

SESSION OF 2020

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2438

As Recommended by House Committee on
Children and Seniors

Brief*

HB 2438 would amend provisions in the statute governing the State Child Death Review Board (Board) regarding confidentiality of information acquired by and records of the Board. Specifically, the bill would clarify the language of a current exception to this confidentiality for certain legislators and legislative committees, and would add the following additional exceptions to confidentiality to allow the Board or the Board's designee to disclose information and records to:

- Any person or entity contracting with the Board, if the Board determines disclosure is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;
- Any person or entity, if the information and records being disclosed are statistics or conclusions of the Board of the same type included in the Board's annual report;
- Any Kansas state or local law enforcement agency, if the Board determines the information and records being disclosed were not previously available to the law enforcement agency for the investigation of the cause of the child's death, and the cause of the child's death was from abuse or neglect;

*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>

- Any county or district attorney, if the Board determines the information and records being disclosed were not previously available to the county or district attorney for the prosecution of any crimes related to the cause of the child's death, and the cause of the child's death was from abuse or neglect;
- Any licensing body, as defined elsewhere in statute, if:
 - The information and records being disclosed are related to a disciplinary complaint against a person licensed by such licensing body;
 - Any member of the Board is under a professional obligation to make a disciplinary complaint against a person licensed by such licensing body; or
 - A person licensed by such licensing body may have caused or contributed to the child's death; and
- A governmental agency or an organization that has a federalwide assurance (FWA) for the protection of human subjects in good standing with the U.S. Department of Health and Human Services Officer for Human Research Protections, if:
 - The agency or organization provides documents that an institutional review board designated in the FWA has reviewed the organization's research proposal;
 - Personally identifiable information is redacted from the disclosure;
 - The disclosure is only for the purpose of health or education; and
 - The agency or organization requires all persons granted access to the disclosed information and records to sign a confidentiality agreement prior to receipt of the information and records.

The bill also would make a technical amendment to ensure consistency in statutory phrasing.

Background

The bill was introduced by Representative Concannon.

In the House Committee on Children and Seniors hearing, representatives of the Board, the National Center for Fatality Review and Prevention, and the Kansas County and District Attorneys Association testified in support of the bill, stating the bill would allow information related to the Board's work to be disclosed for additional limited purposes related to law enforcement investigations, professional licensure disciplinary complaints, record keeping, and approved research projects. Written-only proponent testimony was submitted by representatives of the Kansas Department of Health and Environment and Safe Kids Kansas and by a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs' Association. No other testimony was provided.

According to the fiscal note prepared by the Division of the Budget on the bill, the Office of the Attorney General (Office) indicates enactment of the bill would allow the Board to participate in a national database that is free for participating states, allowing for a cost savings of approximately \$10,000 per fiscal year spent to maintain a legacy database. The Office may receive case referrals from county or district attorneys to request case prosecution, but the Office cannot predict the number of additional cases that could arise or how complex and time-consuming they could be. Thus, a precise fiscal effect cannot be determined. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.