

SESSION OF 2016

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2112**

As Recommended by Senate Committee on
Judiciary

Brief*

Senate Sub. for HB 2112 would enact the Host Families Act.

Under the Act, a parent (defined in the Act) or legal custodian of a child would be allowed to execute a power of attorney, in a form designated by and included in the Act, to delegate to another person (the host family, defined in the Act) for up to one year any powers regarding the care and custody of the child, except for the powers to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child could not be delegated. The power of attorney could be extended for one additional year following the expiration of the original one-year term.

A "serving parent," defined by the Act to include a parent under one of several specified military or other governmental service obligations, would be allowed to delegate powers for a period longer than one year if on active duty service, but the term of delegation could not exceed the term of active duty service plus 30 days.

A delegation pursuant to the Act would not deprive the parent or legal custodian of any parental rights or legal authority regarding the care and custody of the child, or

*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>

supersede any court order regarding the child's care and custody.

The parent or legal custodian could revoke or withdraw the power of attorney at any time, at which point the child would be returned to the custody of the parents as soon as reasonably possible.

The attorney-in-fact would exercise parental or legal authority on a continuous basis, without compensation (other than voluntarily-contributed reimbursement from sources other than the state for actual expenses of providing temporary care), for the duration of the power of attorney. The Act would specify that the parties would not be subject to laws, rules, or regulations regarding licensing or regulation of foster care homes, community care for children, or child care facilities. The delegation would not be considered a foster care or other out-of-home placement. The execution of a power of attorney would not constitute abandonment, abuse, or neglect unless the parent or legal custodian fails to take custody of the child or execute a new power of attorney after the one-year time limit has elapsed.

A parent could not execute a power of attorney with the intent to permanently avoid or divest parental or legal responsibility for the child, and nothing in the Act could be interpreted to preclude any investigation of suspected abuse or neglect by the Kansas Department for Children and Families (DCF) or law enforcement.

The Act would allow a child placement agency (defined in the Act) or other Kansas charitable organization working under an agreement with a child placement agency to establish a program in which it assists parents with providing temporary care for children under the Act, not subject to the requirements of any other child care facility licensing statutes, rules, or regulations, or foster care licensing laws, rules, or regulations. Such programs would be required to include a child abuse and neglect screening and a Kansas Bureau of Investigation criminal history record search on the person or

persons receiving the delegation of powers and any employee or volunteer of the child placement agency or charitable organization having contact with hosted children.

The Kansas Judicial Council would be directed to create a power of attorney form consistent with the Act, and a power of attorney would be legally sufficient if the wording complied substantially with the Judicial Council form, the form was properly completed, and the signatures of the parties were acknowledged.

During any child protective investigation by DCF that does not result in an out-of-home placement due to abuse of a child, DCF would be authorized and encouraged to provide information to the parent or custodian about respite care, voluntary guardianship, or other support services for families in crisis, including organizations operating programs under the Act. DCF would have discretion in recommending programs, organizations, and resources to the parent or custodian.

Additionally, DCF would be authorized to work with families in financial distress, unemployed, homeless, or experiencing other family crises by detailing available community resources, including respite care, voluntary guardianship under the Act, and information regarding agencies and organizations operating programs under the Act.

Background

As introduced and amended by the 2015 House Committee on Judiciary and passed by the 2015 House of Representatives, HB 2112 would have amended law regarding the use of county law library fees. This language was subsequently enacted in 2015 HB 2111.

The Senate Committee on Judiciary recommended a substitute bill replacing the original contents of HB 2112 with

language modified from SB 394, enacting the Host Families Act. The modifications included changing the name from the “Supporting Families Act” to the “Host Families Act,” inserting language regarding parental rights, clarifying that a host family shall not receive compensation but may receive reimbursement that is voluntarily contributed, and modifying language related to the provision of information by DCF.

Further background and fiscal information regarding SB 394 is provided below.

Background of SB 394

The bill was introduced by the Senate Committee on Public Health and Welfare. In the hearing before the Senate Committee on Judiciary, Representative Rhoades, Senator Pilcher-Cook, and a representative of DCF testified in support of the bill. A representative of the Foundation for Government Accountability provided written testimony supporting the bill. There was no neutral or opponent testimony presented at the hearing.

According to the fiscal note prepared by the Division of the Budget on SB 394, as introduced, the Office of Judicial Administration indicates any effect on Juvenile Branch revenues or expenditures would be negligible. The Kansas Judicial Council estimates a one-time expenditure of \$1200 would be required during FY 2017 to create the power of attorney form required by the bill.

DCF indicates the bill would result in additional workload to monitor placements. An additional .50 FTE social worker specialist position would be required in each of four DCF regions, increasing salary and other operating costs by \$114,153 in FY 2017, including \$109,633 from the State General Fund. DCF states the bill could increase the workload of investigative staff, but cannot estimate these costs at this time. Any fiscal effect of the bill is not reflected in *The FY 2017 Governor’s Budget Report*.