

SESSION OF 2004

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2306

As Amended by House Committee on
Health and Human Services

Brief*

HB 2306, as amended, concerns the use of adult care home inspection reports in any judicial proceedings. The bill provides that no inspection report shall be admissible as evidence in any judicial proceeding. 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 allows the use and admissibility in evidence of one or more excerpts from inspection reports that directly refer and relate to the named plaintiff 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.

Background

HB 2306 was introduced by Representative Kirk and 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 law, rather to communicate information to nursing facilities necessary

*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>

for them to analyze problems and achieve regulatory compliance.

The bill was 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.

The fiscal note prepared by the Division of the Budget indicates that passage of the bill would have a negligible short-term effect on the Department on Aging; however, the long-term fiscal effect could be significant, as it relates to the quality of nursing facilities, rate setting, and the state's ability to use relevant documentation to defend itself from lawsuits.