

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2158

As Amended by Senate Committee on Public
Health and Welfare

Brief*

HB 2158, as amended, would amend provisions in the statute governing the State Child Death Review Board (Board) regarding confidentiality of information acquired by and records of the Board. The bill would also remove the sunset date for the Advisory Committee on Trauma (ACT) of the Kansas Department of Health and Environment (KDHE) and regional trauma councils regarding the ability to conduct closed session meetings when reviewing trauma cases and any records or findings that are privileged.

The bill would also make technical amendments.

State Child Death Review Board (Section 1)

The bill would clarify the language of a current exception to the confidentiality for certain legislators and legislative committees and would add exceptions to confidentiality to allow the Board, or the Board's designee, to disclose information and records to:

- Any person or entity contracting with the Board, if the Board determines disclosure is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;
- Any person or entity, if the information and records being disclosed are statistics or conclusions of the

*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>

Board of the same type included in the Board's annual report; and

- Any Kansas state or local law enforcement agency, if the Board determines the information and records being disclosed were not previously available to the law enforcement agency for the investigation of the cause of the child's death; and
 - The Board determines the cause of the child's death was from abuse or neglect; or
 - The Board does not determine the child's death was from abuse or neglect and has knowledge of a law enforcement investigation based on an official offense report as required in statute of abuse or neglect involving the death of a child;
- Any county or district attorney, if the Board determines the information and records being disclosed were not previously available to the county or district attorney for the prosecution of any crimes related to the cause of the child's death; and
 - The Board determines the cause of the child's death was from abuse or neglect; or
 - The Board does not determine the child's death was from abuse or neglect and has knowledge of a law enforcement investigation based on an official offense report as required in statute of abuse or neglect involving the death of a child;
- Any entity established by a city or county for the express purpose of providing a local review of child deaths if the information and records being disclosed are related to a child's death where either:
 - Such death occurred in such city or county; or

- Such child was a resident of such city or county;
- Any licensing body, as defined elsewhere in statute, if:
 - The information and records being disclosed are related to a disciplinary complaint against a person licensed by such licensing body;
 - Any member of the Board is under a professional obligation to make a disciplinary complaint against a person licensed by such licensing body; or
 - A person licensed by such licensing body may have caused or contributed to the child's death; and
- A governmental agency or an organization that has a federal-wide assurance (FWA) for the protection of human subjects in good standing with the U.S. Department of Health and Human Services Officer for Human Research Protections, if:
 - The agency or organization provides documents that an institutional review board designated in the FWA has reviewed the organization's research proposal;
 - Personally identifiable information is redacted from the disclosure;
 - The disclosure is only for the purpose of health or education; and
 - The agency or organization requires all persons granted access to the disclosed information and records to sign a confidentiality agreement prior to receipt of the information and records.

Advisory Committee on Trauma (Section 2-3)

The bill would remove the sunset date for the ACT and regional trauma councils regarding the ability to conduct closed session meetings when reviewing trauma cases and any records or findings that are privileged. In current law, these provisions will sunset on July 1, 2021.

Background

HB 2158, as introduced, would have removed the sunset date for the ACT and regional trauma councils regarding the ability to conduct closed session meetings when reviewing trauma cases and any records or findings that are privileged. The Senate Committee on Public Health and Welfare amended the bill to add the contents of HB 2062, as amended by the Senate Committee, regarding the exceptions to confidentiality of the Board.

HB 2062 (State Child Death Review Board)

The bill was introduced by the House Committee on Children and Seniors at the request of the Office of the Attorney General.

House Committee on Children and Seniors

In the House Committee hearing, representatives of the Board testified as **proponents** of the bill, stating the bill would allow information related to the Board's work to be disclosed for additional limited purposes related to law enforcement investigations, professional licensure disciplinary complaints, record keeping, and approved research projects. Written-only **proponent** testimony was submitted by representatives of the Kansas Association of Chiefs of Police, Kansas County and District Attorneys Association, Kansas Peace Officers Association, Kansas Sheriffs Association, and Safe Kids

Kansas. A representative of the National Center for Fatality Review and Prevention testified as a neutral conferee.

No other testimony was provided.

Senate Committee on Public Health and Welfare

In the Senate Committee hearing, **proponent** testimony was provided by a representative of the Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and the Kansas Peace Officers Association and the Senior Assistant Attorney for the Board. Proponents generally stated the allowance of the limited exceptions will assist the State Child Death Review Board in its goal of working to prevent future child deaths. The representative of the law enforcement associations expressed their desire to work on a clarifying amendment on the confidentiality exception to law enforcement.

Written-only **proponent** testimony was provided by Safe Kids Kansas.

No other testimony was provided.

The Senate Committee amended the bill to add one exception to confidentiality to allow the Board, or the Board's designee, to disclose information and records to any entity established by a city or county for the express purpose of providing a local review of child deaths if the information and records being disclosed are related to a child's death where either:

- Such death occurred in such city or county; or
- Such child was a resident of such city or county.

Additionally, the Senate Committee amended the confidentiality exception to law enforcement and any county or district attorney by clarifying the language by stating:

- Any Kansas state or local law enforcement agency if the Board determines the information and records being disclosed were not previously available to such law enforcement agency for the investigation of the cause of the child's death; and either:
 - The Board determines that the cause of the child's death was from abuse or neglect; or
 - The Board does not determine the child's death was from abuse or neglect and has knowledge of a law enforcement investigation based on an official offense report as required in statute of abuse or neglect involving the death of a child;
- Any county or district attorney if the Board determines the information and records being disclosed were not previously available to such county or district attorney for the prosecution of any crimes related to the cause of the child's death; and either:
 - The Board determines the cause of the child's death was from abuse or neglect; or
 - The Board does not determine the child's death was from abuse or neglect and has knowledge of a law enforcement investigation based on an official offense report as required in statute of abuse or neglect involving the death of the child.

HB 2158 (Advisory Committee on Trauma)

The bill was introduced by the House Committee on Health and Human Services at the request of Representative Arnberger.

[*Note*: The provisions of HB 2158 are similar to the provisions of 2020 HB 2527, as recommended by the House Committee on Rural Revitalization.]

House Committee on Financial Institutions and Rural Development

In the House Committee hearing, the Executive Director of the Emergency Medical Services Board, Director of the Trauma Program at KDHE, and the State Chair of the Kansas Chapter of the Committee on Trauma of the American College of Surgeons provided **proponent** testimony. The proponents stated the closed session meetings and privileged records and findings are part of the ACT's and regional trauma councils' peer review process, in which there is critical assessment of trauma system access and function, incident care delivery, and monitoring of the implementation of site-specific trauma protocols.

Written-only **proponent** testimony was provided by the Chairperson of ACT and representatives of the Kansas Chapter of the American College of Emergency Physicians, Kansas Chapter of the American College of Surgeons, Kansas Emergency Medical Services Association, Kansas Hospital Association, Kansas Medical Society, and Southeast Kansas Rural Trauma Council.

No other testimony was provided.

Senate Committee on Public Health and Welfare

In the Senate Committee hearing, **proponent** testimony was provided by the Executive Director of the Emergency Medical Services Board and the Director of the Trauma Program at KDHE.

Written-only **proponent** testimony was provided by the Chairperson of ACT and the Vice Chairperson of the North

East Regional Trauma Council, and representatives of the Kansas Association of Osteopathic Medicine, Kansas Emergency Medical Services Association, Kansas Hospital Association, and Kansas Medical Society.

No other testimony was provided.

The Senate Committee amended the bill to insert the contents of HB 2062, as amended by the Senate Committee, that pertain to the State Child Death Review Board.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on **HB 2062** as introduced, the Office of the Attorney General (Office) indicates enactment of the bill would allow the Board to participate in a national database which is free for participating states to use. The Office may receive case referrals from county or district attorneys to request case prosecution, but the Office cannot predict the number of additional cases that could arise and a fiscal effect cannot be estimated. The Department for Children and Families indicates there could be an increase in records requests; however, the number cannot be estimated and any additional costs would be absorbed within existing resources. The Kansas Association of Counties states a fiscal effect cannot be determined because it cannot estimate the number of additional requests it could receive. Any fiscal effect is not reflected in *The FY 2022 Governor's Budget Report*.

According to the fiscal note prepared by the Division of the Budget on **HB 2158** as introduced, KDHE indicates the bill would have no fiscal effect on agency operations, and support for ACT would continue within existing resources.

Advisory Committee on Trauma; meetings; sunset; Child Death Review Board; confidential information; records