

SESSION OF 2004

SUPPLEMENTAL NOTE ON SENATE BILL NO. 430

As Amended by House Committee on
Health and Human Services

Brief*

SB 430, as amended, concerns adult care home inspection reports. The bill generally provides that no inspection report shall be admissible as evidence in any judicial proceeding. However, one or more excerpts from inspection reports that directly refer and relate to the named plaintiff may be used and be admissible in evidence, if the district court determines on the record, after a hearing outside the presence of the jury, that every such excerpt is otherwise admissible under the rules of evidence contained in Kansas law.

The term "inspection report" includes any documents prepared during the course of or otherwise in connection with any inspection, investigation, or survey of any licensed adult care home conducted to determine compliance with any required state or federal law.

The House Committee amendment deletes the provisions of SB 430 as passed by the Senate and inserts the provisions of HB 2306 as passed by the House.

Background

The provisions of SB 430, as amended by the House Committee, were supported by the Kansas Association of Homes and Services for the Aging, the Kansas Association of Insurance Agents, Kansas Health Care Association, and Kansas Adult Care Executive Association. Proponents expressed concern with the alarming increase in rates and lack of availability of nursing home liability insurance, e.g., some homes have experienced an increase from rates around \$35 per bed four years ago to as much as \$1,000 per bed today. Further, they noted that survey reports were not designed to be used as evidence in a court of

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

law; rather they were intended to communicate information to nursing facilities necessary for them to analyze problems and achieve regulatory compliance.

The provisions of the bill, as amended, were opposed by the Kansas Trial Lawyers Association, Kansas Advocacy and Protective Services, American Association of Retired Persons, Kansas ADAPT, Topeka Independent Living Resource Center, and Kansas Advocates for Better Care.