

SESSION OF 2005

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2241

As Amended by House Committee on
Insurance

Brief*

HB 2241 would amend existing law related to the risk assessment plans and inspection reports of adult care homes by requiring that each adult care home establish and maintain a risk management program in accordance with KSA 65-4922. Any reports and records reviewed, obtained, or prepared by the Kansas Department on Aging in connection with any reportable incidences referred for investigation and analysis under such risk program would not be admissible in any civil action under the laws of the State of Kansas. The reports and records not admissible would include reports reflecting the results of a state or federal Medicare or Medicaid inspections and surveys.

Background

The bill was requested by the House Committee on Insurance at the request of Representative Kirk. The bill was supported by representatives of the Kansas Health Care Association, the Kansas Association of Insurance Agents, the Wheatland Nursing Center, and eHealth Data Solutions. Proponents highlighted concerns about liability insurance premium costs and the ability to address quality of care issues.

Opponents of the bill included the AARP Kansas, the Disability Rights Center of Kansas, the Kansas Trial Lawyers Association, the Topeka Independent Living Resource Center, and the Department on Aging. The Secretary of Aging presented testimony citing the need for a good faith peer review, while stating that the self-critical analysis should be protected from use in civil litigation, the facts about an

*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>

incident, resident care records, licensing surveys, and certification survey should not be protected.

The House Committee on Insurance amendments would remove the provision that the plans for establishment and implementation of a risk management program be required to be submitted to the Department on Aging no later than 60 days prior to the time of the home's 2006 license renewal date. The Committee also amended the provision that reports and records not be subject to discovery.

The fiscal note prepared by the Division of the Budget on the introduced version of the bill indicates that passage of the bill would result in an estimated \$37,500 in expenditures for start-up costs in FY 2005 for the Department on Aging. The Department indicates that at minimum, the passage of the bill, would require expenditures totaling \$391,745 in FY 2006 and would require an additional 7.0 FTE positions to review the risk management plans of over 600 adult care home facilities. Of the estimated expenditures for FY 2006, the Department attributes \$56,749 to other operating expenditures, including office space, training, travel, and equipment. Finally, the fiscal note indicates that any effects resulting from passage of the bill would be in addition to the amounts included in the *FY 2006 Governor's Budget Report*.