

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2361

As Recommended by House Committee on
Children and Seniors

Brief*

HB 2361 would amend the Student Data Privacy Act regarding the administration of a test, questionnaire, survey, or examination (survey) containing any questions about a student's personal beliefs or practices on sex, family life, morality, or religion, or concerning the student's parent's views on these subjects, to a student enrolled in kindergarten or grades 1 through 12. Specifically, the bill would remove a requirement the parent of the student be notified the survey is to be administered and give written permission (opts in) for such student to take the survey. The bill would replace the opt-in language with the following requirements for administration of the surveys to these students:

- The survey does not record, request, or solicit a student to provide any personally identifiable student data;
- Each student is informed participation in the survey is voluntary;
- The parent or legal guardian of each such student receives, in advance of the administration of the survey, written notice that such parent or legal guardian may opt out such student from the survey; and
- The results of such survey are reported only as aggregate data.

*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>

Further, the bill would extend the exception from these requirements for school counselors to other school-based mental health professionals with regard to the administration of tests and forms part of a school counselor's or other school-based provider's student counseling services. The bill would also make technical amendments.

Background

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

In the House Committee hearing, representatives of the Association of Mental Health Centers of Kansas, Greenbush, Kansas Association of School Boards, and United Community Services of Johnson County, and a representative of the Kansas Association of School Boards, Kansas School Superintendents Association, and United School Administrators of Kansas provided testimony in favor of the bill. The proponents generally stated the bill could improve student participation in school-based surveys by reducing the barriers to de-identified data collection created by the opt-in requirement and has impacted community mental health centers, schools, and other organizations that provide critical prevention services for youth in their communities. Proponents noted the results of the surveys serve as a valuable tool for schools and communities to build support programs, interventions, and services for students to help make progress toward important physical and mental health outcomes and to guide decision making to better serve students. Proponents also stated the lack of information resulting from reduced survey participation due to the opt-in provision may limit the ability of school districts to secure grant funds to provide service to students. Proponent written-only testimony was provided by representatives of Communities That Care, DCCCA, Johnson County Mental Health Center, Kansas Action for Children, Kansas Association of Addiction Professionals, Mirror, Inc.,

Prevention and Recovery Services, and Topeka-Shawnee County Alcohol and Drug Abuse Advisory Council.

Opponent testimony was provided by two private citizens and a former member of the State Board of Education. The opponents generally questioned the validity of the surveys and stated the bill attempts to override parental authority by requiring parents to opt out of surveys for a child. The opponents stated parents should have the right, after receipt of information regarding the surveys, to make an informed decision on whether to opt-in, and students should not be automatically included in surveys that intrude into the private lives of students and their families. No other testimony was provided.

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