

SESSION OF 2012

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2660

As Amended by Senate Committee on Public
Health and Welfare

Brief*

HB 2660 would amend laws concerning maternity center and child care facility licensure, including the 2010 amendments referred to as "Lexie's Law," by allowing for modification or limitation of licensure, requiring an expiration sticker on a day care facility license, and requiring persons maintaining a day care facility to be high school graduates or the equivalent with provisions allowing the Secretary of the Kansas Department of Health and Environment (Secretary) to exercise discretion to exempt certain individuals from the requirement. The bill also would repeal a statute (KSA 65-502) containing the definition of a "maternity center," and relocate the definition in another statute regulating child care facilities.

Specifically, the bill would require the Kansas Department of Health and Environment (KDHE) to issue renewable licenses to day care facilities, and would require these facilities to display the sticker indicating that the facility's license was up-to-date. In conjunction with this requirement, the bill would define the term "day care facility" as a child care facility that includes a day care home, preschool, child care center, school-age program or other facility of a type determined by the Secretary to require regulation under the provisions addressing maternity centers and child care facilities. The existing definition of "maternity center" would be moved to a statute which includes definitions related to child care facilities.

*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 bill also would allow KDHE to limit or modify the terms of a license rather than suspending or revoking the license outright, and require a child care facility or maternity center to notify parents or guardians of the enrollees in writing of such limitations or modifications. Notices of limitation or modification of a license to conduct a maternity center or a child care facility would be served to the same entities statutorily required to be served notices of issuance, suspension or revocation of such licenses.

References in the bill to "maternity patient" or "residents" would be changed to "woman," "child," or both, as applicable. References to "comfort" related to services provided to women or children would be eliminated, and changes would be made for uniformity in the use of the phrase "health, safety, or welfare" throughout the bill.

Further, the bill would require persons maintaining a day care facility to be high school graduates or the equivalent, but would add exceptions. The Secretary would be authorized to exercise discretion to exempt persons from the high school graduation or equivalency requirement where extraordinary circumstances exist. A grandfather clause would exempt persons maintaining a day care facility prior to July 1, 2010, or with an application for initial licensure or renewal of an existing license pending on July 1, 2010, from the high school graduation or equivalency requirement.

The grounds allowing for suspension of a license or a temporary permit also would allow for the limitation or modification of such licenses, and the grounds related to the conduct in the operation or maintenance, or both, would be expanded to apply to maternity centers. The provision allowing the Secretary to suspend any license or temporary permit prior to an administrative hearing when, in the opinion of the Secretary, such action is necessary to protect any child in a child care facility, would be expanded to allow such license or temporary permit to be limited or modified.

Background

A representative of KDHE appeared before the House Committee on Health and Human Services as a proponent for the bill. There was no neutral or opposing testimony. The KDHE representative testified that removing the requirement that licensees be high school graduates eliminates a potential barrier for individuals that may otherwise be qualified. The KDHE representative also testified that issuing non-expiring licenses to 24-hour residential facilities, such as foster homes, would help avoid disruption in placement decisions.

At the hearing before the Senate Committee on Public Health and Welfare, the Interim Director for the Bureau of Child Care and Health Facilities testified in favor of the bill. The Interim Director stated that limiting or modifying the terms of a license where indicated, rather than suspending a license, would prevent closure of a facility and displacement of children. A private individual who operates child care centers and one private elementary school in Kansas, and another child care center in Missouri, spoke in opposition to the bill. The individual expressed opposition to the limitation or modification of a facility's operational license prior to any hearing and to requirements which would legislate maintaining a child's "comfort."

The Senate Committee on Public Health and Welfare amended the bill by striking the term "comfort" and inserting the requirement that a person who maintains a day care facility be a high school graduate or the equivalent with an allowance for the Secretary of Health and Environment to make exceptions in certain circumstances. The amendment also inserted a grandfather clause to this education requirement.

According to the fiscal note on the original bill prepared by the Division of the Budget, passage of this bill would have no fiscal effect.