

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Vice-Chairman Peggy Mast at 1:30 P.M. on March 20, 2007 in Room 526-S of the Capitol.

All members were present except:

Jim Ward

Committee staff present:

Jason Thompson, Revisor's Office
Renaë Jeffries, Revisor's Office
Melissa Calderwood, Legislative Research
Mary Galligan, Legislative Research
Patti Magathan, Committee Assistant

Conferees appearing before the committee:

Secretary Don Jordan, Social and Rehabilitative Services (S.R.S.)
Candy Shively, Deputy Secretary, S.R.S.
Richard Morrissey, Kansas Department of Health and Environment (K.D.H.E.)

Others Attending:

See Attached List.

Vice-Chair Mast opened the floor for hearings on **SB 201 - Child placement agencies; secretary of health and environment; information on persons at child care facilities or family day care homes.**

Overview of **SB 201** was presented by Renaë Jeffries, revisor, who explained that the bill places restrictions on persons residing in or working in a child care home. The bill adds new language for a conviction of a conspiracy.

Candy Shively, Deputy Director S.R.S., proponent of the bill said that this bill is an attempt to comply with federal regulations which now require states, prior to licensing foster homes, to conduct finger print background checks with the National Crime Information Center. Failure to comply by July 1, 2007 may result in a loss of federal funds. The amendments add clarity to existing wording. (Attachment 1)

Dick Morrissey, Deputy Directory of the division of Health for K.D.H.E. testified as a proponent. He said that language has been added to clarify the Department's authority to prohibit a person from residing, working or volunteering in a child care facility or family day care home if the person has a criminal conviction, juvenile adjudication, or child abuse or neglect determination in another state. The bill adds an offending condition of conspiracy to commit a prohibiting offense, and permits the Department to conduct national criminal history record checks. **SB 201** further authorizes the Department to require fingerprints for identification purposes and to conduct the national criminal history background checks.

K.D.H.E. has proposed amendments to accomplish the changes requested. On page 3, beginning with line 24, the bill proposes to require the Department to share the results of the background checks with child placement agencies for the purposes of adoption and to assess the suitability of prospective foster parents to become licensed. With this provision child placement agencies would not need to request background checks separately from the Department's process. The Department supports the passage of **SB 201** with the amendments. (Attachment 2)

Chair Landwehr closed the hearings on **SB201**. She said we would compile questions and provide to Kyle Kessler with S.R.S. She then introduced **Secretary Don Jordan** with S.R.S.

Secretary **Don Jordan**, SRS, made an informational presentation on Prepaid Ambulatory Health Plan (P.A.H.P.) And Prepaid In-Patient Health Plan (P.I.H.P). He said that in response to multiple concerns raised by the Centers for Medicaid and Medicare Services (C.M.S.) Regarding the operation of Kansas' public mental health, behavior management and substance abuse services, S.R.S. has worked with providers and stakeholders to build effective solutions. S.R.S. realizes these are major system changes and there will be some disruption, but are striving to continue client services, appropriately place children,

CONTINUATION SHEET

MINUTES OF THE House Health and Human Services Committee at 1:30 P.M. on March 20, 2007 in Room 526-S of the Capitol.

and support providers to keep services in place.

The core solutions include P.A.H.P for mental health services and P.I.H.P for substance abuse services.

S.R.S. has contracted with Kansas Health Solutions, a CMHC-sponsored entity for all outpatient mental health management services and with Value Options, one of the nation's largest behavioral health care companies, for substance abuse services.

P.A.H.P - Kansas Health Solutions will manage all outpatient mental health services and will subcontract with providers to deliver both traditional therapy services and specialized rehabilitation services. S.R.S. is currently awaiting C.M.S approval of the P.A.H.P. contract and waiver review. Next steps include finalized the monthly rate to be paid per member, establishing administrative services for training and member services, staff training, and stakeholder informational meetings.

P.I.H.P. S.R.S. will leverage the extensive experience of Value Options to serve as the statewide managed care organization for both Medicaid and federal substance abuse services. Value Options will subcontract with providers to deliver all substance abuse services. Next steps for the P.I.H.P. include finalizing the contract with Value Options of Kansas, and submitting it to C.M.S. for final review and approval. Administrative procedures will be defined. Comprehensive implementation readiness, including provider and staff training, member information, provider recruitment/credentialing, development of payment process, and access protocols. S.R.S. staff have held numerous provider and stakeholder informational meetings and have many more scheduled to fully inform and help prepare for this transition.

S.R.S. continues to work with the Governor's Office throughout the development of these programs. We are presently updating cost estimates to be provided to the Kansas Division of Budget as part of the Governor's Budget Amendment. We will revisit and revise cost estimates next fall as these programs progress and actual costs become more defined. We believe that we will be back in good standing with CMS by July 1. (Attachment 3)

Chair Landwehr announced that the agenda for Wednesday lists all remaining bills that this committee will work for this session, with the addition of **SB 201** which was heard today.

Representative Metsker announced that the committee has been challenged to participate in a fitness challenge and asked if they would be interested in participating. Chair Landwehr asked Representative Metsker to find out what would be involved and report back.

Representative Mast made a motion to approve committee minutes for February 14, 15, 19, 20, and March 5 and 12 which have been submitted for consideration. Motion seconded by Representative Metsker. Motion carried.

Meeting was adjourned. Next meeting will be March 21 at 1:30 P.M.

**Kansas Department of Social and Rehabilitation Services
Don Jordan, Secretary**

House Health and Human Services Committee
March 20, 2007

Senate Bill 201

Chairwoman Landwehr and members of the committee, I'm Candy Shively, Deputy Secretary of SRS. Thank you for the opportunity to speak in support of SB 201.

Federal law now requires states, prior to licensing foster homes, to conduct finger print background checks with the National Crime Information Center (NCIC) of the Federal Bureau of Investigation (FBI), the Kansas child abuse and neglect registry and the child abuse and neglect registry of any other state in which a potential foster parent resided during the preceding 5 years. Failure to comply by July 1, 2007 may result in a loss of federal funds. These funds are safeguarded by the changes in new section (e). Additional changes contained in SB 201 are unrelated to federal funding.

The amendments to section (a)(3) and (g) don't substantively change the law, but do add clarity. Currently there is no reference to the child abuse and neglect registry in Kansas statutes. The name grew out of the addition of subsection (3) in 1984. Social and Rehabilitation Services (SRS) didn't use the term validated in 1984 and doesn't currently use that term. This has been confusing for some who are barred by K.S.A. 65-516(a)(3) because their names are in the registry based on a substantiated finding of abuse or neglect. This change, carried over in section (g), more accurately communicates the cause and effect of an SRS determination of abuse or neglect.

We appreciate the efforts of the Kansas Department of Health and Environment to safeguard this federal funding stream for Kansas and ask your support of SB 201.

I would be happy to answer any questions.

Kansas Department of

Social and Rehabilitation Services

Don Jordan, Secretary

House Health and Human Services Committee
March 20, 2007

Senate Bill 201

**Integrated Service Delivery-Children and Family
Services**

Deputy Secretary Candy Shively

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Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

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Division of Health

Testimony on SB 201

To

House Committee on Health and Human Services

By

**Richard Morrissey, Deputy Director
Division of Health**

March 20, 2007

Chairperson Landwehr and members of the Committee, my name is Richard Morrissey and I am the deputy director of the Division of Health at the Kansas Department of Health and Environment. Thank you for the opportunity to appear before you today in support of Senate Bill 201.

SB 201 amends K.S.A. 65-516, which concerns persons prohibited from residing, working or volunteering in a child care facility.

Language has been added to clarify the Department's authority to prohibit a person from residing, working or volunteering in a child care facility or family day care home if the person has a criminal conviction, juvenile adjudication, or child abuse or neglect determination in another state or the federal government that Kansas would consider a prohibiting offense if it occurred in Kansas. We have interpreted the statute this way, and this language makes it clear prohibiting offenses are not restricted to Kansas.

The bill proposes to add a conviction of conspiracy to commit a prohibiting offense to the list of prohibiting conditions. Our experience is that a prohibiting crime is sometimes pleaded to conspiracy. This addition will better protect children cared for in child care facilities and family day care homes.

The bill proposes to permit the Department to conduct national criminal history record checks to determine criminal history and a person's eligibility to reside, work or regularly volunteer in child care facilities and family day care homes. SB 201 further authorizes the Department to require fingerprints for identification purposes and to conduct the national criminal history background checks.

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House Health and Human Services

DATE: 3-20-07

ATTACHMENT 2-1

New federal legislation, the Adam Walsh Act of 2006, requires that states conduct national criminal history background checks for all prospective foster and adoptive parents and adults living in the foster or adoptive home. The proposed language in SB 201 is intended to comply with the federal requirements.

Subsection (f) on page 3 was added by the Senate to assure that notice of a prohibited person is received by the applicant, licensee or registrant requesting the background check. Although we already follow up with a legal notice or action when a person is found to be prohibited, we support this amendment, but do request it be changed a bit by including registered family day care homes and authorizing certified mail instead of restricted mail. We have been advised by our legal staff that certified mail assures receipt without some of the administrative problems experienced with the Post Office and restricted mail.

We have proposed balloon amendments to accomplish the changes requested.

On page 3 beginning with line 24, the bill proposes to require the Department to share the results of the background checks with child placement agencies for the purposes of adoption and to assess the suitability of prospective foster parents to become licensed. With this provision child placement agencies would not need to request background checks separately from the Department's process. This efficiency would benefit children and families by reducing duplication and resultant delays. The recommendation for this efficiency originated from discussions in the Foster Parent Best Team involving child placement agencies, foster parents, SRS and the Department. Child placement agency staff estimated that this efficiency would save the agencies approximately \$9,000 in conducting duplicative background checks.

The Department supports the passage of SB 201 with the amendments. Thank you for the opportunity to testify and I am available to answer any questions you may have.

SENATE BILL No. 201

By Committee on Public Health and Welfare

1-25

10 AN ACT concerning restrictions on persons maintaining or residing,
11 working or volunteering at child care facilities or family day care
12 homes; amending K.S.A. 2006 Supp. 65-516 and repealing the existing
13 section; also repealing K.S.A. 2006 Supp. 65-516a.
14

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

16 Section 1. K.S.A. 2006 Supp. 65-516 is hereby amended to read as
17 follows: 65-516. (a) No person shall knowingly maintain a child care fa-
18 cility or maintain a family day care home if, in the child care facility or
19 family day care home, there resides, works or regularly volunteers any
20 person who *in this state or in other states or the federal government:*

21 (1) (A) Has a felony conviction for a crime against persons, (B) has
22 a felony conviction under the uniform controlled substances act, (C) has
23 a conviction of any act which is described in articles 34, 35 or 36 of chapter
24 21 of the Kansas Statutes Annotated, and amendments thereto or a con-
25 viction of an attempt under K.S.A. 21-3301 and amendments thereto to
26 commit any such act *or a conviction of conspiracy under K.S.A. 21-3302,*
27 *and amendments thereto, to commit such act, or similar statutes of other*
28 *states or the federal government,* or (D) has been convicted of any act
29 which is described in K.S.A. 21-4301 or 21-4301a and amendments
30 thereto or similar statutes of other states or the federal government;

31 (2) has been adjudicated a juvenile offender because of having com-
32 mitted an act which if done by an adult would constitute the commission
33 of a felony and which is a crime against persons, is any act described in
34 articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, and
35 amendments thereto, *or similar statutes of other states or the federal*
36 *government,* or is any act described in K.S.A. 21-4301 or 21-4301a and
37 amendments thereto or similar statutes of other states or the federal
38 government;

39 (3) has committed an act of physical, mental or emotional abuse or
40 neglect or sexual abuse ~~as validated~~ *and who is listed in the child abuse*
41 *and neglect registry maintained* by the department of social and rehabil-
42 itation services pursuant to K.S.A. ~~38-1523~~ *2006 Supp. 38-2226* and
43 amendments thereto and (A) the person has failed to successfully com-

1 plete a corrective action plan which had been deemed appropriate and
2 approved by the department of social and rehabilitation services, or (B)
3 the record has not been expunged pursuant to rules and regulations
4 adopted by the secretary of social and rehabilitation services;

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

8 (5) has had parental rights terminated pursuant to the Kansas juvenile
9 code or K.S.A. ~~38-1581 through 38-1584~~ 2006 Supp. 38-2266 through 38-
10 2270, and amendments thereto, or a similar statute of other states;

11 (6) has signed a diversion agreement pursuant to K.S.A. 22-2906 et
12 seq., and amendments thereto, or an immediate intervention agreement
13 pursuant to K.S.A. 2006 Supp. 38-2346, and amendments thereto involv-
14 ing a charge of child abuse or a sexual offense; or

15 (7) has an infectious or contagious disease.

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

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

24 (d) In accordance with the provisions of this subsection (d), the sec-
25 retary of *health and environment* shall have access to any court orders or
26 adjudications of any court of record, any records of such orders or adju-
27 dications, criminal history record information *including, but not limited*
28 *to, diversion agreements*, in the possession of the Kansas bureau of in-
29 vestigation and any report of investigations as authorized by subsection
30 (e) of K.S.A. ~~38-1523~~ 2006 Supp. 38-2226 and amendments thereto in
31 the possession of the department of social and rehabilitation services or
32 court of this state concerning persons working, regularly volunteering or
33 residing in a child care facility or a family day care home. The secretary
34 shall have access to these records for the purpose of determining whether
35 or not the home meets the requirements of K.S.A. 59-2132, 65-503, 65-
36 508, 65-516 and 65-519 and amendments thereto.

37 (e) *In accordance with the provisions of this subsection (e), the sec-*
38 *retary is authorized to conduct national criminal history record checks to*
39 *determine criminal history on persons residing, working or regularly vol-*
40 *unteering in a child care facility or family day care home. In order to*
41 *conduct a national criminal history check the secretary shall require fin-*
42 *gerprinting for identification and determination of criminal history. The*
43 *secretary shall submit the fingerprints to the Kansas bureau of investi-*

1 gation and to the federal bureau of investigation and receive a reply to
 2 enable the secretary to verify the identity of such person and whether
 3 such person has been convicted of any crime that would prohibit such
 4 person from residing, working or regularly volunteering in a child care
 5 facility or family day care home. The secretary is authorized to use infor-
 6 mation obtained from the national criminal history record check to de-
 7 termine such person's fitness to reside, work or regularly volunteer in a
 8 child care facility or family day care home.

certified

applicant, licensee or registrant

9 **(f) The secretary shall notify the child care facility, within seven**
 10 **days by ~~restricted~~ mail with return receipt requested, when the re-**
 11 **sult of the national criminal history record check or other appro-**
 12 **prate review reveals unfitness specified in subsection (a)(1)**
 13 **through (7) with regard to the person who is the subject of the**
 14 **review.**

15 ~~(f)~~ (g) No child care facility or family day care home or the employees
 16 thereof, shall be liable for civil damages to any person refused employ-
 17 ment or discharged from employment by reason of such facility's or
 18 home's compliance with the provisions of this section if such home acts
 19 in good faith to comply with this section.

20 ~~(f)~~ ~~(g)~~ (h) For the purpose of subsection (a)(3), ~~an act of abuse or~~
 21 ~~neglect shall not be considered to have been validated by the department~~
 22 ~~of social and rehabilitation services unless the alleged perpetrator a per-~~
 23 ~~son listed in the child abuse and neglect central registry shall not be pro-~~
 24 ~~hibited from residing, working or volunteering in a child care facility or~~
 25 ~~family day care home unless such person has: (1) Had an opportunity to~~
 26 ~~be interviewed and present information during the investigation of the~~
 27 ~~alleged act of abuse or neglect; and (2) been given notice of the agency~~
 28 ~~decision and an opportunity to appeal such decision to the secretary and~~
 29 ~~to the courts pursuant to the act for judicial review and civil enforcement~~
 30 ~~of agency actions.~~

31 ~~(h)~~ (i) In regard to Kansas issued criminal history records:

32 (1) The secretary of health and environment shall provide in writing
 33 information available to the secretary to each child placement agency
 34 requesting information under this section, including the information pro-
 35 vided by the Kansas bureau of investigation pursuant to this section, for
 36 the purpose of assessing the fitness of persons living, working or regularly
 37 volunteering in a family foster home under the child placement agency's
 38 sponsorship.

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

43 (3) The information shall be provided to the child placement agency

1 *regardless of whether the information discloses that the subject of the*
2 *request has been convicted of any offense.*

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

7 (5) *Any staff person of a child placement agency who receives infor-*
8 *mation under this subsection (h) shall keep such information confidential,*
9 *except that the staff person may disclose such information on a need-to-*
10 *know basis to: (A) The person who is the subject of the request for infor-*
11 *mation, (B) the applicant or operator of the family foster home in which*
12 *the person lives, works or regularly volunteers, (C) the department of*
13 *health and environment, (D) the department of social and rehabilitation*
14 *services, (E) the juvenile justice authority, and (F) the courts.*

15 (6) *A violation of the provisions of subsection (h)(5) shall be an un-*
16 *classified misdemeanor punishable by a fine of \$100 for each violation.*

17 Sec. 2. K.S.A. 2006 Supp. 65-516 and 65-516a are hereby repealed.

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

Kansas Department of

Social and Rehabilitation Services

Don Jordan, Secretary

House Health and Human Services Committee

March 20, 2007

**Informational Presentation on Prepaid Ambulatory
Health Plan (PAHP) and Prepaid In-Patient Health
Plan (PIHP)**



For additional information contact:

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House Health and Human Services

DATE: 3-20-07

ATTACHMENT 3-1

Kansas Department of Social and Rehabilitation Services
Don Jordan, Secretary

House Health and Human Services Committee
March 20, 2007

**Informational Presentation on Prepaid Ambulatory Health Plan (PAHP) and
Prepaid In-Patient Health Plan (PIHP)**

In response to multiple concerns raised by the Centers for Medicaid and Medicare Services (CMS) regarding the operation of Kansas' public mental health, behavior management and substance abuse services, SRS has worked with providers and stakeholders to build effective solutions. In crafting the solutions, SRS purposed to support the existing infrastructure of these public treatment systems, constructed over many years; to increase access to qualified service providers and consumer choice of providers; to maintain the array of available services to the fullest extent possible, with an emphasis on least restrictive, community based care; and to maintain Medicaid funding for these critical services.

SRS realizes these are major system changes and there will be some disruption. SRS will continue to make corrections throughout the summer so that:

- clients continue to get services
- children have appropriate placement; and
- providers are supported to keep services in place

The core solutions include these features:

1. **PAHP: Prepaid Ambulatory Health Plan** for mental health services. SRS has contracted with Kansas Health Solutions (KHS), a CMHC-sponsored entity created to serve as the statewide managed care organization for mental health services. All outpatient mental health services will be managed by KHS, which will subcontract with providers to deliver both traditional therapy services (all qualified, licensed mental health practitioners) and specialized rehabilitation services for both adults and youth with the most challenging mental health treatment needs (primarily CMHCs as providers). In addition, KHS will be responsible for gatekeeping for all mental health facility-based services, including hospital inpatient and Psychiatric Residential Treatment Facility (PRTF) services.

Next steps for the PAHP work include:

- Obtaining CMS approval of the PAHP contract and related waiver changes. These items were submitted to CMS on March 1st, with 45 days for the contract review and 90 days for the waiver review.
- Finalizing the PAHP's per member per month (PMPM) rate – which will be based upon current utilization of mental health and behavioral management services.
- Both managed care programs will require additional administration (such as utilization management including fraud and abuse, provider network training and management, member services), which will be necessary in order to maintain the level of Medicaid funding we have experienced in these programs in the past. For the PAHP, because it is a non-risk contract, administrative costs will be paid outside the service PMPM, and a separate payment will be made for all inpatient care screening costs (including new medical necessity screenings associated with PRTFs).
- Comprehensive implementation readiness, including provider and staff training, member information, provider recruitment/credentialing, claims payment process development and testing, and access protocols. Both the PAHP and PIHP have implementation teams prepared and schedules developed; weekly implementation meetings are scheduled between SRS and the contractors, as well as the MMIS fiscal agent; and implementation plans are aligned to readiness in advance of the July 1st implementation date.
- SRS staff have partnered with PAHP staff to hold numerous provider and stakeholder informational meetings, and have many more scheduled, in order to fully inform and help prepare all people involved in the public mental health treatment system for this transition.

2. **PIHP: Prepaid Inpatient Health Plan** for substance abuse services. SRS is contracting with Value Options (VO), one of the nation's largest behavioral health care companies, serving over 24 million people across the country through publicly funded and commercial contracts with a wide variety of managed behavioral healthcare services. SRS will leverage the extensive experience of VO to successfully serve as the statewide managed care organization for both Medicaid and federal SAPT block grant-funded substance abuse services. VO will subcontract with providers to deliver all substance abuse services, both inpatient/facility care and outpatient services.

Next steps for the PIHP work include:

- Finalizing the contract with Value Options of Kansas, and submitting it with related materials to CMS for final review and approval. This should be completed by the end of March, and CMS will have 45 days for the review process (they already approved the request for proposals as a model contract for PIHP services).
- Both managed care programs will require additional administration (such as

utilization management including fraud and abuse, provider network training and management, member services), which will be necessary in order to maintain the level of Medicaid funding we have experienced in these programs in the past. For the PIHP, administrative costs are included in the PMPM rate (because it is a full risk contract).

- Comprehensive implementation readiness, including provider and staff training, member information, provider recruitment/credentialing, claims payment process development and testing, and access protocols. Both the PAHP and PIHP have implementation teams prepared and schedules developed; weekly implementation meetings are scheduled between SRS and the contractors, as well as the MMIS fiscal agent; and implementation plans are aligned to readiness in advance of the July 1st implementation dates.
- SRS staff have held numerous provider and stakeholder informational meetings, and have many more scheduled, in order to fully inform and help prepare all people involved in the public substance abuse treatment system for this transition. SRS staff will partner with PIHP staff to conduct these meetings in partnership once the contracting process is finalized.

SRS continues to work with the Governor's Office throughout the development of these programs. We are presently updating cost estimates to be provided to the Kansas Division of Budget as part of the Governor's Budget Amendment. We will revisit and revise cost estimates next fall as these programs progress and actual costs become more defined.