

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2149

As Amended by House Committee on Children
and Seniors

Brief*

HB 2149, as amended, would amend the statute governing restrictions on persons maintaining or residing, working, or volunteering at a child care facility.

The bill would allow an agency internal panel, established by the Department for Children and Families (DCF) in rules and regulations, the discretion to exempt a family foster home that is licensed or applying for licensure by DCF from restrictions based on conviction of various crimes, adjudication as a juvenile offender for various offenses, or having an infectious or contagious disease.

To grant such an exemption, the panel would have to determine it is both in the best interest of a child in custody of the Secretary for Children and Families (Secretary) who is or will be under the care of the family foster home, and does not present a safety concern.

The bill would prohibit the panel from granting an exemption when a person who resides, works, or regularly volunteers at the family foster home has a conviction for a:

- Severity level 1 through 4 felony;
- Crime that involved a child victim; or
- Drug severity level 1 through 3 felony.

*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 require, at least ten days prior to the final decision of the panel to grant the exemption, the Secretary provide a written notice of the pending exemption to the county or district attorney in the judicial district where the conviction occurred.

The bill also would update references to the Secretary for Children and Seniors, the Secretary of Health and Environment, DCF, and the Department of Health and Environment; standardize references to statutes or requirements of other states or the federal government; clarify a continuing misdemeanor provision for violating a confidentiality provision would be a nonperson misdemeanor; and make other technical amendments to ensure consistency in statutory references and phrasing.

Background

The bill was introduced by the House Committee on Children and Seniors at the request of DCF.

As introduced, the bill would have given the Secretary discretion to exempt a child care facility licensed by or applying for licensure from DCF from the restrictions described above, upon making the determination described above.

House Committee on Children and Seniors

In the House Committee hearing, representatives of Children's Alliance of Kansas, DCCCA, and DCF and two foster parents testified as **proponents** of the bill, stating the bill would provide flexibility in licensing some foster homes that would be in the child's best interest and present no current safety concern but that cannot be licensed under current law. A representative of KVC Kansas and two foster parents provided written-only **proponent** testimony.

A representative of the Johnson County Sheriff's Office and a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association testified as **opponents** of the bill, stating concerns regarding the scope of the discretion provided and the scope of the crimes for which an exemption could potentially be granted.

On February 24, 2021, the House Committee amended the bill to provide an internal DCF panel with the authority to make exemptions, rather than the Secretary; limit the applicability of the exemptions to family foster homes; limit the convictions for which an exemption may be granted; and provide written notice of the pending exemption to the county or district attorney.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, DCF indicates enactment of the bill would have no fiscal effect.

Department for Children and Families; restrictions on persons maintaining, residing, working, or volunteering at child care facility; exemptions