AN ACT concerning health and healthcare; relating to home and
community-based services; attendant care services; provisional
employment during completion of criminal history record check.

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

Section 1. (a) Notwithstanding the provisions of K.S.A. 65-5101 et seq., and amendments thereto, an individual in need of in-home care who seeks to hire an individual to personally provide attendant care services in accordance with K.S.A. 39-7,100(b)(2) and 65-1124(l), and amendments thereto, may hire an applicant for provisional employment pending the results of the state and national criminal history record check and permit such applicant to begin employment if the following conditions are met:

(1) The applicant has already complied with the requirement to be fingerprinted and to submit to a state and national criminal history record check;

(2) the applicant may be hired for provisional employment on a one-time basis for not more than 60 days pending the results of the state and national criminal history record check; and

(3) the individual in need of in-home care has completed a waiver of liability for damages resulting from the decision to provisionally employ the applicant prior to the completion of the criminal history record check. Such waiver form shall be prepared and provided by the department.

(b) The department may adopt rules and regulations to specify the criteria and procedure for an individual in need of in-home care to provisionally employ an applicant as provided for by this section.

(c) As used in this section, unless otherwise specified:

(1) "Attendant care services" means the basic and ancillary services provided under home and community-based services waiver programs;

(2) "department" means the Kansas department for aging and disability services; and

(3) "individual in need of in-home care" means any functionally disabled individual in need of attendant care services because of an impairment who requires assistance to complete functions of daily living, self-care and mobility. "Individual in need of in-home care" does not include an individual:

(A) With a developmental disability as defined in K.S.A. 39-1803,
and amendments thereto;
(B) under 18 years of age; or
(C) over 65 years of age.
Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.