

SESSION OF 2021

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2062**

As Recommended by Senate Committee on
Public Health and Welfare

Brief*

Senate Sub. for HB 2062 would prohibit any state officer; any state agency; the board of county commissioners; any employee of a state officer, state agency, or board of county commissioners; or the governing body of any city- or county-established and operated home for the aged or county hospital from restricting a resident's or patient's right to receive or refuse visitors in a resident's or patient's room or private room or restrict any other reasonable accommodation to receive visitors for the purpose of controlling or preventing the transmission of an infectious disease. A board of trustees of a city- or county-established and operated home for the aged would also be prohibited from restricting residents in such manner.

Every resident of a city- or county-established and operated home for the aged or every patient of a county hospital, or such resident's or patient's legal representative, would have the right to waive, in writing, any restrictions imposed to control or prevent the transmission of an infectious disease by the county, a city within such county, an employee of such county, or any federal or state agency at any time, including during a state or local disaster emergency declared pursuant to statute.

The bill would prohibit counties from exempting from or modifying the provisions of the bill.

*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 would also make technical changes.

Background

HB 2062, as introduced, concerned confidentiality provisions related to the State Child Death Review Board. [Note: The contents of HB 2062, as amended by the Senate Committee on Public Health and Welfare, were inserted into HB 2158. The Senate Committee on Public Health and Welfare removed the contents of HB 2062 and recommended a substitute bill be passed that incorporates the provisions of SB 303.

SB 303 was introduced by the Senate Committee on Federal and State Affairs.

SB 303

Senate Committee on Public Health and Welfare

In the Senate Committee hearing, Representative Jacobs, Representative Lee-Hahn, Senator Straub, and three private citizens provided **proponent** testimony. The proponents stated visitation policies at long-term care facilities should take into consideration the importance of connection between a resident and family members and friends. The proponents stated the visitation policies implemented at long-term care facilities during the COVID-19 pandemic have hurt residents of these facilities both mentally and emotionally and infringe on the residents' civil liberties.

Written-only **proponent** testimony was provided by 23 private citizens.

Neutral testimony was provided by a representative of the Kansas Department for Aging and Disability Services (KDADS). The representative stated KDADS is responsible for inspection and licensing of adult care homes. The

representative testified KDADS acts on behalf of the Centers for Medicare and Medicaid Services (CMS) to verify nursing facilities and other adult care homes are in compliance with federal guidelines and regulations, and the bill could potentially violate these guidelines and regulations.

Opponent testimony was provided by representatives of the Kansas Association of Counties (KAC), Kansas Association for Assisted Living, Kansas Health Care Association, Kansas Hospital Association, and LeadingAge Kansas. Opponents stated the bill could threaten federal funding if residents were allowed to waive federal CMS requirements. Opponents also stated the counties and nursing homes need the authority to respond to infectious diseases in a timely fashion, and the bill would potentially allow a single resident or patient to decide for all residents or patients in a facility and potentially expose them to an infectious disease.

Written-only **opponent** testimony was provided by representatives of Attica Long Term Care, Kansas Adult Care Executives, Kansas Department of Health and Environment, Kansas Legislative Policy Group, Logan Manor Community Health Services, and Midwest Health.

Fiscal Information

SB 303

According to the fiscal note prepared by the Division of the Budget on SB 303, the KAC states enactment of the bill could have a fiscal effect on counties in the form of reduced federal revenue if a county home or hospital were determined to be outside federal guidance because of waiving federal restrictions on visitors. If this occurred, it could create licensure issues, which could also jeopardize funding and operations. There could be additional costs for staffing and potential liability for the county if residents or patients who did

not waive the federal restrictions were affected by other residents making the waivers. However, the effect on the county expenditures cannot be estimated. The League of Kansas Municipalities indicates the bill would have no fiscal effect on municipalities.

Home for the aged; city-established adult care home; county-established adult care home; adult care homes; visitation; residents' rights; COVID-19; nursing homes