

House Substitute for SENATE BILL No. 55

By Committee on Insurance and Financial Institutions

3-7

1 AN ACT concerning health care facilities; relating to correction orders;
2 civil penalties; amending K.S.A. 2015 Supp. 39-945 and 39-946 and
3 repealing the existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2015 Supp. 39-945 is hereby amended to read as
7 follows: 39-945. (a) A correction order may be issued by the secretary for
8 aging and disability services or the secretary's designee to a person
9 licensed to operate an adult care home whenever the state fire marshal or
10 the marshal's representative or a duly authorized representative of the
11 secretary for aging and disability services inspects or investigates an adult
12 care home and determines that the adult care home is not in compliance
13 with the provisions of article 9 of chapter 39 of the Kansas Statutes
14 Annotated, *and amendments thereto*, or rules and regulations promulgated
15 thereunder which individually or jointly affects significantly and adversely
16 the health, safety, nutrition or sanitation of the adult care home residents.
17 The correction order shall be served upon the licensee either personally or
18 by certified mail, return receipt requested. The correction order shall be in
19 writing, shall state the specific deficiency, cite the specific statutory
20 provision or rule and regulation alleged to have been violated, and shall
21 specify the time allowed for correction.

22 (b) *A correction order may be issued by the secretary for aging and*
23 *disability services or the secretary's designee to a person licensed to*
24 *operate a health care facility whenever a duly authorized representative of*
25 *the secretary for aging and disability services determines that the health*
26 *care facility is not in compliance with the provisions of article 34 of*
27 *chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or*
28 *rules and regulations promulgated thereunder. The correction order shall*
29 *be served upon the licensee either personally or by certified mail, return*
30 *receipt requested. The correction order shall be in writing, shall cite the*
31 *specific statutory provision or rule and regulation alleged to have been*
32 *violated and shall specify the time allowed for correction. For purposes of*
33 *this section, "health care facility" has the meaning ascribed to such term*
34 *by K.S.A. 40-3401, and amendments thereto.*

35 Sec. 2. K.S.A. 2015 Supp. 39-946 is hereby amended to read as
36 follows: 39-946. (a) If upon reinspection by the state fire marshal or the

1 marshal's representative or a duly authorized representative of the
2 secretary for aging and disability services, which reinspection shall be
3 conducted within 14 days from the day the correction order is served upon
4 the licensee, it is found that the licensee of the adult care home which was
5 issued a correction order has not corrected the deficiency or deficiencies
6 specified in the order, *or has failed to comply with the provisions of article*
7 *34 of chapter 40 of the Kansas Statutes Annotated, and amendments*
8 *thereto, or rules and regulations promulgated thereunder*, the secretary for
9 aging and disability services may assess a civil penalty in an amount not to
10 exceed \$500 per day per deficiency against the licensee of an adult care
11 home for each day subsequent to the day following the time allowed for
12 correction of the deficiency as specified in the correction order that the
13 adult care home has not corrected the deficiency or deficiencies listed in
14 the correction order, but the maximum assessment shall not exceed \$2,500.
15 A written notice of assessment shall be served upon the licensee of an
16 adult care home either personally or by certified mail, return receipt
17 requested.

18 (b) Before the assessment of a civil penalty, the secretary for aging
19 and disability services shall consider the following factors in determining
20 the amount of the civil penalty to be assessed: (1) The severity of the
21 violation; (2) the good faith effort exercised by the adult care home to
22 correct the violation; and (3) the history of compliance of the ownership of
23 the adult care home with the rules and regulations. If the secretary for
24 aging and disability services finds that some or all deficiencies cited in the
25 correction order have also been cited against the adult care home as a
26 result of any inspection or investigation which occurred within 18 months
27 prior to the inspection or investigation which resulted in such correction
28 order, the secretary for aging and disability services may double the civil
29 penalty assessed against the licensee of the adult care home, the maximum
30 not to exceed \$5,000.

31 (c) All civil penalties assessed shall be due and payable within 10
32 days after written notice of assessment is served on the licensee, unless a
33 longer period of time is granted by the secretary. If a civil penalty is not
34 paid within the applicable time period, the secretary for aging and
35 disability services may file a certified copy of the notice of assessment
36 with the clerk of the district court in the county where the adult care home
37 is located. The notice of assessment shall be enforced in the same manner
38 as a judgment of the district court.

39 Sec. 3. K.S.A. 2015 Supp. 39-945 and 39-946 are hereby repealed.

40 Sec. 4. This act shall take effect and be in force from and after its
41 publication in the statute book.