

MEMORANDUM

To: Chairperson McGinn and members of the Committee on Ways and Means
From: Jill Wolters, Senior Assistant Revisor
Date: February 14, 2012
Subject: Executive Reorganization Order 41

Governor Brownback submitted Executive Reorganization Order 41 [ERO 41] on February 6, 2012, and it was referred to the Committee on Ways and Means on February 7, 2012. Under Senate Rule 76 and section 6 of Article 1 of the Kansas Constitution, the Committee has until Thursday, March 8, 2012 to report its recommendations. The Senate has until Friday, April 6, 2012 to take up the matter. It will become effective on July 1, 2012, unless disapproved by either the House of Representatives or the Senate by resolution in accordance with Section 6 of Article 1 of the Kansas Constitution.

If it becomes effective, the provisions of ERO 41 would be published in the 2012 Session Laws of Kansas as with acts of the Legislature enacted during the 2012 regular session. The provisions of ERO 41 would be subject to amendment or repeal in the same manner as Kansas statutes are amended or repealed.

Section 1. Renames the Department on Aging and the Secretary of Aging as the Kansas Department for Aging and Disabilities and the Secretary for Aging and Disabilities, respectively.

Section 2. Renames the Department of Social and Rehabilitation Services and the Secretary of Social and Rehabilitation Services as the Kansas Department for Children and Families and the Secretary for Children and Families, respectively.

In each such case, references in any statute, rules and regulations, contract, or any other document shall be deemed to apply to the renamed agency or officer.

Section 3. Transfers the disability and behavioral health services section of the Kansas Department for Children and Families is hereby transferred to the Kansas Department for Aging and Disability Services. The programs transferred are:

(1) Mental health and substance abuse, serious emotionally disturbed, developmental disability, physical disability, traumatic brain injury, autism, technology assistance, and money-follows-the-person Medicaid waivers and programs;

(2) licensure and regulation of community mental health centers;

(3) regulation of community developmental disability organizations;

(4) licensure of private psychiatric hospitals;

(5) licensure and regulation of facilities and providers of residential services;

(6) licensure and regulation of providers of addiction and prevention services; and

(7) any other programs and related grants administered by the disability and behavioral health services section of the Kansas Department for Children and Families prior to the effective date.

Subsection (b) provides that the powers, duties and functions of the disability and behavioral health services section, including the agency's designation as the Medicaid single state authority for substance abuse and mental health, are transferred to the Secretary for Aging and Disabilities.

Department for Aging and Disability Services.

Subsection (c) provides that the programs, activities and functions transferred by this section shall be administered by the Secretary for Aging and Disability Services.

It further provides that nothing in this order shall change or diminish the authority of the Board of Adult Care Home Administrators.

The remaining subsections contain standard reorganization provisions.

Section 9. Provides for the transfer of the psychiatric residential treatment facility licensure program of the Department of Health and Environment to the Kansas Department for Aging and Disability Services and for the administration of such program by the Secretary for Aging and Disability Services. This section also contains the standard reorganization provisions.

Section 10. Contains standard reorganization provisions regarding the powers, duties, or functions transferred; rules and regulations, orders and directives relating to such powers, duties, or functions transferred; and program organization.

Section 11. This section provides for the appointment and transfer of personnel of the Department of Health and Environment to the Kansas Department for Aging and Disabilities to carry out the powers and duties which the Secretary for Aging and Disabilities assigns to the programs, activities and functions of the Kansas Department for Aging and Disability Services.

Subsection (b) transfers personnel from the Department of Health and Environment to the Kansas Department for Aging and Disabilities who, immediately prior to the effective date of this order, were engaged in the exercise and performance of the powers, duties, and functions transferred by this order, and who are determined by the Secretary for Aging and Disability Services to be necessary for the exercise and performance of such powers, duties, and functions.

This subsection additionally transfers all officers and employees who are determined jointly by the Secretary for Aging and Disability Services and the Secretary of Health and Environment to have been engaged in providing necessary administrative, technical or other support to the functions, activities and functions transferred by this order.

All classified employees so transferred retain their classified employee status. Thereafter, the vacant classified positions may be converted to positions in the unclassified service under the Kansas Civil Service Act.

Remaining subsections provide for retention of retirement benefits and leave balances and rights which had accrued or vested prior to the date of transfer; and any subsequent transfers, layoffs, or abolition of classified service positions under the Kansas Civil Service Act shall be made in accordance with the civil service laws and any rules and regulations.

Section 12. Subsection (a) provides for the transfer of the balances of all moneys.

The remaining subsections provide that liability for accrued compensation for personnel and fees and funds are transferred.

Section 13. Pursuant to subsection (a), the Kansas Department for Aging and Disability Services succeeds to all property, property rights, and records which were used for or pertain to the performance of powers, duties, and functions transferred to it by this order. Any conflict as to the proper disposition of property, personnel, or records arising under this order shall be determined by the governor, whose decision shall be final.

(b) When any conflict arises as to any power, duty, or function resulting from any transfer made by or under the authority of this order, such conflict shall be resolved by the governor, whose decision shall be final.

Section 14. This section preserves civil rights of action and proceedings and prescribes that criminal actions are not to abate.

Section 15. This order takes effect on July 1, 2012.