facility as specified in K.S.A. 65-501 et seq. and

amendments thereto:

(A) One or more school age children or youth attends 12 hours a week or more for more than two consecutive weeks;

(B) the program holds itself out to the public as providing child care services as defined in in K.A.R. 28-4-578();

(C) the program is required to be licensed to receive public funding;

(D) the program is a day reporting program for children and youth 10 years of age or older as defined in K.A.R. 28-4-578 (); or

(E) the program is a day treatment program for children or youth in which children or youth attend 12 hours a week or more for more than two consecutive weeks, as defined in K.A.R. 28-4-578().

(2) The following school age programs are not required to obtain a license to operate a child care facility:

(A) An “extraordinary school program” as specified in K.S.A. 72-8238 and amendments thereto;

(B) a “summer program” as specified in K.S.A. 72-8237 and amendments thereto; or

(C) an extracurricular program established, operated and maintained by a public or accredited nonpublic school as specified in K.S.A 72-133.



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

Testimony on Senate Bill 195 as Amended by the Senate
to
House Judiciary Committee
Presented by
Christine Ross-Baze, Director
Child Care Licensing and Registration Section
Bureau of Consumer Health
March 7, 2001

Representative O'Neal and members of the House Judiciary Committee, I am pleased to appear before you today to discuss Senate Bill 195 and its impact on the Department of Health and Environment and on child care in Kansas.

Last year the Department requested the Legislature consider amendments to K.S.A. 65-525 to clarify the extent to which identifying information, including the name, address and telephone number of a child care facility, family day care home or maternity center was to be released publicly by the Department. Clarification was requested as the Department, in response to many requests from the public, was in the process of developing an Internet application for the Child Care Licensing and Registration data base. The Internet application was intended to make records in the possession of the Department more accessible to parents, other child care partners and the public. However, concerns were raised about the safety of children in child care if the exact locations and telephone numbers of home child care providers and foster parents were put on the Internet. Some feared that persons who might do harm to the children could utilize access to these records to further their evil designs. The statutory language in K.S.A. 65-525 did not provide clear authority to withhold these records from the public.

The bill introduced last year at the request of KDHE was substantially amended by the Legislature prior to passage. All identifying information about child care providers of all types was made confidential. The Department and other child care agencies and partners have implemented the statute as amended. Unfortunately,

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in its current form the statute has made child care provider information confidential to the point it is now interfering with the Department's ability to protect children and is creating a burden on local agencies needing access to records.

The proposed amendments in Section One of Senate Bill 195 are intended to clarify areas in the statute that have been found to be confusing or problematic; authorize the Secretary to disseminate records as necessary to protect the public health, safety and welfare and to authorize additional local agencies to access records held by the Department.

The language being added to K.S.A. 525(b) is intended to limit the confidentiality provision to records in the possession of KDHE and KDHE's agents. The current statutory language is very broad and is being interpreted inconsistently across agencies. The language is also creating barriers between agencies in sharing information that is important to protect children. For example, staff in some agencies have declined to give KDHE staff the name, address or telephone number of a child care facility that they believe is not providing adequate care to children because they feel they are prohibited from doing so by the current language in this section. Without the name or location of the child care facility KDHE cannot investigate complaints of inadequate child care. The Department's original intent in requesting clarification was to address records and information in the possession of the Department and the Department's designated agents. The language in (b) is intended to resolve the inconsistencies in interpretation and the perceived barriers in sharing information.

Of significant importance to the Department is the provision in new section (e) which authorizes the Secretary of the Department of Health and Environment to release the name, address and telephone number of child care facilities, maternity centers and family day care homes when the Secretary determines the release is necessary to protect the health, safety or welfare of the public, patients or children in care. In FY 00 there were 24 emergency suspensions issued by the Secretary. These emergency actions were necessary to protect children from harm. The Secretary was unable to publish these emergency actions in the newspaper. Circumstances included, sexual abuse, physical abuse, unsafe and unhealthy environments and young children being abandoned. In one instance there was an outbreak of Shigella in a child care center licensed for 90 children. Shigella is a highly contagious disease that results in severe diarrhea. It spreads easily in groups of children through inadequate hand washing after toileting, after diapering or after assisting a child in the bathroom. The emergency suspension was issued as the disease was wide spread and the center had too few uninfected staff able to care for children without further spreading the disease. The suspension remained in effect until a sufficient number of staff were no longer symptomatic and the facility, toys and equipment were thoroughly cleaned and disinfected. The Secretary was unable to notify the community of the outbreak and of the closure of the center. The inability to publicize this type of information significantly hinders the Secretary's ability to protect the public health and

safety in communities and to control communicable disease outbreaks in child care. Fortunately in this particular case, the center cooperated with the Department and the outbreak was brought under control. This is not always the case. In other instances, parents were not told by the child care provider that the Department closed the child care facility and children remained in unsafe conditions without their parent's knowledge. In FY 00 the Secretary issued 237 administrative actions to close facilities that were operating in noncompliance with regulatory requirements affecting over 2,000 children and their families. The Department did not publicize any of these actions in the newspaper.

The proposed amendments to Section 2 and 3 of Senate Bill 195 were added by the Senate to amend K.S.A.65-502. The purpose of these amendments is to exclude certain programs from licensure as a child care facility by defining child care and listing programs that should be excluded from the definition. The Department found the language in Section 2 and 3 confusing and in some cases conflicting with existing statutes. Without clear statutory authority and guidance the Department will have great difficulty implementing these Sections as written.

The proposed definition of child is a person under 16 years of age. The age of majority in Kansas is 18 years of age. Child care facilities have many children between the ages of 16 and 18 attending the various programs, both day care and foster care. By limiting the definition to 16 years of age, is it the Legislative intent to exclude 16 and 17 year old children from attending child care facilities even if parents or the courts determined it to be in their best interest?

The definition of a school age child does not reference a statute for the definition. Children as young as 3 may be considered school age for special educational services. Is the intent to not have any regulatory standards for programs for 3, 4 and 5 year old children?

The proposed definition of "child care" appears to eliminate the care of children in 24 hour foster care, residential care and detention centers from the definition of child care. These types of programs are currently required to be licensed as child care facilities in K.S.A. 65-503. By limiting the definition of "child care" to care that is less than 24 hours a day, it appears that care over 24 hours a day is no longer "child care" and that these programs will no longer be subject to regulatory protections and safeguards.

Section 2 (b)(9)(B) excludes from licensure as a child care facility any arrangement approved by a juvenile court order for any structured therapeutic, rehabilitative or supervisory services. Is it the intent of the Legislature to remove health and safety protections for our high risk and most vulnerable children when they are attending programs that are now subject to child care facility licensure protections?

Section 2 (b)(1)(A) and (B) of the bill references instructional programs for children as provided under K.S.A. 72-8238. This statute concerns extraordinary school programs operated by boards of education and

school districts. The statute makes no reference to nonpublic schools or the Board of Regents operating these extraordinary school programs yet Section 2 proposes to exempt from licensure extraordinary school programs operated by nonpublic schools and the Board of Regents. Again this language does not provide clear direction to the Department.

These examples are only a few of the difficulties with the proposed language in Section 2.

If 24 hour child care facilities are no longer licensed, then children in the custody of JJA and SRS will no longer be afforded the safeguards and protections provided by regulation. Currently the Department licenses 2675 family foster homes and 118 residential facilities with a combined capacity to serve 8456 children at any one time. The majority of these children are school age. With all the changes in the delivery of juvenile justice services and the changes in the delivery of foster care services in Kansas this is not the time to remove or reduce the health and safety protections for children in these programs.

Section 2 goes on to eliminate a number of specific programs from licensure requirements. Some of these programs are already not subject to licensure by regulations promulgated by the Department because they have been determined to be of such short duration that the risks to children are relatively small. These are programs that operate less than 3 hours a day and less than two consecutive weeks. Scouting programs, vacation Bible school, many sports camps and other recreation programs operate within this short duration and are not subject to licensure.

Some of the other programs listed are currently required to be licensed due to the young ages of the children in the programs and the longer length of time children are in attendance. An example is the after school programs for kindergarten and elementary age children. Regulatory safeguards and protections include criminal history and child abuse registry background checks on staff and volunteers, staff qualifications, health and safety requirements, building and fire safety requirements and program requirements to assure the services are developmentally appropriate for the ages served. The Department currently licenses 280 after school and summer programs for children serving approximately 15,000 children at any one time. The average size of these programs is 52 children at each site. These are not small programs. Parents who rely on after school programs and summer programs to care for and supervise their children every day should be assured that the programs are safe. In addition, parents should have an avenue to report unsafe or unhealthy practices and to have their complaint investigated for the protection of their child and other children.

By removing programs for school age children from regulatory protections, unsafe and unhealthy practices will go unchecked. Programs designed to care for young children will be allowed to operate with no protections to insure children are reasonably protected from harm, are cared for by persons who are qualified and free of crimes against persons and are in buildings that are safe for occupancy.

Millions of dollars in state and federal funding is used to pay for child care, both day care and 24 hour foster care. Exempting programs from the definition of "child care" and exempting them from meeting health and safety licensing requirements and criminal history checks on employees may, at worst case scenario, make these programs ineligible to receive funding that is currently available in the community, or best case scenario will put an additional burden on SRS and JJA staff to increase oversight and funding requirements for these programs and so that programs accepting state and federal funding are providing safe care. Programs accepting purchase of service funding and managed care funding should be accountable to the taxpayers in providing care that meets minimum health and safety requirements. The Department, through the licensing program and through memorandums of agreement with SRS and JJA, provide the necessary health and safety protections to enable child care facilities to access public funding.

The Department supports the language in Section 1 but strongly opposes Sections 2 and 3 of House Bill 195. Sections 2 and 3 removes needed protection for children and families and does not allow for flexibility to meet the changing needs of programs.

The Department, with involvement from our state and community partners, is currently defining which school age programs are low risk and do not need to be licensed and which school age programs are higher risk and need to be afforded health and safety protections. In addition, the Department is working to promulgate regulations that provide appropriate protections for the children in these programs and which are at a level that enables providers of school age programs to operate and meet the needs in their communities. Direct public input and consensus building is the method the Department is using to develop appropriate protections and to assure accessibility of services in the community.

Due to the high degree of public input involved in the regulatory process and the ever changing nature of care and supervision of children, the Department respectfully requests that the definition of what types of programs should and should not be licensed be left to the regulation promulgation process and not be so specifically written in statute as it is in Section 2 and 3 of this bill.

In closing, the ability of programs to provide safe services and the Department's role in establishing the level of safety through regulation are not mutually exclusive in nature. The availability of safe places for children is a mutual goal for all concerned.

I thank you for the opportunity to appear before the House Judiciary Committee and will gladly stand for questions the committee may have on this topic.

**Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary**

House Judiciary Committee
March 7, 2001

SB 195

Testimony: Senate Bill 195

Thank you Mr. Chairman and committee members for this opportunity to appear to provide testimony on Senate Bill 195. I am Trudy Racine, Director of the Office of Planning and Policy Coordination for SRS.

During the 2000 Legislative Session, House Bill 2755 was passed. This bill dealt with the issue of confidentiality and sharing of information regarding child care facilities, maternity centers or family day care homes. This bill has greatly restricted SRS in its ability to provide useful information to consumers regarding child care providers participating in the Child Care Subsidy Program. It has also raised questions and caused confusion around who can receive information, when, and for what purpose. Provider consent forms and confidentiality clauses are now needed in order to meet the basic functions for the administration of the Child Care Subsidy Program.

Senate Bill 195, Section 1, clarifies that confidentiality provisions only apply to child care provider records in the possession of KDHE and its agents. SRS would support Section 1 of this bill.

Section 2 raises a totally separate issue from that of Section 1. This amendment adds new definitions of "child" and "child care" to an existing statute and adds a new statute that further defines "child care." This new definition appears to exempt certain programs operated for school-age children from regulation by KDHE.

SRS is supportive of efforts to expand the opportunities available to children and families, particularly those programs which enhance educational achievement and provide positive activities for school age children. Through the child care quality enhancement program SRS makes grants available to local organizations to expand the availability of quality programs for children. However, we are concerned about the possible unintended consequences of exempting additional facilities from regulation.

Many of the children served in facilities described in Section 2 have their care subsidized by SRS using funds from the Child Care and Development Fund (CCDF). Federal regulations for the CCDF program require that states have in place systems to assure the health and safety of children served by facilities funded by this program. Kansas meets this requirement through the licensing program operated by the Kansas Department of

Health and Environment (KDHE). Should these facilities be exempted from KDHE licensing, SRS would no longer be able to provide funding for their services with federal funds.

This concludes my testimony, but I would be happy to address any questions you may have.

Testimony SB 195

March 7, 2001

Becky Woerz, Project Director of the Professional Development Initiative
Kansas Association of Child Care Resource and Referral Agencies

KACCRRRA is comprised of 16 agencies that serve all 105 counties of Kansas. The agencies have many responsibilities, but for the purposes of this bill, our role is to provide parents with information on programs that fit their children's and the families need. KACCRRRA agencies also conduct training for programs providing care for children and youth.

PDI is a statewide initiative housed in KACCRRRA. The purpose of the initiative is to improve the quality of programs for children and youth, increase the education and compensation to the field and to build a system for professional development for early education and school age practitioners in Kansas.

Last years confidentiality bill had serious repercussions on the way Resource and Referral agencies were able to do business. Suddenly referral service for families became more difficult. When SB195 was introduced, it seemed to be the solution we were seeking. We had a vested interest in seeing this bill passed. Were it not for the amendment, we would be here testifying in favor of its passage. However, I am here today to urge you NOT to let this bill become law.

Let experts within the field work through regulation process for the good of children and youth.

- This amendment circumvents the regulation process already in progress.
- KDHE has held public meetings to define school age care and draft new, more appropriate regulations.

Frist round of six meetings February

Experts in field had input for definition and draft regulations

Second round of six meetings March

Experts in the field will review draft and suggest changes

- Broad exemption of programs is not the consensus of the field.
- Question affect the language could have on foster care and other programs also regulated by KDHE.
- Would this set a prescient for other part time programs for younger children?

Provide quality programs for ALL children:

- We MUST ensure basic health and safety standards.
 - Buildings programs are housed in must be safe
 - Staff working with children must meet basic criteria
 - Important to have basic information on children
- Fear this bill with the amendment would create a double standard.
- SB195 serve programs but not in the best interest of children and youth.

Written Testimony on SB 195
presented to the
House Judiciary Committee
March 7, 2001
by
Shirley A. Norris

Mr. Chairman, members of the Committee, and guests. Thank you for the opportunity to appear before you today. My name is Shirley Norris. For over 30 years, I was director of the Child Care Licensing and Registration Section in the Kansas Department of Health and Environment, a position from which I retired in 1990. Two years ago I returned to KDHE on a part-time basis to develop regulations for before and after-school and summer programs for school age children. The licensing staff had recognized a serious need for regulations which would address these free-standing school age programs. (I should note, parenthetically, that the first draft of these regulations is currently being mailed to School Age Regulation Task Force members across the state and will be discussed at six KDHE district meetings in March.) However, I am here today, not as a representative of KDHE, but as a private citizen who cares deeply about the safety and well-being of children and youth.

Most of my professional life has been dedicated to the licensure of child care facilities, which I strongly believe prevents harm from coming to children and youth in out-of-home care. This position was supported by the Kansas Supreme Court while I was the licensing director. Two cases challenging the state's role in regulating child care were brought before the Court, and in both cases, the Court ruled that the state has a responsibility, through licensure, to protect children in care away from their parents or legal guardians.

I believe that passage of the amendment being discussed today would remove this responsibility from the state for the many children and youth who attend before-and -after- school programs on a regular basis while their parents are employed. Without the protection of licensing, these children are put at risk. Staff would not be required to have KBI/Child Abuse Registry checks; discipline practices would not be reviewed; health, safety and food service practices would not be observed; qualifications of staff would not be addressed. All of these factors contribute to the safety and well-being of children and youth. Do our children deserve less?

I urge you to oppose the amendment to SB 195 that exempts certain programs for school age children from licensure.

Respectfully submitted

Shirley Norris
131 S.W. Greenwood
Topeka, Kansas 66606-1225
Ph. 913-232-3206 e-mail snorris@cjnetworks.com

Juvenile Justice Authority
Albert Murray, CommissionerJayhawk Walk
714 SW Jackson, Suite 300
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Telephone: (785) 296-4213 FAX: (785) 296-1412BILL GRAVES
Governor

MEMORANDUM

TO: Representative Mike O'Neal, Chairman
House Judiciary Committee

FROM: Albert Murray, Commissioner *A.M.*

DATE: March 1, 2001

RE: SB 195

Thank you for the opportunity to submit written testimony regarding Senate Bill 195. The Juvenile Justice Authority (JJA) supports the portion of the bill as it was originally introduced.

Section 1 relates to childcare records, concerning confidentiality and information. JJA supports the amendments as written, which allows the Secretary of the Kansas Department of Health and Environment (KDHE) to release the name, address and telephone number of a maternity center, child care facility or family day care home when it has been determined that the release of such information is necessary to protect the health, safety or welfare of the public or the participants in these programs.

The JJA opposes the amendment that was added to the bill on the Senate Floor. That amendment exempts an extensive list of school age care programs from any regulation by the KDHE. There may be appropriate exemptions within this list; however, the introduction of the list at this time appears premature.

1 KDHE presently has an initiative in place to address this issue. JJA is in support of the KDHE's current efforts at developing new childcare regulations specifically designed for school-age programs. In January 2001 KDHE invited JJA staff and our community partners (including each administrative contact in the judicial districts), to participate in a School Age Regulatory Task Force. The task force includes representation from childcare providers and representation from various state agencies. The task force held the first of two sets of meetings in six locales throughout Kansas. The focus of the first meeting was to look at the current child care regulations, and provide recommendations as to which school age programs would benefit from regulatory oversight and which programs would not need that oversight. This portion of the task force meetings has been completed. In March, the second set of meetings will be held, again in various locations in Kansas. Based on the consensus of task force participants, the Department of Health and Environment will be presenting a proposed definition of school age care regulations. Task force members will then review that proposal and make recommendations as to what kind of regulatory oversight the programs would require. It is imperative that any regulatory oversight of school age programs be well thought out and designed.

KDHE is to be commended for engaging a wide group of participants in this task force to assist the department in the development of school age care regulations that protect the health, safety and well being of the children and youth who attend these programs. This effort is an example of a collaborative effort that should be allowed to be completed.

AM:RK:bt

House Judiciary
3-7-01
Attachment 8



JOHNSON COUNTY HEALTH DEPARTMENT

dedicated to the prevention of disease and promotion of wellness for our community

February 26, 2001

To: Honorable Michael O'Neal, Judiciary Committee Chairman
Members, House Judiciary Committee

From: Barbara Riley *Barbara Riley*
Division Director, Child Care Licensing
Johnson County Public Health

Re: Senate Bill 195
Sec. 2. K.S.A. 2000 Supp 65-502

Amendment to this bill addresses licensing of school age child care and other licensing issues and definitions. Please consider concerns expressed if this is amended.

There needs to be equal protection for all children in day care. All children need a safe, healthy, environmentally stimulating environment away from their parents, guardians, and home setting.

Our Kansas Child Care Regulations address basic needs and meet minimal requirements. Concerns facing these children if no regulatory requirements are met. This includes possible abuse issues, neglect, health (updated immunizations and physical well being), and safety.

Some examples of needs of children that would not be met if regulations are not in effect:

- Adequate staff training which includes first aid training, child abuse training, and knowledge of how to discipline children properly.
- Kansas Bureau of Investigation Child Abuse Registry information – Would there be safeguards and checks on staff caring for these children to see if there is any criminal or child abuse history on record?
- Supervision of the children – Would children have adequate child/staff ratios to assure that they are not wondering about in a facility or school?
- Security – Who would be monitoring the facility to be sure only children and staff are present?
- Qualified staff – Children would be in danger if staff do not have proper qualifications/child development training to supervise groups of children.
- Health concerns – Would staff be trained in handwashing, knowledge of communicable diseases, and disease prevention/containment? This training is vital to prevent outbreaks of disease in communities.
- Knowledge of child development/activities – Would staff have adequate training to provide proper age appropriate activities for these children?

Kansas Child Care Regulations address the above issues and serves as a safeguard to protect our children from harm. They are our future citizens.

Please consider these concerns when you are addressing Senate bill 195.

Health at the Highest Level

11875 South Sunset • Suite 300 • Olathe, Kansas 66061 • (913) 894-2525 • fax (913) 477-8048

House Judiciary
3-7-01
Attachment 9