

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 343**

As Agreed to March 29, 2022

Brief*

SB 343, as amended, would replace statutory references to “hearing impairment” and similar terms with “hard of hearing,” “hearing loss,” or “deaf” and would, among other things, prohibit blindness from being a determinant factor for denial or restriction of legal custody, residency, or parenting time when it is determined to otherwise be in the best interest of a child. The bill would make certain findings and declarations of the Legislature. The bill would also make technical amendments.

The bill would be in effect upon publication in the *Kansas Register*.

Prohibition on Blindness as a Determining Factor in Parental Rights

Definitions

The bill would define the following terms:

- “Blind” or “blindness” would mean a central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. The term “blind” or “blindness” would include any degenerative condition that reasonably can be expected to result in blindness;
- “Family foster home” would mean a child care facility that is a private residence, including any adjacent grounds, where a person provides care for 24 hours per day for one or more children in foster care and for which a license is required under statute; and
- “Supportive parenting services” would mean services including, but not limited to, services, aids, and supports that may assist a parent or prospective parent who is blind in the effective use of non-visual techniques and other alternative methods to enable the parent or prospective parent to discharge parental responsibilities as successfully as a parent who is not blind.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kIRD>

Legal Custody, Residency, or Parenting Time

The bill would provide that, in any action brought under the Kansas Parentage Act or law related to dissolution of marriage, a parent's blindness would not serve as a basis for denial or restriction of legal custody, residency, or parenting time when such legal custody, residency, or parenting time is determined to otherwise be in the best interest of the child.

The bill would require, if a parent's blindness is alleged to not be in the best interests of a child, the party asserting such an allegation would be required to prove by clear and convincing evidence that the parent's blindness is not in the best interests of the child. The bill would provide, if the party asserting the allegation satisfies the burden of proof, the parent who is blind would have an opportunity to present evidence that, with the implementation of supportive parenting services, placement with such parent is in the best interests of the child.

The bill would allow the court to issue an order requiring supportive parenting services to be implemented and allow the parties to request the court review the need for continuing such supportive parenting services after a reasonable period of time. The bill would require a court, if it denies or otherwise restricts a request for legal custody by a parent who is blind, to make specific findings of fact stating the basis for its decision, including reasons why the provision of supportive parenting services is not a reasonable accommodation required to prevent such denial or restriction.

The bill would provide that, in any action brought under the Kansas Adoption and Relinquishment Act, an individual's blindness would not serve as a basis for the denial of such prospective parent's participation in any adoption or, in any action brought under the Act for Obtaining a Guardian or a Conservator, or Both (KSA 59-3050), appointment as a guardian when such appointment is determined to be in the best interest of the child.

The bill would also provide that an individual's blindness would not serve as the basis for the denial or restriction of licensure as a family foster home.

The bill would provide, in any action brought under the Revised Kansas Code for Care of Children, that an individual's blindness would not serve as the basis for an order of temporary custody, adjudication, disposition, finding of unfitness, or termination of parental rights. The bill would require the court, if it issues such an adverse order, to make specific findings of fact stating the basis for its decision, including reasons why the provision of supportive parenting services is not a reasonable preventative accommodation.

Conference Committee Action

The Conference Committee agreed to SB 343, as amended by the House Committee of the Whole, and agreed to insert the contents of SB 276, as amended by the Senate Committee on Public Health and Welfare. The Conference Committee further agreed to amend the bill to change the effective date to upon publication in the *Kansas Register*.

Background

SB 343 (Statutory References to Hearing Impairment)

The bill was introduced by the Senate Committee on Public Health and Welfare at the request of Senator O'Shea on behalf of a constituent.

Senate Committee on Public Health and Welfare

In the Senate Committee hearing, Senator O'Shea and representatives from We the Deaf People and the Kansas Commission for the Deaf and Hard of Hearing provided **proponent** testimony, stating that "hearing impaired" is viewed as a negative term to most people who are deaf. The bill would align statutory language with the terms preferred by persons with hearing loss.

Written-only proponent testimony was provided by representatives of the Kansas Association of the Deaf, Kansas Commission on Disability Concerns, and Kansas Speech-Language-Hearing Association (KSLHA). No neutral or opponent testimony was provided.

The Senate Committee amended the bill to update language in four additional locations in statute at the request of a representative of KSLHA, updating "speech and hearing conditions and diseases" to "speech, language, and hearing disorders" and "speech and hearing impairments" to "speech or language disorders." [Note: The amendment was retained by the Conference Committee.]

Senate Committee of the Whole

The Senate Committee of the Whole made a technical amendment to the bill to reinsert a word struck in error. [Note: The amendment was retained by the Conference Committee.]

House Committee on Health and Human Services

In the House Committee hearing, Senator O'Shea, a representative of the Kansas Commission for the Deaf and Hard of Hearing, and a private citizen provided **proponent** testimony, stating the term "hearing impaired" carries a negative connotation, and the bill would update statute to terms preferred by the Deaf community.

Written-only proponent testimony was provided by representatives of the Kansas Association of the Deaf, Inc., Kansas Commission on Disability Concerns, and KSLHA. No other testimony was provided.

House Committee of the Whole

On March 21, 2022, the House Committee of the Whole made a technical amendment to the bill, to remove a statute that would not be amended by the bill and references to it. [Note: The amendment was retained by the Conference Committee.]

SB 276 (Prohibition on Blindness as a Determining Factor in Parental Rights)

The bill was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Ware.

Senate Committee on Public Health and Welfare

In the Senate Committee hearing on February 1, 2022, private citizens and representatives of the Disability Rights Center of Kansas, National Federation of the Blind of Kansas, and Southeast Kansas Independent Living Resource Center provided **proponent** testimony, stating the bill would prevent discrimination against blind parents and provide procedural safeguards that are not specified in the Americans with Disabilities Act.

Written-only proponent testimony was provided by ten private citizens. No other testimony was provided.

The Senate Committee amended the bill to change the effective date to upon publication in the *Kansas Register*. [Note: The amendment was retained by the Conference Committee.]

Fiscal Information

SB 343 (Statutory References to Hearing Impairment)

According to the fiscal note prepared by the Division of the Budget on SB 343, as introduced, the bill would have no fiscal effect.

SB 276 (Prohibition on Blindness as a Determining Factor in Parental Rights)

According to the fiscal note provided by the Division of the Budget on SB 276, as introduced, the Department of Children and Families indicates enactment of the bill would have no fiscal effect on the agency. The Office of Judicial Administration (OJA) indicates enactment of the bill could have a fiscal effect on revenue and expenditures of the Judiciary. The bill would require the court to consider specific items in certain cases if one of the parties is blind. While this could increase the workload of judges and make cases more complicated, OJA states the workload is not anticipated to be significant. However, OJA indicates it is not possible to estimate the number of additional court cases that would arise or how complex and time-consuming they would be, so a fiscal effect cannot be determined. Any fiscal effect associated with the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Hearing loss; statutory terminology; children; families; blindness; parental rights

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