

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Brenda Landwehr at 1:30 p.m. on March 19, 2010, in Room 784 of the Docking State Office Building.

All members were present except:

- Representative Valdenia Winn - excused
- Representative Scott Schwab - excused

Committee staff present:

- Norm Furse, Office of the Revisor of Statutes
- Kathie Sparks, Kansas Legislative Research Department
- Debbie Bartuccio, Committee Assistant

Conferees appearing before the Committee:

- Senator Laura Kelly (Attachment 1 and Attachment 2)
- Richard Morrissey, Deputy Director, KDHE (Attachment 4)
- Steve and Alicia Patrick (Attachment 5)
- Bryan and Kim Engelman (Attachment 6)
- Suzanne Wikle, Director of Health Policy, Kansas Action for Children (Attachment 7)
- Marty Keaton-Ferron, Licensed Child Care Provider (Attachment 11)

Others attending:

See attached list.

**SB 447 - Sub for S 447 by Committee on Public Health and Welfare – Child care; supervision of children and licensing and inspection of child care facilities**

Chairperson Landwehr opened the hearing on **SB 447- Sub for S 447.**

Senator Laura Kelly provided testimony in support of the bill. (Attachment 1) Part of the information reviewed included the following:

What Sen Sub for SB 447 does:

- The bill eliminates the category of Registered Day Care Homes (pg 4, line 7) and creates the category of Family Child Care Homes (pg 3, line 24).
- Requires and more clearly defines competent supervision.
- Clarifies the authority and responsibility of the Secretary.
- Directs the Secretary to develop and implement a risk-based system.
- Gives the Secretary more authority to release records.
- Creates a web-based child care facility registry.

What Sen Sub for SB 447 does not do:

- It does not change the current ratios for Family Child Care homes.
- It does not decrease the availability of child care in Kansas.
- It does not increase the cost of child care.
- It does not require child care providers to have all the children with them in the same room at all times.
- It does not change the rules for informal childcare...arrangements between families, neighbors or friends. That type of child care does not have to be licensed now and it would not have to be licensed should this bill pass.

Senator Kelly distributed additional information (Attachment 2) which included the thresholds for registration or licensure in home-based child care.

During the question period, Representative Otto distributed a document outlining child care deaths in the period 2007-2009. (Attachment 3)

Norm Furse, Office of the Revisor of Statues, provided a detailed review of the bill. Following is a summary of his comments:

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Minutes of the House Health and Human Services Committee at 1:30 p.m. on March 19, 2010, in Room 784 of the Docking State Office Building.

Review of Sub for SB 447 as amended by the Senate Committee of the Whole. This bill among other changes repeals (see page 1, line 15) the family day care home statutes (the registered homes). Also, this bill was referred to the Committee on Ways and Means in the Senate, so it is not subject to the 2<sup>nd</sup> house deadline. It is an exempt bill.

A number of technical points with the bill (the carryover language in New Sec. 15 is the most serious):

Page 1, line 18 "Children in child care homes or day care homes, as defined and regulated by the secretary..." seems somewhat over broad and vague. This section of the bill sets out certain child care requirements and constitutes a public health regulation which could expose child care providers to liability they may not currently have, so it is important to know what these terms mean and to whom they apply. Currently, the licensing statutes defines the broad classification of child care homes as "child care facility" - see page 3, lines 35 and following of Sub. SB 447.

Page 1, lines 25-28 create exceptions to the duties imposed under Section 1, are these complete? How about emergencies like a fire in another part of the home, etc.? Would it be possible to think of all the exceptions which might be needed to cover all these situations of a person's attention being diverted from child care?

Page 1, lines 40-43. After requiring the child care provider to "provide direct visual supervision" and to be "within hearing distance of the child" these lines on page 1 say nothing in the section is to prevent a person who is "blind or visually impaired, or who is deaf or hearing impaired, when otherwise qualified, from being a licensed day care provider, or an employee of such a provider."

Page 3, lines 27-34 defines "family child care home" which apparently is the new term for "family day care home" (the definitions seem to be the same). This term is then included in the definition of "child care facility" rather than excluded as is a family day care home. As the family day care home statutes are being repealed, this new "family child care home" would then become a licensed child care facility subject to the same requirements as current licensed facilities except for it would be limited in the number of children which may be provided for in the home. Family child care home is only mentioned in the act with regard to when inspections start (any time prior to January 1, 2011) and in the carryover provisions of New Sec. 15. There seems to be no distinction in the statutes under this bill in terms of legal requirements for this type of home as opposed to a currently licensed child care facility.

Page 5, lines 37 and 38 refer to renewing the license of a "child care provider" but to the best of my knowledge "child care providers" are not licensed under the act.

Page 6, lines 40-43 speak to "On or before" a certain date, how about just "Prior to" the specified date?

Page 11, Sec. 11, is the section which was in **HB 2221** which the Senate turned into the "no smoking" bill. It related to open records and open the records in possession of KDHA regarding child care facilities or maternity centers to the public as long as certain individuals are not identified. However, subsection (b) of this section provides that records "may" be released to certain entities. It looks from the language that the same records are being discussed, so I am unclear why subsection (b) is necessary. In addition, the legislature's exception to see the records in a closed meeting is deleted (p. 12, lines 15-25) as in the house bill last year. This would seem to create no problem if all the records are released as stated in (a) but under subsection (b) the secretary of KDHE is given authority to "prohibit the release of the name, address and telephone number of a maternity center or child care facility" in certain circumstances. If those were the circumstances the legislature was interested in, then with lines 15-25 removed, the legislature would not be able to obtain the information.

Page 14, lines 15-27. This is the carryover provision from a registered family day care home to a licensed family child care home. Technically, the language is incorrect and needs to be rewritten. The broader question, however, is that this language says the old registered family day care homes now licensed on the effective date of this act (Kansas Register) are licensed "for all purposes under law" which means that the registered homes would suddenly be subject to the licensure standards of licensed homes and subject to potential liability for not meeting those standards. Usually the legislature in these types of transition situations

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Minutes of the House Health and Human Services Committee at 1:30 p.m. on March 19, 2010, in Room 784 of the Docking State Office Building.

gives some lead time so that entities have time to adjust to the new regulatory circumstances.

Testimony in support of the bill was presented by Richard Morrissey, Deputy Director of Health, Kansas Department of Health and Environment. (Attachment 4) The Department supports the elimination of the registered family day care home statutes and supports the creation of a new category for family child care homes that are licensed and inspected, as well as the risk-based inspection system as outlined in the bill. The bill will benefit children and families who use family child care homes and will set the stage for improving protections for all categories of child care facilities. In order to increase child safety for the new family child care homes, a reduction in inspections in the other licensed categories is needed in order to contain costs and enable the Department to transition the inspection process to a risk-based system. Amending K.S.A. 65-525 will increase the ability of parents and the public to access provider information. The planning and development of an online dissemination system mandated by this bill is part of a larger joint project between KDHE and SRS related to various online applications for both agencies.

The Department recommends a technical amendment to: "Delete the reference to "65-519" on page 9 line 9 and "or registration" on page 11 line 2 to coincide with the elimination of the registration statutes."

Steve and Alicia Patrick provided testimony in support of the bill. (Attachment 5)

Bryan and Kim Engelman provided testimony in support of the bill. (Attachment 6)

Suzanne Wikle, Director of Health Policy, Kansas Action for Children, provided testimony in support of the bill. She stated Kansas ranks 47<sup>th</sup> in the nation when it comes to child care oversight and regulation, according to the latest report by the National Association of Child Care Resource and Referral Agencies (NACCRRA). One step toward improving the quality and oversight of child care in Kansas is to implement inspections for every child care facility. Currently, we inspect every "Licensed Day Care Home" in the state, but "Registered Day Care Homes" are never inspected unless it is too late - when multiple complaints have been filed or a child has died. The bill accomplishes across-the-board inspections in the most efficient manner, by implementing an inspection system based on risk. According to KDHE data, Registered Homes have a disproportionately higher rate of sleep-related deaths. In the past three years, the large majority of deaths in Registered Homes have been sleep-related. Inspections would directly address this because 1) information on safe sleep practices is a central component of on-site inspections, and 2) an inspection would verify that the facility has appropriate equipment (i.e. cribs) for children to use for sleep. Additionally, setting a minimum standard for supervision, including regularly checking on infants that are sleeping, will prevent many of the types of deaths Kansas has seen in child care facilities in recent years.

She indicated the bill has received broad support from early childhood professionals across the state, including: Kansas Head Start Association, Kansas Association for the Education of Young Children, Kansas Association of Child Care Resource and Referral Agencies, Tiny-K, the Kansas Coalition for School Readiness, and United Way. Collectively, they view the bill as a sensible approach to improving child care in Kansas by ensuring that all facilities are inspected and bringing supervision standards for child care up to par with other states.

Ms. Wikle's information included 1) her testimony letter, 2) a fact sheet titled "The Facts About Senate Bill 447", 3) a fact sheet entitled "What Will This Bill Do?", and 4) a letter demonstrating strong support for the bill from a number of child care associations. (Attachment 7)

Due to time constraints, Candy Shively, Deputy Secretary, Integrated Service Delivery, provided written rather than oral testimony in support of the bill. She stated the bill will work to improve child care quality and assist parents in making more informed decisions regarding their children's care. (Attachment 8)

Written testimony in support of the bill was submitted by Eldonna Chesnut, Kansas Public Health Association President, Johnson County Health Department Division, Director of Adult and Childcare Facilities. She stated this is still a compromise bill where childcare licensing is concerned but definitely a step on the right direction for Kansas children in out of home care. (Attachment 9)

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Minutes of the House Health and Human Services Committee at 1:30 p.m. on March 19, 2010, in Room 784 of the Docking State Office Building.

Written testimony in opposition to the bill was provide by Seth Dunham (Attachment 10).

Marty Keaton-Ferron, a Kansas licensed child care provider, presented testimony as a neutral proponent with many questions and concerns. She believes all homes need to be inspected, not just the homes identified with the risk-based system. She stated it is vital that timely inspection results are shared with families (through their provider or on a website). She also emphasized the importance of continuing education for child care providers. (Attachment 11)

Due to time constraints, it was necessary to end the meeting. However, Chairperson Landwehr indicated due to the massive changes in this bill and the fact that much is left to rules and regulations, there is a need to continue the hearing in order for the committee to be thoroughly informed about the details of the bill and have the time to ask their questions prior to making a decision on the final outcome of the bill. Therefore, Chairperson Landwehr did not close the hearing on this bill and indicated the hearing would be continued at a future date.

The next meeting is scheduled on call of the Chair.

The meeting was adjourned at 3:48 p.m.

# HOUSE HEALTH & HUMAN SERVICES COMMITTEE

DATE: 3-19-2010

NAME	REPRESENTING
Levi Henry	Sandstone Group LLC
Dick Morrissey	KDHE
many murphy	KDHE
<del>Stacy</del> Susan Kanez	KDHE
Joseph Keace	KDHE
Karen Cochran	KCSR
Dianne Conradis	KAC
Mecia Patrick	
Suzanne Witek	Ks Action for Children.
Michelle Butler	Cap. Waite's
STEVE KENDRICK	KANSAS ACTION FOR CHILDREN
Don Morin	Medical Society
Sadye Magee	
Will Lawrence	
Marcy Keaton-Ferren	Children/Parents/Some Providers

**Please use black ink**

**LAURA KELLY**  
 SENATOR, 18TH DISTRICT  
 WABAUNSEE AND SHAWNEE COUNTIES



TOPEKA  
 SENATE CHAMBER

## COMMITTEE ASSIGNMENTS

RANKING MINORITY: WAYS AND MEANS

MEMBER: JUDICIARY

PUBLIC HEALTH AND WELFARE  
 JOINT COMMITTEE ON STATE  
 BUILDING CONSTRUCTION  
 JOINT COMMITTEE ON HEALTH  
 POLICY OVERSIGHT  
 JOINT COMMITTEE ON PENSIONS,  
 BENEFITS AND INVESTMENTS  
 LEGISLATIVE BUDGET COMMITTEE  
 KANSAS CAPITOL RESTORATION  
 COMMISSION

**Testimony in Support of Senate Substitute for SB 447**  
**House Health and Human Services Committee, Rep. Brenda Landwehr, Chair**  
**Senator Laura Kelly**  
**Friday, March 19, 2010**

Madame Chair, members of the committee, I appreciate the opportunity to testify before you in support of Senate Substitute for SB 447. Other conferees will give you detailed information that makes clear why this legislation is so important. I will focus on what this bill does and, perhaps more importantly, what it doesn't do.

**What Sen Sub for SB 447 does:**

- **SB 447 eliminates the category of Registered Day Care Homes (pg 4, line 7) and creates the category of Family Child Care Homes (pg 3, line 24).** You all have seen the billboards across Kansas that say 1 in 3 child care homes are never inspected. Kansas currently has two categories for home day care: registered and licensed. The only appreciable difference between these two categories is that licensed homes are evaluated prior to receiving a license to operate and are inspected annually thereafter. Registered homes fill out an application, send in their \$5 fee, and are good to go. No initial assessment is required, no follow-up inspections happen unless someone files a complaint. Under SB 447, all registered homes who wish to receive recognition by the State would have to become Family Child Care Homes subject to initial inspection and then re-inspection on a regular basis. All currently registered homes will essentially be given a temporary license until they are inspected (pg 14, line 17)
- **Requires and more clearly defines competent supervision (pg 1, New Section 1)** Currently, Kansas has some of the weakest supervision standards in the nation. When this bill was first presented in committee, the definition of competent supervision went too far the other way and was not practical. Many of us received hundreds of emails from responsible providers who worried that they would no longer be able to operate because they would find it impossible to obey the law. The bill was amended in committee to put Kansas more in line with other states. It focuses on the need for children under 5 to be within sight or sound distance at all times, with practical exceptions, and for napping children to be visually checked every 15 minute.

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PHONE: ( HEALTH AND HUMAN SERVICES  
 DATE: 3-19-10  
 E-1 ATTACHMENT: 1-1

- **Clarifies the authority and responsibility of the secretary** (pg 5, line 34) to revoke or refuse to renew a license of a repeat violator or for a provider under whose care a child suffered serious bodily harm or death. Further, that provider would be prohibited from operating a child care facility of any kind or from being employed by another child care provider.
- **Directs the Secretary to develop and implement a risk-based system** (pg 6, line 39) for determining the frequency of inspections of child care facilities. Currently, all facilities are inspected on the same schedule regardless of the quality of care and environment unless a complaint has been registered. More progressive states use the more sophisticated risk-based system so that resources are targeted at the problem areas. The bill gives the Secretary until July 1, 2013 to develop a risk-based system at which point, the provisions of SECTION 7 (3) (1) expire.
- **Gives the Secretary more authority to release records** regarding childcare facilities and clarifies to whom they can be released (pg 11, Sec 11)
- **Creates a web-based child care facility registry** (pg 12, line 1) SB 447 directs KDHE to work with SRS to establish a web-based registry that would list all licensed child care facilities in the state and would include a history of citations and complaints. This would allow parents easy access to important information as they search for quality care.

#### **What does Sen Sub for SB 447 NOT do?**

- It does not change the current ratios for Family Child Care homes.
- It does not decrease the availability of child care in Kansas.
- It does not increase the cost of child care.
- It does not require child care providers to have all the children with them in the same room all the time.
- It does not change the rules for informal childcare...arrangements between families, neighbors or friends. That type of child care does not have to be licensed now and it would not have to be licensed should this bill pass.

### **How do we pay for Sen Sub for SB 447?**

- **Inspection costs:** The Secretary is directed to use all existing resources to do initial inspections of all currently registered homes and any new applicants for other types of licensed child care. All currently licensed day care homes, centers and programs, which are without citations/complaints, will submit a self-inspection form annually. This system would be in effect until no later than June 30, 2013 at which time the Risk-Based Assessment system would be implemented. The only fiscal note for this program is the expenditure of approximately \$275,000 (all federal TAF) to pay for increased subsidy to licensed providers. SRS has this funding within existing resources.
- **Web-based registry:** SRS has ARRA funds available specifically for this type of registry. The KDHE secretary is directed to work with SRS and have this system operating by September 2011 (amendment needed)





Mark Parkinson, Governor  
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH  
AND ENVIRONMENT

[www.kdheks.gov](http://www.kdheks.gov)

Division of Health

March 17, 2010

To: Susan Kang, Assistant Secretary, Policy and External Affairs

From: Mary A. Murphy, Unit Director, Child Care Licensing and Registration Program

RE: Threshold for registration or licensure in home-based child care

**Pursuant to Department policy registration or licensing in home-based child care is not required when:**

1. Child care is provided for not more than two children unrelated to the provider for not more than 20 hours a week.
2. Irregular child care is arranged between friends and neighbors on an exchange basis.
3. Child care is provided in the child's own home.
4. Child care is provided in the home of the child's relative.

The Department's application of the child care statutes to determine the threshold for regulation as noted above has been in policy for many years.

**Pursuant to K.S.A. 65-503 and 65-517 registration or licensing in home-based child care is required when:**

1. Children are not related to the care provider by blood, marriage or legal adoption;
2. children are cared for away from their own homes; and
3. children are unattended by their parent or guardian.

**Note:** The term kinship care is a foster care term and not used in child care. Kinship foster care could include individuals either related or unrelated to the child in foster care. Relative kinship foster care is not required to be licensed by Kansas statute.

## Registered Family Day Care Home

A providers own residence in which care is provided by the applicant for not more than six children form birth to 16 years of age with not more than three children under 18 months of age. All children under 12 years of age related to the provider are included in the total.



- The registrant must be 18 years of age, have an understanding of children and complete first aid training.
- A KBI criminal history and child abuse and neglect background check is processed on all persons living, working or volunteering in the registered family day care home.
- State Certificate Fee is \$5.00. Local fees may also apply.
- The registrant must complete a safety evaluation attesting to the safety of the home in providing for the health and well-being of the children. A registered family day care home is not inspected unless KDHE receives a complaint.

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## Licensed Day Care Home

A child care facility in which care is provided for a maximum of ten (10) children under 16 years of age and includes children under eleven (11) years of age related to the provider. This total includes children under eleven (11) years of age related to the provider. The total number of children in care at any one time is based on the ages of the children in care.



[Click here to view a chart for licensed day care home's total number of children by age.](#)

- The license is usually issued for the provider's own home but may be issued at a location other than the provider's home. The license identifies the address of the child care facility.
- The licensee must be 18 years of age, have an understanding of children and complete first aid and child care job related training or readings.
- A KBI criminal history and child abuse and neglect background check is processed on all persons living, working or volunteering in the licensed day care home.
- State Licensing fee \$15.00. Local fees may also apply.
- The licensed day care home is inspected to check compliance with regulations to protect the health, safety and well-being of the children in care at least once every 12 months. The Kansas Department of Health and Environment contracts with local county health departments or private contractors to conduct on-site inspections.

**TABLE I--LICENSE CAPACITY**

Maximum Number of Children Under 18 Months	Maximum Number of Children 18 Months to Kindergarten Age	Kindergarten Age to Age 11	License Capacity
0	7	3	10
1	5	4	10
2	4	3	9
3	3	2	8

## CHILD CARE DEATHS

2007-2009

Record	Case #	Description
1	53807	Infant was placed on an adult bed in the basement (not approved for child care) to sleep and the provider tended to other children in care. She returned to the room and found the infant wedged between the bed mattress and footboard, not breathing. Mother reported to the surveyor the provider told her she was sleeping at the time of the incident and infant was dead 30-45 minutes before provider found him.
2	8185	Infant was placed in a playpen on his back with a receiving blanket over his chest and legs at approximately 2:30pm; provider checked on him about 15 minutes later and observed his chest rising and falling. Provider was up and down between the main level and the lower level as one child was in care on the lower level, this child was picked up by her parent 15 minutes later (total of 30 minutes into the nap). Provider checked on the infant again and found him unresponsive.
3	42072	Infant was placed for nap at 12:00pm on the side in daughter's twin bed; the infant was checked on six or seven times, and the daughter checked once. A blanket covered the chest. On last check, provider rubbed his bottom and got no response; bent over to say his name and no response; kissed his cheek and no response so provider picked him up. He was limp and his lips were blue. Provider had no power and was using a generator and space heaters; police found zero CO <sub>2</sub> .
4	9957	Infant was fed and changed around 11:30am and shortly after placed for nap in a bouncy seat sitting on top of a bed. A mesh cover was put over the bouncer and the infant had a pacifier in his mouth. Playpens were available but not used. At 2:38pm, the provider went to wake up the child and his face was blue; he was not breathing.
5	8506	Infant was placed for nap around 1:00pm on the stomach (2 <sup>nd</sup> day of care). The provider checked on the infant at 60 minute intervals and at 3:00; the infant was found unresponsive and limp face down. A sleep positioner was used.
6	5248	The incident occurred at approximately 11:30 am on the child's first day of care. The provider and children were in the basement play area; provider noticed the child standing on child-sized chair, she looked away, looked back and saw her neck/head was caught between two slats of a home-made fence that separated the infant play area from the larger play area. Provider reports she rescued the child within a minute; however, the child collapsed minutes later. No paperwork was on file for the child; therefore, there was no contact information for parents. Provider had 14 children in care; moved 8 children next door to a neighbor's home (LDCH provider) after incident in order to be within capacity.
7	64314	Infant was placed for nap on the back in pack and play with a boppy pillow, blanket, and stuffed animal at 1:15 pm. Provider remained within hearing distance of the infant. Provider tried to wake infant at 3:25 pm and noticed she was a little blue, warm, and unresponsive. Provider stated the infant was on its side with her face against the boppy.
8	48744	Infant was placed on the stomach on an adult bed at approximately 7:00am and slept until about 12pm. The infant woke and drank 4oz and sat upright on a couch pillow by the provider's daughter until 4:00 or 4:15 pm Infant was placed for nap a 2 <sup>nd</sup> time on the stomach on an adult bed. Approximately 30 minutes later the mother arrived, and provider appeared with infant on her shoulder—mother and provider talked approximately 5-10 minutes and provider only noticed something was not quite right when she attempted to hand the mother the infant. At that time the infant's head fell back and her body was limp; the lips were a little blue. Per police, the infant was on life support for three days and the family "withdrew care."
9	17831	The provider went to a dr. appointment and left her 16 year old daughter at home to care for children. The infant was fed at 1:10pm and placed at 1:40pm. The daughter checked on infant outside a closed door at 2:15 and 3:20; she attempted to wake the infant at 3:39 because the mother would be arriving and the infant was not responsive.
10	33824	Infant had been in full time care for approximately two months; child was often congested and had stringy mucus he would cough up; congested upon arrival at 9:15am; ate a 5 oz bottle, was rocked to sleep at 11:15am. The provider checked on the infant at 12:10pm and found him on the stomach in the corner of the playpen.
11	4252	Infant placed for nap on his back at 11:00am. Provider then went to get other children ready for lunch but checked on the infant every 15 minutes. Heard a wail at 11:45 but did not check on infant; finished with lunch. Found infant unresponsive on stomach around 11:50am to 12:30pm. Statements to police and surveyors conflicting regarding child's state at arrival and overall wellness of the infant.
12	46090	Infant was placed on her daughter's bed in a back bedroom at 10:15-11:30 (varying reports). The infant was placed on an adult bed because other infant in care was in the only playpen available. Provider checked on him at 12:30 and found he had scooted and rolled to his stomach; the provider moved him back to the middle of the bed. The provider took muscle relaxant and rested on couch; daughter came home and went to her room to take a nap. The provider woke up at 2:25 and went to bedroom to check on the infant, but the infant was not on the bed. After looking through the house, the provider returned to the bedroom and saw the infant at the foot of the bed, wedged between the mattress and footboard.

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13	61721	The child was placed for nap on the floor with a pillow. The child was fussing and keeping another child awake so the provider moved the child to a car seat. The child was too big for the car seat; provider could not strap the lower strap but strapped the middle tightly around the child's mid-section and placed the car seat in the laundry room. The provider did not check on the child for 2 1/2 hours; when provider remembered she was napping, she found the child slumped over, lips blue and not breathing. The strap was tightened around diaphragm and prevented child from breathing.
14	41659	Infant was in care for the first day on a "trial run" for approximately 1 1/2 hours while the mother went to the doctor. The infant was placed for nap in a car seat; the infant was fussy. After the infant settled down, the provider placed the infant on her stomach in a playpen. The provider checked on the infant 20 minutes later. The provider went to wake up the child after the mother arrived, and the infant was unresponsive. The playpen was not in good working condition—a support bar was broken causing a shallow dip in the playpen.
15	30334	A 3 year old child drowned in an above ground pool located in the outdoor play area. The provider was cited for lack of supervision because she allowed 3 day care children, 2 less than 3 years of age, to play outside unattended. The children were playing on a gated deck and the 3 year old child went missing. The provider found the child floating in the above ground pool that was not made inaccessible to the children as there was a hose storage box pushed against the side of the pool that allowed access to the pool. There were also bricks stacked next to the pool that led to the ladder that was left attached to the inside of the pool.
16	62062	Infant was in the care of a provider whose license was revoked (she was providing care without a license or certificate). Infant was placed to nap on an adult bed and checked on 15 minutes later. The infant was unresponsive and later died at the hospital. The investigation revealed the revoked provider was placing overflow children next door in the care of another illegal provider—the women were sharing SRS funds.
17	48989	Infant was placed on a bare crib mattress the 1 <sup>st</sup> day of care. Provider states she checked on the infant every 15 minutes. Approximately 45 minutes later, the infant was found on his side, limp and unresponsive. Per provider the infant was placed on his back (first stated stomach) and found on his side. This is questionable from a developmental perspective considering the child's age of 7 weeks.
18	39833	Infant was placed on her side in a playpen and later found on her stomach unresponsive. When the mother arrived to pick up her two daughters, she was told that her 3 month old infant had died and she was at the coroner's office. The mother reported the provider did not try to call her.
19	29404	Infant was placed in a playpen on his side with a blanket at 2:30 pm; 30-45 minutes later the provider's husband picked up the infant because he was fussing. The infant burped and was laid back down; the provider went to get the infant for a feeding about 5:00 (about 1 1/2 hrs later). A sleep positioner (wedge) was used. Earlier in the day, the day care children were left with the provider's daughter for 3 hours while the provider and husband took their own child to dr. appointment in Kansas City.
20	61826	Infant placed in a playpen on his back with a light blanket and standard size bed pillow at 10:30am. Nearly 2 1/2 hours passed before the provider returned to check on the infant, at which time she found the infant on his stomach, head tilted to the right, back of head and trunk covered by blanket, cold to the touch and not breathing. The JO CO Med-Act Patient Care Report states the child had been deceased more than 120 minutes.
21	4094	The provider was outside on the patio staining a bed frame, boyfriend (not a caregiver) was planting flowers in the yard/placing mulch. The 2 <sup>nd</sup> adult in the GDCH (provider's daughter) left the day care and told two children --8 and 9 years of age—to watch the children in care. Per police reports, the 8 year old heard the infant crying and tried to find the provider but could not. He attempted to take her out of the playpen to change her diaper. The child tripped over a toy and dropped the infant, hitting her head on the playpen and then the floor. The 8 year old told the 9 year old, and they both again attempted to find the provider. The provider found the two children inside tending to the infant and no further information is known as to what medical care was provided on site. The infant was limp and making gurgling sounds, not acting like herself per provider's statement. The provider denies giving CPR. Time passed before the provider called the infant's mother; 911 was never called. A call made to the mother approximately 1 hr after 2 <sup>nd</sup> caregiver left and the mother transported the infant to the hospital. Surgery reveals lacerated liver (nearly cut in half). Autopsy reveals injury/internal bleeding occurred at the day care home. Contacts reveal lack of medical care or negligent CPR may have contributed to internal injuries.
22	17400	Infant was placed for nap at 2:15pm on his side and checked on at 3:30pm by the provider's 16 year old daughter because the provider was at the bank; the daughter said he was fine. At 3:40pm the provider checked on the infant and he was blue, cold to touch, unresponsive.

KEY  
Records 1 - 8: Registered Family Day Care Home  
Records 9 - 15: Licensed Day Care Home  
Records 16 & 17: Illegal Care (Both were previously Group Day Care Homes, but had closed following enforcement actions)  
Records 18 - 22 Group Day Care Home  
Information provided by: Kansas Department of Health and Environment,  
Child Care Licensing and Registration Program



DEPARTMENT OF HEALTH  
AND ENVIRONMENT

Mark Parkinson, Governor  
Roderick L. Bremby, Secretary

www.kdheks.gov

**Testimony on Substitute for Senate Bill 447  
Presented To  
House Committee on Health and Human Services  
By  
Richard Morrissey  
Deputy Director of Health  
Kansas Department of Health and Environment**

**March 19, 2010**

Madam Chair and members of the committee, I am Richard Morrissey, Deputy Director of the Division of Health for the Kansas Department of Health and Environment. Thank you for the opportunity to appear before you today in support of Substitute for Senate Bill 447.

Adequate supervision and attentive child care practices are critical for children's safety. The Department supports more specificity in the expectations for supervision and appropriate child care practices. The proposed statutory language underscores the critical role that supervision plays in the protection of children attending home based child care.

The Department supports the elimination of the registered family day care home statutes and supports the creation of a new category for family child care homes that are licensed and inspected, as well as the risk-based inspection system as outlined in the bill. Inspections provide added consumer protection for children and families by providing an opportunity for guidance and technical assistance in addition to assessing compliance and safety of the home.

The bill will benefit children and families who use family child care homes and will set the stage for improving protections for all categories of child care facilities. The bill continues to require initial and complaint investigations of other defined licensed child care facilities and permits the inspection of noncompliant child care facilities but no longer requires these facilities to be inspected every 12 months. The bill authorizes compliant licensed child care facilities to submit a self evaluation in lieu of the annual inspection currently required. This provision will remain in place until July 1, 2013, when the risk-based system required by this bill is developed and implemented.

In order to increase child safety for the new family child care homes, a reduction in inspections in the other licensed categories is needed in order to contain costs and enable the Department to transition the inspection process to a risk-based system. The development of a

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risk-based system will permit the Department to concentrate limited resources in the higher risk facilities.

### **Increasing Access to Provider Information**

Amending K.S.A. 65-525 will increase the ability of parents and the public to access provider information. Currently the Department receives about 1,000 requests annually for child care information mostly from parents seeking compliance history in order to make an informed child care choice. Often those making the request inquire about the online availability of information.

The planning and development of an online dissemination system mandated by this bill is part of a larger joint project between KDHE and SRS related to various on line applications for both agencies. In addition, the Department and SRS are in discussion regarding the automation of the KDHE inspection process. Both projects are in the preliminary planning, design and development stages and will use ARRA Child Care Development Funds for the necessary I/T development and design.

### **Technical Amendment**

The Department recommends a technical amendment to:

delete the reference to "65-519" on page 9 line 9 and "or registration" on page 11 line 2 to coincide with the elimination of the registration statutes.

Thank you for the opportunity to speak in support of Substitute for SB 447. I will now stand for any questions you may have.



We are Steve and Alecia Patrick of Overland Park, KS. We are not going to stand here and tell you what happened to our daughter Ava. We are sure you are all well aware of our situation. What we would like to talk to you about today is WHY SB 447 needs to be in place and how things would have been different for us if it would have been in place a year ago.

- With the category of Registered daycare no longer being an option to providers, our provider would have been forced to become licensed and inspected yearly. It had been 10 years since she had been inspected due to our current laws and statutes. It is extremely important that every child care facility is inspected. We have certain laws and standards in place for plumbers, contractors, inspectors, etc. to adhere by, but we raise the issue of daycare inspections and people believe that this should not be a government issue. Why not? Are our children and their safety not important enough?
- With the Secretary of Health and Environment having the authority to revoke any license should the child care provider be a repeat violator, our provider would have been shut down and prohibited from ever running any type of daycare again years ago. We know that there are good daycares out there and we are eternally grateful for them. But the truth is, there are a lot of bad daycare providers that have become lax in their care just like the enforcements that have been in place.
- If KDHE had been forced to welcome the internet age in every aspect, they would have already had a website in place for parents to see specific provider records and license information. For us to obtain our providers record, our attorney had to supply KDHE with a written request. This took two weeks and \$80.00 to get a paper copy (225 pages long).
- If the supervision language would have been in place, our provider would have been required to be in CLOSE PROXIMITY and HEARING distance of the children. The reason why we capitalized these words is quite simple. If she would have been anywhere near our daughter or in her house, she would have heard our daughter screaming. Providers have been deemed as a "babysitter" for far too long. It is time for them to step up to the plate and give the level of care that parents trust them to provide. We consider the daycare industry a professional industry and it is time that we treated it as such.

Today we do not need to look at the children that have lost their lives or been seriously injured in daycare as statistics, but as children that carry an important lesson. It is time to change the laws and statutes that were put in place MANY years ago. We need to focus on the thousands of children that are currently in daycare and need our help.

We have not met one set of parents that take the decision of childcare lightly. So we are urging you today to not only think about this bill as a Kansas Representative, but to also think of this bill as a parent, grandparent, aunt or uncle. What would you do if this happened to a loved one or a close friend?

Steve and Alecia Patrick, 7419 W 140<sup>th</sup> Terrace #2401 Overland Park, KS 66223  
(913) 710-8353 (913) 710-9168

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**Testimony from Bryan & Kim Engelman In Support of SB 447**  
**Health and Human Services Committee**  
March 19th, 2010

We are Bryan and Kim Engelman from Overland Park, Kansas. Senate bill 447 (amended in the Senate as "Lexie's Law") represents a bill that we have envisioned and worked toward for over 5 years.

In 2004, our lives were completely torn apart when our first-born daughter, Lexie, died at the tender age of 13 months due to injuries she sustained in a Johnson County day care home. We are two educated individuals (Bryan has a Master's degree and is an organizational development consultant; Kim has a Ph.D. and is an Assistant Professor in Preventive Medicine & Public Health at KU Medical Center) and for several months we researched licensed day care options for our daughter. We extensively interviewed the provider that we ultimately chose, visited her day care home both during and after daycare hours, and contacted references that she provided. August 4<sup>th</sup>, 2004 was Lexie's first day in day care. On Lexie's 3<sup>rd</sup> morning there, the child care provider went up to the next floor of the home but claimed that she was within earshot of the three children in her care, all of whom were 13 months old or less. Lexie could walk and she attempted to reach the provider but was barred by a baby gate placed at the bottom of the stairs. Distraught and perplexed, Lexie continued her efforts to reach the child care provider. Upon her return to the child care area, the daycare provider reportedly found Lexie pinned between a support beam for the home and a child play pen situated against the stairwell wall— Lexie was unconscious and not breathing at the time she was first discovered. She was rushed to a pediatric intensive care unit. Lexie died the evening of August 10<sup>th</sup> and walking out of the hospital without our daughter with us still remains one of the most traumatic days of our lives.

Since this terrible tragedy we have been devoted to making positive changes in the child care arena. Unfortunately, we have found that our journey is shared by numerous Kansas families. In 2009, 10 children died in Kansas day care facilities. Five children died in 2008 and 12 died in 2007. This means that just in the past several years, over 20 Kansas families have suffered the unnatural loss of their young child. Just how many children need to die needlessly before changes are made? **When do you admit we have poor state oversight and accountability standards?**

We believe that:

- Infants, toddlers and preschoolers in child care need more direct **supervision** than the current requirement which states that children merely to be within 'hearing distance' of their childcare provider. The safety of young children would be improved drastically if they primarily are supervised directly by their provider. In addition, in the nominal time when children are outside their provider's direct supervision, the provider must be poised to respond *immediately* to a distressed child by remaining within hearing distance of the children. Furthermore, it is critical that sleeping children also be physically checked upon in a routine manner as many of the Kansas day care deaths in the past several years have occurred in sleeping children. If this type of supervision standard had been required in 2004, our daughter Lexie, and many other Kansas children would be alive today.
- All Kansas child care facilities need AT LEAST an initial **inspection**. Currently in Kansas, registered day care homes do not get inspected unless a complaint is filed. Suffice it to say that anyone can register with the state, put up a home day care sign and care for children without anyone stepping foot into the premises to ensure the safety of the environment for children. This simply is preposterous!
- Readily available and cost-free parental access to a searchable **on-line database** containing inspection and complaint information about child care facilities under consideration by parents is absolutely critical! As it stands, many parents do not know: 1) that they can do an open records request for any child care facility, 2) where to turn to make such a request, 3) how to make the request, 4) the cost involved in obtaining records, and 5) the lengthy turnaround time from record request to receipt. If we had known in 2004 that we could request provider records, the complaints and violations that we would have seen (and that we received copies of after it was too late) would have shot up red flags and caused us not to place Lexie in this particular day care home.

Kansas ranks near the bottom in child care quality. SB 447 would have no impact on the cost of child care in Kansas, but would greatly improve the overall safety of child care in Kansas and the ability of parents to make better informed decisions about child care (thereby resulting also in a strengthened workforce when parents have facts at their fingertips and access to safer and more reliable child care). Many of the tragic child care deaths and major injuries that have occurred in Kansas over the past several years could have been prevented. If enacted into law, SB 447 will have an immensely positive impact on the health and safety of our children in child care facilities and close the gap between Kansas and the highest performing counterpart states.

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March 19, 2010

To: Health and Human Services  
From: Suzanne Wikle, Director of Health Policy

Good afternoon Madam Chair and members of the committee. It is my pleasure to appear before you today in support of Senate Bill 447.

**Kansas among the worst states**

Kansas ranks 47<sup>th</sup> in the nation when it comes to child care oversight and regulation, according to the latest report by the National Association of Child Care Resource and Referral Agencies (NACCRRA). Families in most other states rely on a child care system that has adequate checks and balances, but unfortunately that is not the case in Kansas. This lack of oversight has contributed to a growing number of preventable deaths in Kansas child care facilities.

**Inspections and Supervision**

One step toward improving the quality and oversight of child care in Kansas is to implement inspections for *every* child care facility. Currently, we inspect every “Licensed Day Care Home” in the state, but “Registered Day Care Homes” are never inspected unless it is too late – when multiple complaints have been filed or a child has died. Senate Bill 447 accomplishes across-the-board inspections in the most efficient manner, by implementing an inspection system based on risk. According to KDHE data, Registered Homes have a disproportionately higher rate of sleep-related deaths. In the past three years, the large majority of deaths in Registered Homes have been sleep-related. Inspections would directly address this because 1) information on safe sleep practices is a central component of on-site inspections, and 2) an inspection would verify that the facility has appropriate equipment (i.e. cribs) for children to use for sleep. Additionally, setting a minimum standard for supervision, including regularly checking on infants that are sleeping, will prevent many of the types of deaths Kansas has seen in child care facilities in recent years.

**Broad Support**

Senate Bill 447 has received broad support from early childhood professionals across the state, including: Kansas Head Start Association, Kansas Association for the Education of Young Children, Kansas Association of Child Care Resource and Referral Agencies, Tiny-K, the Kansas Coalition for School Readiness, and United Way. Collectively, we view SB 447 as a sensible approach to improving child care in Kansas by ensuring that all facilities are inspected and bringing supervision standards for child care up to par with other states.

Kansas Action for Children respectfully asks for your support of Senate Bill 447.

Kansas Action for Children Inc.  
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## THE FACTS ABOUT SENATE BILL 447

# Improving Child Care in Kansas

### Why do we need to improve child care in Kansas?

Kansas is lagging behind when it comes to providing adequate consumer protections in our child care system. Just as we provide consumer protections that ensure the safety of our restaurants, gas pumps and beauty salons, we need to ensure the safety of child care facilities. Right now, 1 in 3 child care facilities in Kansas are never inspected and we have some of the weakest child care supervision standards in the country. As a result:

- **30 Kansas children have died** in child care settings over the past three years
- **72 Kansas children sustained serious injuries** in child care last year alone
- **Our state ranks 47th in the nation** in terms of child care oversight

### How will SB 447 improve child care?

SB 447 is a critical step toward improving the quality and safety of child care in Kansas. Here's what the bill **will** do:

- **Inspect all child care facilities.** SB 447 will ensure that each child care facility, including "registered" providers are inspected on an ongoing basis. Over the next three years, Kansas Department of Health & Environment (KDHE) resources will be focused under this bill on inspecting "registered" providers — which are currently never inspected — as well as those providers that are not currently in compliance.
- **Establish a risk-based inspection system.** SB 447 will require that KDHE develop a system by 2013 for the ongoing inspection of all providers based upon risk. This system, much like the system we use in Kansas to inspect restaurants, will ensure that resources are most focused on the riskiest facilities. Therefore, providers with a history of strong compliance will be inspected less frequently, freeing up resources to be spent on child care facilities where risks are evident.
- **Improve supervision standards in Kansas.** Right now, Kansas has some of the weakest supervision standards in the nation when it comes to child care. SB 447 makes improvements by addressing the supervision of napping children and the supervision of infants and toddlers, who tend to be the most vulnerable children. Research shows that children who are napping and the youngest children are the most likely to be injured or die due to a lack of supervision in child care.
- **Create an online database for parents and providers.** SB 447 will require establishment of an online database that will make open records related to child care more accessible to parents, and simplify the paperwork process for child care providers. This database, modeled after online systems used in other states, will enable parents to check if their providers (or prospective providers) are in compliance with state standards. This system will be paid for utilizing federal stimulus dollars and does not require any state dollars.

### What misinformation is out there about SB 447?

There is quite a bit of incorrect information being discussed about this bill. Here's what it will **not** do:

- **Families caring for their own children.** SB 447 has no impact on families who care for their own children, regardless of the number of children they have.
- **Informal child care.** SB 447 does not change existing rules regarding informal child care arrangements, such as parents who have arrangements with a friend, neighbor or family member who is not registered/licensed with the state to care for children.
- **Availability and cost of child care.** SB 447 does not change the number of children that child care providers are permitted to care for and, therefore, would not impact the availability and cost of child care in the state.
- **Provider-parent relationship.** SB 447 does not limit or address in any way the amount of time that providers can spend talking with parents.



Founded in 1979, Kansas Action for Children is a nonprofit, nonpartisan organization dedicated to shaping policy that improves the lives of Kansas children and their families.

# SB 447: Improving Child Care in Kansas

AREA OF CONCERN	HOW IS IT ADDRESSED IN SB 447?	WHY DO WE NEED THIS SOLUTION?
<p><b>CHILD CARE INSPECTIONS</b></p> <p>In Kansas, 1 in 3 child care facilities is never inspected until it's too late – when a child has died in their care or a complaint has been filed.</p>	<p>SB 447 would establish inspections for every child care facility in Kansas utilizing a “risk-based” system similar to how we inspect every restaurant. All new child care providers would receive an initial inspection. Existing providers would receive inspections with frequency based on their rate of compliance.</p>	<ul style="list-style-type: none"> <li>• Initial inspections for all new providers will create a much-needed level of consumer protection that we already provide in other areas, such as inspections of every restaurant, gas pump and hair salon. In Kansas, anyone can pay \$5 and submit a form to become a “registered” child care provider. Inspections will ensure a minimum set of checks-and-balances for families seeking child care.</li> <li>• A risk-based inspection system — one where we inspect child care facilities that prove to be the riskiest more often than we inspect facilities that consistently follow the rules — is a sensible way to improve child care in Kansas while still respecting the experience and good judgment that many child care providers bring to the business.</li> </ul>
<p><b>SUPERVISION STANDARDS</b></p> <p>Kansas has some of the weakest supervision standards in the country. SB 447 would implement minimum standards to address the two greatest risks in Kansas child care: (1) supervision of children under the age 5, and (2) proper precautions during sleeping/napping time.</p>	<p><u>Supervision of children under age 5</u></p> <p>SB 447 would establish that providers should follow these basic supervision standards when caring for children under the age of 5:</p> <ul style="list-style-type: none"> <li>• Watch and direct activities of children under the age of 5, and respond immediately to emergencies and the needs of children.</li> <li>• Provide direct visual supervision of children under age 5 except when attending to the needs of other children, attending to personal needs, or taking care of other provider-related duties.</li> <li>• Check on the safety of children prior to attending to personal needs or other duties in the home, and be able to respond to any child in distress.</li> </ul> <p><u>Supervision of sleeping/napping children</u></p> <p>SB 447 would call for child care providers with children under the age of 5 in their care to:</p> <ul style="list-style-type: none"> <li>• Be within visual <u>or</u> hearing distance of children that are napping in the home.</li> <li>• Visually check on sleeping children every 15 minutes to ensure their safety.</li> </ul>	<p><u>Supervision of children under age 5</u></p> <ul style="list-style-type: none"> <li>• Children under the age of 5 are the most vulnerable in child care.</li> <li>• At this age, children are usually not old enough to talk with their parents and tell them about their day in child care, and they are not equipped to verbalize to their child care provider when they are in trouble.</li> <li>• The majority of child care deaths in Kansas, particularly the preventable deaths, have occurred among children under age 5 and as a result of inadequate supervision.</li> </ul> <p><u>Supervision of sleeping/napping children</u></p> <ul style="list-style-type: none"> <li>• Sleep-related issues are the most preventable cause of death in Kansas child care.</li> <li>• Regularly checking on sleeping infants and toddlers is a standard practice among parents and child care providers. Ensuring that more providers adopt these practices will minimize sleep-related deaths in Kansas child care.</li> </ul>
<p><b>ACCESS FOR PARENTS</b></p> <p>Our system in Kansas makes it difficult for parents to access information about the quality and safety of child care facilities.</p>	<p>SB 447 would establish an online “open records” database for parents to access public information regarding safety and inspection violations in child care facilities, and would simplify the existing paperwork process for providers.</p>	<p>In addition to the level of consumer protection that’s needed in our child care system, parents have an obligation to research and remain informed about the safety of the child care facilities they choose. Right now, that information is difficult to come by in Kansas, making it difficult for parents to adequately assess their current child care facility or prospective child care facilities that they may be considering for their child.</p>

March 19, 2010

Dear Representative,

Please accept this letter as a demonstration of our strong support for Senate Bill 447. As representatives of the early childhood community, we see the need first hand for a strengthened child care system in Kansas.

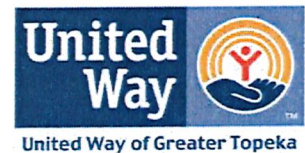
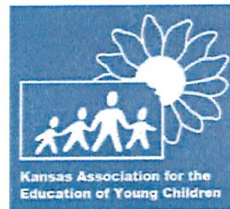
Here's why:

- **Kansas families are paying the price.** Right now, 1 in 3 child care facilities in Kansas are never inspected and our state is home to some of the weakest child care supervision standards in the country. As a result, 30 Kansas children have died in child care over the past three years and, last year alone, 72 children sustained serious injuries in child care. With across-the-board inspections and stronger standards for supervision, many of these deaths and injuries could be prevented.
- **We're lagging behind other states.** Kansas is lagging behind when it comes to providing adequate consumer protections in our child care system. In fact, we rank 47<sup>th</sup> in the nation when it comes to child care oversight. Just as we provide consumer protections that ensure the safety of restaurants, gas pumps and hair salons, we need to ensure the safety of child care facilities.
- **A strong economy depends on a strong child care system.** As our state continues to weather a tough economy, it's critical that we keep Kansans in the workforce and earning a paycheck. But, one of the biggest hurdles for working families is finding child care they can trust. With SB 447, families will have better peace of mind that their children are being cared for in a safe environment during the work day.

Senate Bill 447 will improve the quality of child care in Kansas by (1) ensuring all child care facilities are inspected, and (2) bringing the supervision standards for children in care up to par with standards in other states.

We hope you will agree that Senate Bill 447 is a sensible approach to improving child care in Kansas. Not only can we accomplish these improvements without additional state dollars, but we can also implement a much-needed level of consumer protection that respects the good judgment and experience many child care providers bring to the profession.

We appreciate your support of Senate Bill 447.





DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES

Don Jordan, Secretary

House Health and Human Services  
March 19, 2010

SB 447 - Child Care Licensing

Candy Shively, Deputy Secretary  
Integrated Service Delivery

For Additional Information Contact:  
Katy Belot, Director of Public Policy  
Docking State Office Building, 6<sup>th</sup> Floor North  
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## SB 447 - Child Care Licensing

### House Health and Human Services March 19, 2010

Chairwoman Landwehr and members of the committee thank you for the opportunity to appear before you today to address SB 447.

This bill would eliminate the registered family day care home category of child care providers regulated by the Kansas Department of Health and Environment (KDHE). All current registered providers would become licensed as "family child care homes" to provide care for no more than six children and would be subject to inspection on or before January 1, 2011. Current child care facility inspections would change from 12 months to at least once every 15 months. A 3 year provision which expires on July 1, 2013 allows for certain existing child care facilities that are in compliance to be given a check list for an annual self-evaluation. Savings from these inspections would shift to expenditures for the inspection of the "family child care homes". During this same time period, a risk-based system for on-going inspections for all child care facilities would be developed by KDHE for implementation on or before July 1, 2013.

SB 447 also adds and defines "competent supervision" of children in child care facilities and the requirement that each day care homes be equipped with a fire extinguisher.

SB 447 further provides for the establishment of an online information dissemination system that is accessible to the public which includes names of licensees, applicants, and history of citations and complaints.

SRS is supportive of the measures set out in SB 447 that will work to improve child care quality and assist parents in making more informed decisions regarding their children's care.

Thank you. I will stand for questions.



## Testimony Regarding SB447

### Presented to House Health and Human Services Committee

Prepared by

Eldonna Chesnut, RN, BSN, MSN

Kansas Public Health Association President

Johnson County Health Department Division Director of Adult and Childcare Facilities

A similar bill (HB 2223) has already been presented to this committee. As you will remember all the testimony that was presented was favorable to the passage of this bill. The Senate Bill 447 that was passed has parts of the bill you have already heard. Additionally it includes language regarding supervision. As you are aware this bill has passed out of the Senate. This is still a compromise bill where childcare licensing is concerned but definitely a step in the right direction for Kansas children in out of home care.

To review, the current category of Registered Daycare Home (RDCH) does NOT receive ANY inspection by childcare licensing staff, even though most parents think they do. Currently the only time childcare surveyors have right of entry to a registered home is for a compliant visit. Most of the time these visits are long and violations are many. Many serious injuries/deaths of children occur in RDCH's that possibly could have been prevented. Please remember that currently all a RDCH provider has to do is complete an application, self complete the KBI form, self complete the fire life safety form, self complete a safety checklist, and mail the forms in along with the \$5 application fee. As long as the KBI/SRS background check clears this person can start doing care in their home with no one making sure their home environment is safe for children.

Under the proposed legislation, the category formally known as Registered Day Care Home would become Family Child Care home. This would then allow for at least an annual inspection of all applicants for home day care and for follow up visits for those with identified environmental or other serious regulatory violations. In my county we believe that the initial visits are a benefit to the home daycare provider. The surveyor comes to the provider's home by appointment and spends one-on-one time with them. The surveyor walks through the home with the provider and helps him/her identify the good things the provider has done to prepare his/her home for childcare as well as identify areas of non-compliance that exist in the home. The home provider has the chance to ask the surveyor questions re regulations, paperwork, and her/his home environment as it relates to childcare regulations. My staff and I believe this is an important first step for someone starting a home daycare. This initial visit helps to

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promote a safe/healthy environment for the children. This is also a benefit for parents placing their child in care.

Supervision is an essential part of providing care for daycare children. The Senate bill adds statutory language regarding supervision. This is needed because not all providers are providing "competent supervision". We believe providing direct visual supervision except when they are attending to personal hygiene needs or engaged in other provider duties such as fixing lunch for the children, setting up activities, or attending to diapering/toileting needs is a reasonable expectation of all childcare providers. With this change in statute, all providers would be educated in the new requirements and enforcement action taken if they don't follow the regulations.

Another positive point of this bill is the creation of a web based system to allow parents to obtain provider regulatory compliance history. It is important for parents searching for daycare to have immediate access to accurate and current data.

In conclusion, this bill does not negatively impact available child care slots as was originally proposed. The current ratio of children will remain 3 under 18 months of age. This will negate the claim that cost of child care will go up. The passage of this bill will also theoretically increase the safety for all children in out-of home care due to onsite inspection of all childcare facilities.

## Debbie Bartuccio

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**From:** Dunham, Seth [SDunham@lockton.com]  
**Sent:** Friday, March 19, 2010 10:03 AM  
**To:** Brenda Landwehr  
**Cc:** mike@mikeslattery.org; Mike Slattery  
**Subject:** Please consider my comments for discussion at today's 1:30 meeting on bill SB447

Dear Mr. Slattery and Mrs. Landwehr,

I applaud the maintenance of the current age (3 under 18 months), but the whole notion of "self-monitoring" of "good daycares" is insufficient in my opinion. No daycare should be allowed to rest on their laurels for up to 3 years. Instead of annual inspections for those providers that don't have a good history, maybe bi-annual inspections for everyone? I know that brings up questions of funding and staffing, but it is human nature for people to get complacent and lazy – self-assessment perpetuates that.

Also, I believe the wording around the assessment process itself to be too vague. I am basing my opposition on what I perceive the bill to be putting into law. While I hope to see re-wording of the bill to support a less infrequent time period between inspections and the ridding of "self-assessments."

Also, I still have not heard any mention of requirement for CPR certification - a very minor time and monetary investment for providers. There really is no good reason the state should not mandate such a certification be obtained and kept current. It could be the matter of life or death for a small child. What possible reason could we have for NOT requiring this for daycare providers?

Thank you for your time and attention to my comments.

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HEALTH AND HUMAN SERVICES  
DATE: 3-19-10  
ATTACHMENT:

## Debbie Bartuccio

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**From:** Marty Keaton-Ferren [keatonferren@att.net]  
**Sent:** Friday, March 19, 2010 10:30 AM  
**To:** Brenda Landwehr  
**Subject:** SB447 - today's Committee Meeting

Re: SB447 / Inspections

Dear House Representative Landwehr,

As Committee Chair for the House Health & Human Services Committee that is considering SB447 I am asking that you share this email with every Committee Member in today's 1:30 meeting.

I am both a parent of a child who attends Preschool, and a licensed home child care provider in Mission Kansas. I have scored "fully compliant" on my last two Annual Inspections. I am a Candidate in Progress for National Association for Family Child Care (NAFCC) Accreditation – the only nationally accredited program for home child care providers available.

I have tried to follow this Bill through the process of Committee and share knowledge of this Bill with my day care families (current and past), friends, and family. At the final Senate Committee meeting, which was closed the "risk-based" system was introduced, not allowing for public review and input.

The Bill's language with regards to routine regulatory inspections is too vague; it basically gives KDHE a "blank check" on how to design a risk based system to determine the need or a frequency for each individual provider. No maximum period that a provider considered "compliant" may go before a routine inspection is indicated. This portion of SB447 is not designed with the safety and quality of care in mind. There is tremendous support through organizations for this Bill – by their agenda to get the NACCRRRA scores up for Kansas. As a parent and a provider I would argue that the **actual system of inspections** is more important than any rating an organization can provide us on how well we are doing as a State in providing safe, quality care to the young children that this Bill is *primarily* directed to – children under the age of 5.

The tool of routine inspections is vital in ensuring the safety of children in care. It is vital that timely inspection results are shared with families (through their provider or on a website). It is a vital educational tool between regulatory agencies and providers – one on one, on-site in each child care setting. It is integral with regards to a provider's ability to obtain/afford Day Care Riders on their homes and Business Liability Coverage – something not required by the State, but that many quality providers do have. The issue of insurance seems to have fallen upon deaf ears – insurance is not just designed to help providers in the event of a tragedy or serious injury under their care – but to the families affected by such an incident.

Yes, language needs to be revised to allow for more spontaneity in inspections frequencies. NO, inspections frequencies don't need to be allowed solely at the discretion year-by-year based on a provider's completion of a self-evaluation form and the funding and staffing of the KDHE and their regulatory inspections. In an effort to "Inspect the Rest", we should not be inspecting less.

I would like the House Committee to call KDHE to outline IN DETAIL their risk-based system for public review and input before putting it into Regulation. Do not shut out the voices of educated people on this matter with valid concerns and suggestions.

Sincerely,

HEALTH AND HUMAN SERVICES  
DATE: 3-19-10  
ATTACHMENT:

11-1

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