

SESSION OF 2004

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2902

As Recommended by House Committee on
Appropriations

Brief*

HB 2902 would add court-appointed guardians and conservators contracted by the Kansas Guardianship Program to the definition of "employee" in the Kansas Tort Claims Act (KSA 75-6101 *et seq*). This expanded definition would allow the program guardians and conservators to be protected in cases of negligence or acts of omission, but not for cases of fraud or acts of malice.

Background

The General Government Budget Committee, as approved by the House Committee, recommended introduction of this legislation to provide liability protection to the volunteers of the Kansas Guardianship Program and specifically cited its concern that liability issues may hinder the agency's volunteer recruitment efforts. As of June 30, 2003, approximately 825 volunteers were serving in the program.

The agency testified in support of the bill, indicating that while no lawsuits have been filed, threats and innuendos have been heard throughout the years, and the concern exists for the agency's volunteer recruitment efforts and protection for its current volunteers. The Kansas Trial Lawyers Association appeared in support of the bill, noting that the enhanced definition of "employee" is narrow for this group, allowing for protection within the scope of the volunteers' duties. In addition, the agency and association indicated that safeguards are in place, including supervision from the court, bond surety, and additional oversight including monitoring reports provided by the agency.

*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>

The Office of the Attorney General indicated that the bill could have the effect of increasing the volume of litigation in which the office defends the state and its employees. The Attorney General stated that additional salary costs, litigation expenses, and other operating expenditures could occur under this expanded definition. The fiscal impact was not estimated, as no information exists on which to base a reliable estimate of additional expenditures. Any fiscal effect resulting from the enactment of HB 2902 would be in addition to the amounts contained in *The FY 2005 Governor's Budget Report*.