

SESSION OF 2004

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2742

As Amended by Senate Committee
on Judiciary

Brief*

HB 2742 clarifies, reorganizes, and changes the scope of access to the confidentiality requirements of the Child in Need of Care Code (CINC). The bill is guided by three basic goals, as follows:

- ! **Need to Know.** The bill seeks to protect the privacy rights and interests of children, their families, and others who may be involved in the process, while ensuring that information is available to those who need it in order to make sound decisions concerning children who may be in need of care, provide necessary services to children and their families, or protect the health and safety of children and others.
- ! **Clear Guidance.** The bill seeks to make the provisions as explicit and accessible as possible to provide clear guidance to those in control of or seeking confidential information.
- ! **Practicality.** The bill also seeks to ensure that confidentiality provisions would be workable in practice, would not impose unreasonable burdens on those in control of or seeking information, and would comply with the requirements of federal law.

The bill contains the general requirements of confidentiality. The bill also contains the penalty for improper disclosure which can be a fine of up to \$1,000 as well as a class A nonperson misdemeanor. There is a proviso that disclosure is not required if there is reason to believe that the release of information may harm a child or other person.

Another feature of the bill calls for a free exchange of information

*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>

among the Secretary of Social and Rehabilitation Services (SRS), the Commissioner of Juvenile Justice, the involved law enforcement, members of an appointed multi-disciplinary team, a federally designated entity or authorized state agency, a military enclave, or authorized Indian tribal organization, an involved county or district attorney, an involved court services officer, an intake and assessment worker, a supervisory community corrections program, and the Department of Health and Environment authorized personnel.

Further, the bill designates and expands those persons with access to the child's official file by adding a citizen review board and the Commissioner of Juvenile Justice or designee. In addition, the bill shortens the length of time before the Kansas State Historical Society can release records in its custody from the current 80 years to 70 years, and outlines the principle of appropriate access.

The bill also addresses access to agency records which is expanded in some instances to include foster parents and prospective foster parents, permanent (and prospective) custodians, and adoptive parents, as well as prospective adoptive parents. Information shall not be disclosed which identifies a reporter of a child alleged to be a child in need of care.

The Senate Committee deleted all sections which granted access to legislative committees and clarified that only "executive branch" entities having a need for such information may have it.

Background

The Judicial Council Juvenile Offender/Child in Need of Care Advisory Committee appeared in support of the measure. The Deputy Secretary of SRS also expressed support for the original bill, with recommendations. The Commissioner of Juvenile Justice presented recommended amendments to the original bill.

The fiscal note indicates no fiscal impact