

February 8, 2023

The Honorable Fred Patton, Chairperson
House Committee on Judiciary
300 SW 10th Avenue, Room 582-N
Topeka, Kansas 66612

Dear Representative Patton:

SUBJECT: Fiscal Note for HB 2246 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2246 is respectfully submitted to your committee.

HB 2246 would require an administrator or operator of any adult residential care facility to provide a notice to a resident when they are being involuntarily discharged from the facility. The bill specifies the elements that would be included in the notice and the timeframes for the resident to receive the notice. For an involuntary discharge, the resident would have to receive written notice at least 30 days before the date of the proposed transfer or discharge unless the safety of other individuals in the facility would be endangered or the resident's medical needs require an immediate transfer. The bill would also allow the resident, or their representative, to appeal the involuntary transfer or discharge to the Secretary of the Kansas Department for Aging and Disability Services (KDADS) by filing a notice with the Office of Administrative Hearings (OAH) within 15 days of the date of the notice. The Administrative Hearing Officer would hold a hearing within 30 days of the notice of appeal. While the appeal is in process, the facility would not be allowed to discharge the resident. The bill would create a similar process for appeals and required notification to residents in cases of an emergency transfer or discharge from an adult residential care facility. In the case of an emergency discharge or transfer, a resident's appeal would be filed with seven days and the OAH must hold a hearing within 14 days of receiving the notice of appeal. If a resident was already discharged due to an emergency, the bill would require the facility to hold a space for that resident until any appeal process is concluded.

KDADS would be required to create a form for all adult residential care facilities to use for involuntary transfers or discharges with required information specified in the bill. The bill would require facility administrators or operators to provide KDADS a copy of any proposed emergency transfer or discharge. KDADS would have two days to provide written notice to the facility about whether the notice complies with the requirements for an emergency discharge.

Estimated State Fiscal Effect				
	FY 2023 SGF	FY 2023 All Funds	FY 2024 SGF	FY 2024 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$487,990	\$487,990
FTE Pos.	--	--	--	4.00

KDADS indicates that HB 2246 would increase expenditures by \$487,990 from the State General Fund for salaries to fill an additional 2.00 FTE Attorney positions, 1.00 FTE Legal Assistant position, 1.00 FTE Registered Nurse position, and for contractual services with the OAH. The additional positions would be needed in KDADS because the bill would require KDADS to be involved in disputes between residents and adult residential care facilities and to evaluate notifications of emergency discharge and transfer within required timelines based on forms submitted from facility administrators and operators and appeals from residents after being transferred or discharged in emergency situations. KDADS estimates there would be between 10 and 15 requests for review of discharge or transfer requirements or appeals per month.

The OAH indicates it would have to implement an expedited hearing process due to the requirement that the hearing be held within in certain period of time and there being no provision allowing for a continuance of the hearing. Furthermore, the decision(s) to be rendered would be issued within a shortened period of time. This would require dedicated docket space and Administrative Law Judge time to accommodate the requirements of the bill. Although it is anticipated that there could be a larger influx of cases at the outset due to the awareness, the assumption is that the number of overall cases would be less than what the OAH currently handles concerning involuntary transfer or discharge from a nursing facility. Therefore, it is presumed that OAH would be able to absorb the increased caseload within the current OAH framework.

The Office of Judicial Administration indicates the bill would have a negligible fiscal effect on Judicial Branch expenditures and revenues. Any fiscal effect associated with HB 2246 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Vicki Jacobsen, Judiciary
Leigh Keck, Department for Aging & Disability Services
Matt Spurgin, Administrative Hearings