

HOUSE BILL No. 2495

By Committee on Health and Human Services

1-18

1 AN ACT concerning the developmental disabilities reform act; failure of
2 community service provider to comply with requirements, standards or
3 laws.

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

6 Section 1. (a) Whenever the secretary for aging and disability
7 services finds a community service provider has failed to comply with the
8 requirements, standards or rules and regulations established pursuant to the
9 developmental disabilities reform act or any other provision of law, the
10 secretary shall have the power to inspect and review the operations of the
11 community service provider and identify deficiencies. The secretary and
12 such community service provider shall choose an independent entity to
13 mediate any dispute regarding the secretary's findings and identified
14 deficiencies. If such mediation is not able to resolve any such dispute and
15 the secretary finds that the community service provider has still failed to
16 comply with such requirements, standards or rules and regulations, the
17 secretary shall require a written plan of correction. If, after notice and an
18 opportunity for hearing pursuant to the Kansas administrative procedure
19 act, the secretary finds the community service provider has failed to carry
20 out the plan of correction within 30 days of the submission of the plan of
21 correction, the secretary may assess a civil penalty in an amount not to
22 exceed \$125 per day for each day the provider has failed to carry out the
23 plan of correction. The secretary may extend the time in which the
24 provider has to comply with the plan of correction for good cause.

25 (b) The secretary may require the community service provider to
26 maintain consumers in place until alternative community services can be
27 secured with reasonable compensation for actual costs and to remove the
28 designation as community service provider, except that in the event the
29 secretary makes written findings of fact that there appears to be a situation
30 involving imminent danger to the health, safety or welfare of the person
31 with a developmental disability unless immediate action is taken, the
32 secretary may issue an emergency order. Such emergency order shall be
33 subject to the same procedures under K.S.A. 77-536, and amendments
34 thereto. Upon entry of such an emergency order, the secretary shall
35 promptly notify the community service provider subject to the order of: (1)
36 The content of the order; (2) the reasons therefor; and (3) that, upon

1 written request within 15 days after service of the order, the matter will be
2 set for a hearing, which shall be conducted in accordance with the
3 provisions of the Kansas administrative procedure act. If no hearing is
4 requested and none is ordered by the secretary, the order will remain in
5 effect until it is modified or vacated by the secretary. If a hearing is
6 requested or ordered, the secretary, after notice of and an opportunity for
7 hearing to the community service provider subject to the order, by written
8 findings of fact and conclusions of law, shall vacate, modify or make
9 permanent the order.

10 (c) This section shall be a part of and supplemental to the
11 developmental disabilities reform act.

12 Sec. 2. This act shall take effect and be in force from and after its
13 publication in the statute book.