

Approved: February 9, 2006
Date

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 1:30 P.M. on February 8, 2006, in Room 526-S of the Capitol.

All members were present except Representatives Watkins and Landwehr, both of whom were excused.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Mary Galligan, Kansas Legislative Research Department
Rena Jefferies, Revisor of Statutes' Office
Gary Deeter, Committee Secretary

Conferees appearing before the committee:

Debra Zehr, Executive Vice President, Kansas Association for Homes and Services for the Aging
Bruce Linhos, Executive Director, Children's Alliance of Kansas
Terri Roberts, Executive Director, Kansas State Nurses Association
Diane Glynn, Practice Specialist, Kansas State Board of Nursing
Jerry Slaughter, Executive Director, Kansas Medical Society

Others attending:

See attached list (not available on electronic copy).

The minutes for the February 7 meeting were approved.

The Chair opened the hearing on **HB 2452** and welcomed Debra Zehr, Executive Vice President, Kansas Association of Homes and Services for the Aging, who spoke as a proponent for the bill. (Attachment 1) She said that employment information is crucial in hiring individuals who care for those with fragile health. She referenced Attachment 2, saying that the suggested amendments narrowed the information the Board of Nursing would be permitted to collect, specifying only the date of employment and the date of termination, with no accompanying narrative, noting that the amendment shortens the number of days allowed for the report to be filed and expands those employees who are required to report, concluding by saying that the bill will better protect the public.

Terri Roberts, Executive Director, Kansas State Nurses Association, testified as an opponent, commenting that the bill was poorly written and imposes reporting by licensees, but not nursing homes or hospitals. (Attachment 3) She said the Kansas Board of Nursing is limited to licensing and disciplinary functions. Further, the proposed registry would be available to "potential employers" who could view information even if they were not making employment decisions. She concluded by saying that the bill lays an onerous responsibility on the board and serves no useful public purpose.

Diane Glynn, Practice Specialist, Kansas State Board of Nursing, commented that the bill would have a significant fiscal impact on the Board of Nursing, increasing expenditures an estimated \$42,000 in FY06 and \$70,000 in FY07 as well as requiring an additional 1.5 FTE. (Attachment 4) She noted that the board is presently at the statutory cap for license application and renewal fees, the major source of income for the board.

Jerry Slaughter, Executive Director, Kansas Medical Society, spoke in opposition to the bill, saying that it imposes a time-consuming and expensive legal duty on physicians who employ nurses. (Attachment 5)

Conferees answered members' questions. Ms. Roberts commented that, although circumstances related to the impaired provider program inspired the bill, the proposed registry would do little to remedy employees who divert drugs, since many are not in the program. Ms. Zehr said that completed disciplinary actions are a matter of public record through the board. Two members suggested an alternative: gathering the information through the license renewal process. Ms. Roberts said a data sheet developed by the Health Care Data Governing Board might be made accessible to the board.

A fiscal note was provided for members. (Attachment 6)

The Chair closed the hearing on **HB 2452** and opened the hearing on **HB 2497**

Chris Ross-Baze, Program Director, Bureau of Child Care and Health Facilities, testified in support of the bill (Attachment 7) and offered a balloon amendment. (Attachment 8) She said the Kansas Department of Health and Environment (KDHE) is responsible for licensing family foster homes to ensure that children in the state's custody are cared for by persons who are qualified to meet their needs, a process that includes background checks regarding criminal history and the child abuse registry on family members and other caregivers. Further, an assessment by the child placement agency is required to evaluate the prospective foster family and also to determine if the family would qualify as an adoptive family. However, some information is statutorily prohibited from being shared between KDHE and a placement agency. This bill would remove that prohibition and, through the proposed amendment, would allow fingerprinting for prospective families new to the state, clarify authority to obtain information, and add a prohibition for a conviction of conspiracy.

Answering questions, Ms. Ross-Baze said fingerprinting would be done by local law-enforcement agencies and the records sent to the Kansas Bureau of Investigation, then to KDHE, and then to a placement agency. A member suggested that allowing unredacted information might create more responsibility that a child-placement agency wanted and that the generic term "determined by a finding" (Section 1[3]) may slight the adjudication process by being too vague.

Bruce Linhos, Executive Director, Children's Alliance, spoke in favor of the bill, saying the bill would streamline the process to enable agencies to receive information quickly. (Attachment 9)

Melissa Ness, Advocacy Coordinator, St. Francis Academy, testified as a proponent for the bill.

(Attachment 10) She said the bill gets important information to agencies in a timely way but maintains confidentiality.

A fiscal note was provided for the committee members. (Attachment 11)

Staff Melissa Calderwood provided a briefing on **HB 2342**, which allows a determination and pronouncement of death by advanced registered nurse practitioners and registered professional nurses in adult care homes and licensed hospices; she stated the bill creates new law allowing specified nurses to act in the absence of a physician. She noted certain limitations in the bill for organ donors or if the person died of other than natural causes. Answering a question, she said only a physician could sign a death certificate. A fiscal note was provided. (Attachment 12)

The meeting was adjourned at 2:52 p.m. The next meeting is scheduled for Thursday, February 9, 2006.

**HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST**

DATE: February 8 2006

NAME	REPRESENTING
Mae Ryan	KSBW
Melissa Lahr	KDB
Betty Wright	K.S. dental Board
Kelly Purcell	Washburn University
Crystal Acker	Washburn University
Doug Smith	Pinegar, Smith and Associates, Inc.
Steve Solomon	TFI Family Services
Chris Ross Bye	KDHE
Debra Zehr	KANSAS
DEBORAH STERN	KHA
Marla Rhoden	KDHE
Shelley Duncan	youthville
Cynthia Smith	SCL Health System
Teri Roberts	Ks. State Nurses Assn.
Bruce Lyles	Children's Alliance



To: Representative Jim Morrison, Chair, and Members
House Health and Human Services Committee
From: Debra Zehr, Executive Vice President
Date: February 8, 2006

Testimony in support of House Bill 2452

Thank you, Chairman Morrison and Members of the Committee, for this opportunity to testify on House Bill 2452.

The Kansas Association of Homes and Services for the Aging (KAHSA) represents 160 not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living facilities, senior housing and community service providers serving over 20,000 older Kansans every day.

As major employers of licensed nurses who are responsible for the care of thousands of vulnerable elderly people, KAHSA members need complete employment information to assist them in making appropriate employment decisions. To the extent that House Bill 2452 would provide that vital information, we support it. At the same time, we believe that some of the provisions of the bill are too far-reaching, and we would like to offer some amendments to:

1. Narrow the type of information that the Board can collect;
2. Shorten the number of days that employers have to report employment/termination from 30 to 10 days; and
3. Expand the types of employers that are required to report this information to include not only hospitals, but also adult care homes, home health agencies and other employers of nurses and LMHT's.

Please see the attached balloon for more details.

With these amendments, the bill would permit the Board of Nursing to collect licensee employment and termination dates from health care providers and licensees, and to report that information to prospective employers.

Thank you for your consideration of this bill. I would be happy to answer questions.

785.233.7443 fax 785.233.9471 217 S.E. 8th Avenue, Topeka, KS 66603-3906 kahsa.org kahsainfo.org

A state affiliate of the American Association of Homes & Services for the Aging

*Attachment 1
HHS 2-8-06*

Session of 2005

HOUSE BILL No. 2452

By Committee on Judiciary

8 AN ACT concerning the board of nursing; relating to a central registry
9 of information concerning licensees; amending K.S.A. 65-1117 and 65-
10 4205 and repealing the existing sections.
11

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

13 New Section 1. (a) The executive administrator of the board of nurs-
14 ing shall ~~establish and maintain a central registry~~ of all nurses licensed
15 pursuant to article 11 of chapter 65 of the Kansas Statutes Annotated,
16 and amendments thereto, and all mental health technicians licensed pur-
17 suant to article 42 of chapter 65 of the Kansas Statutes Annotated, and
18 amendments thereto. ~~The purpose of the registry is to be a resource for~~
19 ~~health care providers, who employ licensed nurses or licensed mental~~
20 ~~health technicians, or both, when reviewing employment applications of~~
21 ~~such nurses or technicians. The registry shall be made available only to~~
22 ~~those health care providers who employ licensed nurses or licensed men-~~
23 ~~tal health technicians, or both.~~

24 ~~(b) The administrator shall provide forms for registration and shall~~
25 ~~refuse any registration not submitted on such form in full detail.~~

26 (c) Within ~~30~~ days of termination or resignation of employment, every
27 health care provider shall submit the name of any licensed nurse or li-
28 censed mental health technician terminated or resigned from
29 employment.

30 (d) ~~Upon termination or resignation, the health care provider shall~~
31 ~~include a report explaining the circumstances under which the licensed~~
32 ~~nurse or licensed mental health technician resigned or was terminated.~~
33 The report shall be available to any health care provider to which such
34 nurse or mental health technician later applies for a position as a nurse
35 or mental health technician. ~~Such nurse or mental health technician may~~
36 ~~submit a written statement in response to the termination or resignation~~
37 ~~and any such statement shall be included in the registry file concerning~~
38 ~~such nurse or mental health technician. The health care provider shall~~
39 ~~send a copy of the report and notice that the nurse or mental health~~
40 ~~technician may submit a statement in response to the report to such nurse~~
41 ~~or mental health technician at the last known address of such nurse or~~
42 ~~mental health technician by first class mail. The administrator shall adopt~~
43 ~~a format for the termination report.~~

collect employment verification information on

The employment verification information shall include the employment date and termination date of individuals licensed by the board of nursing.

10 calendar days

employment

1 (e) The board of nursing, any officer or employee of the board of
2 nursing, health care provider or any employee of the health care provider
3 shall be absolutely immune from civil liability:

4 (1) For the report made in accordance with subsection (d);

5 (2) when responding in writing to a written request concerning a
6 current or former nurse or mental health technician from a prospective
7 health care provider of that nurse or mental health technician for the
8 report made in accordance with subsection (d) and for the disclosure of
9 such report; and

10 (3) for the maintenance and distribution of information in the central
11 registry.

12 (f) An employer or prospective employer shall not further disclose
13 any information received from the central registry.

14 (g) The board of nursing may adopt rules and regulations to imple-
15 ment the provisions of this section.

16 (h) As used in this section, "health care provider" has the meaning
17 ascribed thereto in K.S.A. 65-4921, and amendments thereto.

18 Sec. 2. K.S.A. 65-1117 is hereby amended to read as follows: 65-
19 1117. (a) All licenses issued under the provisions of this act, whether initial
20 or renewal, shall expire every two years. The expiration date shall be
21 established by the rules and regulations of the board. The board shall mail
22 an application for renewal of license to every registered professional nurse
23 and licensed practical nurse at least 60 days prior to the expiration date
24 of such person's license. Every person so licensed who desires to renew
25 such license shall file with the board, on or before the date of expiration
26 of such license, a renewal application together with the prescribed bi-
27 ennial renewal fee. Every licensee who is no longer engaged in the active
28 practice of nursing may so state by affidavit and submit such affidavit with
29 the renewal application. An inactive license may be requested along with
30 payment of a fee which shall be fixed by rules and regulations of the
31 board. Except for the first renewal period following licensure by exami-
32 nation or for the first nine months following licensure by reinstatement
33 or endorsement, the board shall require every licensee with an active
34 nursing license to submit with the renewal application evidence of satis-
35 factory completion of a program of continuing nursing education required
36 by the board. The board by duly adopted rules and regulations shall es-
37 tablish the requirements for such program of continuing nursing educa-
38 tion. Continuing nursing education means learning experiences intended
39 to build upon the educational and experiential bases of the registered
40 professional and licensed practical nurse for the enhancement of practice,
41 education, administration, research or theory development to the end of
42 improving the health of the public. Upon receipt of such application,
43 payment of fee, upon receipt of the evidence of satisfactory completion

K.S.A. 39-923, and amendments thereto,
K.S.A. 65-5101, and amendments thereto.

1 of the required program of continuing nursing education and upon being
2 satisfied that the applicant meets the requirements set forth in K.S.A. 65-
3 1115 or 65-1116 and amendments thereto in effect at the time of initial
4 licensure of the applicant, the board shall verify the accuracy of the ap-
5 plication and grant a renewal license.

6 (b) Any person who fails to secure a renewal license within the time
7 specified herein may secure a reinstatement of such lapsed license by
8 making verified application therefor on a form provided by the board, by
9 rules and regulations, and upon furnishing proof that the applicant is
10 competent and qualified to act as a registered professional nurse or li-
11 censed practical nurse and by satisfying all of the requirements for rein-
12 statement including payment to the board of a reinstatement fee as es-
13 tablished by the board. A reinstatement application for licensure will be
14 held awaiting completion of such documentation as may be required, but
15 such application shall not be held for a period of time in excess of that
16 specified in rules and regulations.

17 (c) *Within 30 days of initial employment, each licensee shall notify*
18 *the board in writing of the place of employment.* Each licensee shall notify
19 the board in writing of a change in name ~~or~~, address *or employment* within
20 30 days of the change. Failure to so notify the board shall not constitute
21 a defense in an action relating to failure to renew a license, nor shall it
22 constitute a defense in any other proceeding.

23 Sec. 3. K.S.A. 65-4205 is hereby amended to read as follows: 65-
24 4205. (a) The board shall mail an application for renewal of license to all
25 licensed mental health technicians at least 60 days prior to the expiration
26 date of December 31. Every mental health technician who desires to
27 renew a license shall file with the board, on or before December 31 of
28 even-numbered years, a renewal application together with the prescribed
29 renewal fee. Every licensee who is no longer engaged in the active prac-
30 tice of mental health technology may so state by affidavit and submit such
31 affidavit with the renewal application. An inactive license may be re-
32 quested along with payment of a fee as determined by rules and regula-
33 tions of the board.

34 Except for the first renewal period following licensure by examination
35 or for the first nine months following licensure by reinstatement or en-
36 dorsement, the board shall require every licensee with an active mental
37 health technology license to submit with the renewal application evidence
38 of satisfactory completion of a program of continuing education required
39 by the board. The board by duly adopted rules and regulations shall es-
40 tablish the requirements for such program of continuing education. Con-
41 tinuing education means learning experiences intended to build upon the
42 educational and experiential bases of the licensed mental health techni-
43 cian for the enhancement of practice, education, administration, research

1 or theory development to the end of improving the health of the public.
2 Upon receipt of such application and evidence of satisfactory comple-
3 tion of the required program of continuing education and upon being
4 satisfied that the applicant meets the requirements set forth in K.S.A. 65-
5 4203 and amendments thereto in effect at the time of initial licensure of
6 the applicant, the board shall verify the accuracy of the application and
7 grant a renewal license.

8 (b) Any licensee who fails to secure a renewal license within the time
9 specified may secure a reinstatement of such lapsed license by making
10 verified application therefor on a form prescribed by the board together
11 with the prescribed reinstatement fee and, satisfactory evidence as re-
12 quired by the board that the applicant is presently competent and qual-
13 ified to perform the responsibilities of a mental health technician and of
14 satisfying all the requirements for reinstatement. A reinstatement appli-
15 cation for licensure will be held awaiting completion of such documen-
16 tation as may be required, but such application shall not be held for a
17 period of time in excess of that specified in rules and regulations.

18 (c) *Within 30 days of initial employment, each licensee shall notify*
19 *the board in writing of the place of employment.* Each licensee shall notify
20 the board in writing of a change in name or, address or employment within
21 30 days of the change. Failure to so notify the board shall not constitute
22 a defense in an action relating to failure to renew a license, nor shall it
23 constitute a defense in any other proceeding.

24 Sec. 4. K.S.A. 65-1117 and 65-4205 are hereby repealed.

25 Sec. 5. This act shall take effect and be in force from and after Jan-
26 uary 1, 2006, and its publication in the statute book.



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LEN CARSON, PH.D., A.R.N.P., B.C
 RESIDENT

THE VOICE AND VISION OF NURSING IN KANSAS

TERRI ROBERTS, J.D., R.N.
 EXECUTIVE DIRECTOR

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H.B. 2452 Establishing a Central Registry at the Board of Nursing: *Terminations and Employment*

February 8, 2006

Chairman Morrison and members of the House Health and Human Services Committee, I am Terri Roberts, the Executive Director of the KANSAS STATE NURSES ASSOCIATION. KSNA reviewed this bill last year when it was introduced and talked with our leaders throughout the state if there was support for a registry of this type. We have found little interest by the nursing profession or employers of licensed nurses for establishing this new function for the regulators.

The current role and function of the Kansas State Board of Nursing is limited to licensing and disciplining nurses and regulating programs of study to become RN's, LPN's, LMHT'S and ARNP's. Adding this component of making the agency record and then verify for the public a licensed nurses employment history (status) does not align itself with the role of a "regulatory agency". Generally and specifically KSNA is not supportive of this proposed legislation.

New Section 1 creates the new role and function of designing a form to report licensed nurses voluntary resignations or terminations, making it available, collecting the forms, assembling the data, then "presumably" making this information available to the public in some fashion. The section does not clearly state how much of the information would be shared, nor how "potential employers" would be identified. This appears to permit any employer of licensed nurses total access to all names and information in the registry, even if it is not being used for making an "employment" decision.

Why if the registry is necessary do only "prospective employers have access?"

What about with the licensee, will he/she have access to what is in the "registry".

According to Kansas employment laws, unless a licensed nurse has an employment contract, he/she is an employee "at will". This means that they can be terminated for any reason (except constitutionally protected discrimination), or no reason. We suspect that the authors of the bill "presumed" that termination was for "cause", when that may not be the case.

Another troubling aspect of this bill is section (e) on page line 1 which absolutely limits civil liability for those working with the registry, and providing data to the registry. With such high level protections in place for those reporting, we believe that abuses of the registry are much more likely to occur. There are no penalties in the bill for reporters who make false statements. The only opportunity the licensee has it to provide a statement after receiving notice from their employer that a report has been made. What if the reporter never notifies the licensee?, and what would be the motivation to notify a licensee to provide a statement. With no penalty clause, then an employer has nothing to lose by not notifying a terminated nurse and letting the record go uncontested in the registry.

We cannot support this "central registry" function of the Board of Nursing and ask that you not pass this bill out favorably. Thank You.

Attachment 3
 HAS 2-8-06

To: Representative Jim Morrison, Chairperson
Members of the Health and Human Services Committee

From: Diane Glynn, JD, RN
Practice Specialist
Kansas State Board of Nursing

Date: February 7, 2006

Subject: HB 2452

Good afternoon Mr. Chair and members of the committee. The Board of Nursing discussed 2452 last year when it was introduced. Our testimony will only pertain to the fiscal impact this bill will have on the Board of Nursing. As this bill is written it is estimated that the cost would increase expenditures by \$42,000 in FY06 and \$70,000 in FY07. We estimate that an additional 1.5 FTE positions would be necessary to handle the increase workload associated with maintaining the central registry. Because the Board of Nursing is a fee funded agency, these added expenditures would lower the fee fund balance. The estimates from the Legislative Research Department reveals that the fee fund ending balance for FY06 at \$221,083 and FY07 at \$177,651. KSBN is currently at caps on all renewals and initial licensure fees and would be unable to raise fees in those areas. Revenue from renewals is a majority of the income for KSBN.

Attachment 4
HHS 2-8-06



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Topeka KS 66612-1627
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www.KMSonline.org

To: House Health and Human Services Committee

From: Jerry Slaughter
Executive Director

Subject: HB 2452; concerning the board of nursing registry

Date: February 8, 2006

The Kansas Medical Society appreciates the opportunity to submit the following comments on HB 2452, which establishes a central registry of nurses' employment information. We question whether there is a true need for such a registry, and we do have significant concerns about the burden and duties this bill imposes on physicians who employ nurses.

Under the provisions of HB 2452, every physician who employs nurses would be required to submit a written report to the State Board of Nursing any time a nurse leaves that physician's employment, for whatever reason. In addition, the physician would then have to send a copy of their report to the nurse that left their employment. Additionally, since nurses would be able to submit a written response to the physician's report, that response would then have to be appended to the individual's personnel file, again requiring more time and administrative expense.

In summary, this bill places a time-consuming and expensive legal duty on physicians who employ nurses. Composing such reports, and then mailing them to the Board and the affected nurse will be an unnecessary burden on physician practices. While the bill does provide immunity for such reporting, it does nothing to relieve the cost and legal duty which will be imposed on physician practices in order to comply. For that reason, we must oppose the bill. We urge you to report HB 2452 unfavorably. Thank you for the opportunity to submit these comments.

Attachment 5
HHS 2-8-06

March 1, 2005

The Honorable Jim Morrison, Chairperson
House Committee on Health and Human Services
Statehouse, Room 171-W
Topeka, Kansas 66612

Dear Representative Morrison:

SUBJECT: Fiscal Note for HB 2452 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2452 is respectfully submitted to your committee.

HB 2452 would require the Kansas State Board of Nursing to establish and maintain a central registry of all nurses and mental health technicians licensed in the State of Kansas. The purpose of the registry would be to provide a resource for health care providers who employ nurses or licensed mental health technicians when they review employment applications.

Estimated State Fiscal Effect				
	FY 2005 SGF	FY 2005 All Funds	FY 2006 SGF	FY 2006 All Funds
Revenue	--	--	--	--
Expenditure	--	\$42,061	--	\$70,123
FTE Pos.	--	--	--	1.50

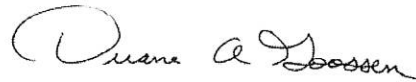
The Kansas State Board of Nursing estimates that passage of HB 2452 would increase expenditures by \$42,061 in FY 2005 and \$70,123 in FY 2006 for salary and wage expenses, as well as contractual services. The Board estimates that an additional 1.50 FTE positions would be necessary to handle the increased workload associated with maintaining the central registry. Because the Kansas State Board of Nursing is a fee funded agency, these additional expenditures

Attachment 6
HHS 2-8-06

The Honorable Jim Morrison, Chairperson
March 1, 2005
Page 2—2452

would lower projected fee fund balances. Any fiscal effect resulting from the passage of this bill would be in addition to amounts included in *The FY 2006 Governor's Budget Report*.

Sincerely,

A handwritten signature in cursive script that reads "Duane A. Goossen".

Duane A. Goossen
Director of the Budget

cc: Roberta Kellogg, Board of Nursing



K A N S A S

RODERICK L. BREMBY, SECRETARY

DEPARTMENT OF HEALTH AND ENVIRONMENT

KATHLEEN SEBELIUS, GOVERNOR

House Bill 2497
To
House Health and Human Services Committee
By
Christine Ross-Baze, Director
Child Care Licensing and Registration Program
Bureau of Child Care and Health Facilities

Kansas Department of Health and Environment
February 8, 2006

Representative Morrison and members of the Health and Human Services Committee, I am here on behalf of the Department of Health and Environment to testify in support of HB 2497 concerning amendments to K.S.A. 65-516.

The Department of Health and Environment is responsible for licensing family foster homes to ensure that children in the state's custody are cared for by persons who are qualified to meet their needs. As part of the licensing process, the Department conducts criminal history and child abuse registry background checks on the members of the foster family and other caregivers. An assessment by the child placement agency is also required to determine if the family is qualified and capable of meeting the needs of children in foster care. This assessment process also includes a criminal history and child abuse registry background check.

In addition to assessing foster parents' abilities to care for children in foster care, child placement agencies dually assess foster parents for adoption as many foster parents adopt children in their care. Background checks are needed to complete the adoption assessment and are required to be a part of the adoption court record.

Over the last two years the Department, child placement agencies, foster parents and SRS have worked closely together in the Foster Care Network Best Team to review regulations and licensing and assessment processes to better protect children and to reduce unnecessary

duplication of efforts or barriers to families who wish to foster or foster to adopt. One of the recommendations is to permit the Department to share the results of the background check information in the Department's possession with the child placement agencies to reduce duplication of effort, and to give the agencies additional information to more thoroughly assess the families for foster care and adoption. The proposed amendments to K.S.A. 65-516 in HB 2497 accomplish this goal.

The Foster Parent Network Best Team also recommends the Department strengthen protections for children in rules and regulations by requiring out of state background checks on prospective foster parents under certain conditions, such as a prospective foster parent who has moved to Kansas within the last 5 years. In researching this issue, fingerprinting is required to complete out of state background checks. Because of the Best Team recommendation, the Department is proposing on the attached balloon that additional language be added to K.S.A. 65-516(d) to permit the Department to require submission of fingerprints for identification purposes and for determining compliance.

In the attached balloon the Department is also requesting language be updated to clarify authority to obtain information from other states and the federal government, to add a prohibition for a conviction of conspiracy to commit a prohibiting offense, to update the term "validation" of an SRS determination of a substantiated finding and to give the Department additional access to information in the possession of the KBI.

The passage of HB 2497 with the amendments in the attached balloon will provide children in foster care with additional protections and will provide additional background information to child placement agencies that will enable them to more effectively and efficiently assess the qualifications and abilities of persons who wish to care for children in foster care or who wish to foster and adopt.

Thank you for the opportunity to testify before you today. I am available to answer questions.

HOUSE BILL No. 2497

By Committee on Appropriations

2-22

AN ACT concerning restrictions on persons maintaining or residing, working or volunteering at child care facilities or family day care homes; amending K.S.A. 65-516 and repealing the existing section.
Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-516 is hereby amended to read as follows: 65-516. (a) No person shall knowingly maintain a child care facility or maintain a family day care home if, in the child care facility or family day care home, there resides, works or regularly volunteers any person who: _____

, in this state or in other states or the federal government:

- (1) (A) Has a felony conviction for a crime against persons;
- (B) has a felony conviction under the uniform controlled substances act;
- (C) has a conviction of any act which is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto or a conviction of an attempt under K.S.A. 21-3301 and amendments thereto to commit any such act,
- or (D) has been convicted of any act which is described in K.S.A. 21-4301 or 21-4301a and amendments thereto or similar statutes of other states or the federal government;

or a conviction of conspiracy under K.S.A. 21-3302 and amendments thereto to commit any such act, or similar statutes of other states or the federal government;

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

or similar statutes of other states or the federal government;

or is any act described in K.S.A. 21-4301 or 21-4301a and amendments thereto or similar statutes of other states or the federal government;

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

determined by a finding

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

- (5) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 38-1581 through 38-1584, and amendments thereto, or a

*Attachment
HHS 2-8-06*

Attachment 8-2
HHS 2-8-06

similar statute of other states;

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

(7) has an infectious or contagious disease.

(b) No person shall maintain a child care facility or a family day care home if such person has been found to be a person in need of a guardian or a conservator, or both, as provided in K.S.A. 2002 2004 Supp. 59-3050 through 59-3095, and amendments thereto.

(c) Any person who resides in a child care facility or family day care home and who has been found to be in need of a guardian or a conservator, or both, shall be counted in the total number of children allowed in care.

(d) In accordance with the provisions of this subsection (d), the secretary of health and environment shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, ~~_____ arrest and criminal history record information _____~~ *including, but not limited to, expungements and diversion agreements,* in the possession of the Kansas bureau of investigation and any report of investigations as authorized by subsection (e) of K.S.A. 38-1523 and amendments thereto in the possession of the department of social and rehabilitation services or court of this state concerning persons working, regularly volunteering or residing in a child care facility or a family day care home. The secretary shall have access to these records ~~_____~~ *and may require submission of fingerprints for identification purposes and* for the purpose of determining whether or not the home meets the requirements of K.S.A. 65-503, 65-508, 65-516 and, 65-519 *and 59-2132* and amendments thereto-

(e) No child care facility or family day care home or the employees thereof, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such facility's or home's compliance with the provisions of this section if such home acts in good faith to comply with this section.

(f) For the purpose of subsection (a)(3), an act of abuse or neglect shall not be considered to have been ~~validated~~ ~~_____~~ *determined to be a finding* by the department of social and rehabilitation services unless the alleged perpetrator has: (1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and (2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the act for judicial review and civil enforcement of agency actions.

(g) (1) *The secretary of health and environment shall provide in writing*

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information available ~~to the secretary~~ to each child placement agency requesting information under this section, including the information provided by the Kansas bureau of investigation pursuant to this section, for the purpose of assessing the fitness of persons living, working or regularly volunteering in a family foster home under the child placement agency's sponsorship.

(2) The child placement agency is considered to be a governmental entity and the designee of the secretary of health and environment for the purposes of obtaining, using and disseminating information obtained under this section.

(3) The information shall be provided to the child placement agency regardless of whether the information discloses that the subject of the request has been convicted of any offense.

(4) Whenever the information available to the secretary reveals that the subject of the request has no criminal history on record, the secretary shall provide notice thereof ~~in writing~~ to each child placement agency requesting information under this section.

(5) Any staff person of a child placement agency who receives information under this subsection (g) shall keep such information confidential, except that the staff person may disclose such information to: (A) The person who is the subject of the request for information, (B) the applicant or operator of the family foster home in which the person lives, works or regularly volunteers, (C) the department of health and environment, (D) the department of social and rehabilitation services, (E) the juvenile justice authority, and (F) the courts.

(6) A violation of the provisions of subsection (g)(5) shall be an unclassified misdemeanor punishable by a fine of \$100 for each violation.

Sec. 2. K.S.A. 65-516 is hereby repealed.

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

Testimony in Support of HB 2497
House Health and Human Services Committee
February 8, 2006

The Children's Alliance is the state's association of private non profit child welfare agencies. Member agencies provide an array of service for youth both in the custody of the Department of Social and Rehabilitation Services as well as those under the Juvenile Justice Authority. Services provided by member agencies include family preservation, foster care, group and residential treatment as well as specialized treatment services including drug and alcohol treatment. As an Association who many of its members serve youths in need of foster care services, we support the intent of HB 2497 to streamline the process of doing criminal justice checks on prospective foster parents.

Agencies must do a criminal background check through the KBI of all prospective foster and adoptive parents. Currently we have approximately 2,400 foster homes. This bill will help expedite the process by which the child placing agencies receive this information on the KBI checks. As we all know when someone is volunteering to be a foster family what we want is to help move them through the process as quickly and painlessly as possible. We believe that this bill will assist child placing agencies with this part of the licensing requirement.

We also see this as a part of what we hope will be a paperless system that will, in the near future, allow private agencies to submit and check on licensing information without duplicative data entry and the time lost in that process.

It is noted that this bill does not address the criminal background checks on prospective foster parents from other states that may move to Kansas. In order to have access to that information a national criminal background check would be necessary which would require the submission of finger print information. While our members feel that sometimes they would like national criminal background information on families that have resided in Kansas for only a short period of time, we are pleased and supportive of the advances this bill provides in making KBI reports more accessible to the child placing agencies.

Specifically, the
Testimony provided by:
Bruce Linhos
Executive Director
Children's Alliance of Kansas

*Attachment 9
HHS 2-8-06*



**Testimony before the House Health and Human Services
February 8th, 2006
Support for HB 2497: Secretary of KDHE Access to KBI Information**

As one of the members of the Kansas Children's Alliance, St. Francis Academy provides a range of services to youth and their families from family preservation, foster care, drug and alcohol services, restorative justice programs, and residential services and supports and programs for sexually acting out youth.

As a licensed child placing agency we work directly with the Department of Health and Environment to ensure appropriate background checks are done through the Kansas Bureau of Investigation on all prospective foster and adoptive parents.

As such we submit this testimony in support of HB 2497 amending K.S.A. 65-516 and granting access to the Secretary of Health and Environment to the KBI to their records for the purpose of determining whether or not, in our case, a home meets the requirements for providing foster care.

The Secretary in turn would be allowed to give that information directly to the child placing agency while holding us to the standards of confidentiality. We believe this is an important step in ensuring protections for the children and families we serve while expediting the licensing checks without compromising safety of people receiving our services.

Our success in supporting families is dependent on having staff, foster parents, and community volunteers upon whom we trust to work directly with the children and families we serve.

We hope you will give this bill favorable consideration as we work to improve the system serving children and their families by giving them confidence we have taken the extraordinary steps to ensure their safety.

Respectfully submitted,
Melissa Ness, Advocacy Coordinator

Attachment 10
HHS 2-8-06

March 4, 2005

The Honorable Jim Morrison, Chairperson
House Committee on Health and Human Services
Statehouse, Room 171-W
Topeka, Kansas 66612

Dear Representative Morrison:

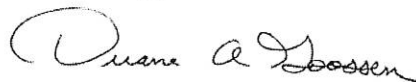
SUBJECT: Fiscal Note for HB 2497 by House Committee on Appropriations

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2497 is respectfully submitted to your committee.

Currently, both child placement agencies and the Kansas Department of Health and Environment (KDHE) request from the Kansas Bureau of Investigation (KBI) background checks on prospective foster parents, child care workers, or employees at family day care homes. HB 2497 would allow KDHE to share its background reports with the child placement agencies, thereby eliminating the need for the child placement agencies to request background checks for themselves.

Because the bill would eliminate duplicative background checks, the child placement agencies would realize a savings estimated to be \$9,000. Any fiscal effect resulting from the passage of this bill is not reflected in *The FY 2006 Governor's Budget Report*.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Brandy Wheeler, Judiciary
Jackie Aubert, SRS
Aaron Dunkel, Health & Environment

Attachment 11
HHS 2-8-06

March 7, 2005

The Honorable Jim Morrison, Chairperson
House Committee on Health and Human Services
Statehouse, Room 171-W
Topeka, Kansas 66612

Dear Representative Morrison:

SUBJECT: Fiscal Note for HB 2342 by House Committee on Health and Human Services

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2342 is respectfully submitted to your committee.

HB 2342 would allow either an advanced registered nurse practitioner or a registered nurse licensed in Kansas and employed by an adult care home or hospice facility to make the determination and pronouncement of the death of a patient in the absence of a physician. The bill would not apply to situations in which the patient is a registered organ donor.

The Board of Nursing and the Board of Healing Arts both indicate that the passage of the bill would have no fiscal effect.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Marty Kennedy, Dept. on Aging
Betty Johnson, Healing Arts
Roberta Kellogg, Board of Nursing

Attachment 12
HHS 2-8-06