

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2254

As Amended by Senate Committee on Public
Health and Welfare

Brief*

HB 2254, as amended, would increase the monetary cap on irrevocable prearranged funeral agreements, contracts, or plans, on and after July 1, 2021, to \$10,000, which would increase in an amount equal to the average percentage increase in the Consumer Price Index each year. The bill would also amend the documentation a licensed crematory operator or crematory operator in charge is required to receive, prior to the cremation of any dead human body, to only a completed and executed coroner's permit to cremate, if required under the Uniform Vital Statistics Act (Act).

The bill would also make technical amendments.

Irrevocable Prearranged Funeral Agreements (Section 1)

Current law allows such funeral agreements, contracts, or plans to be irrevocable as to the retail price of a casket, urn, and outside burial container, and as to the first \$7,000 of funds paid and set aside at the direction of the purchaser.

The bill, in addition to increasing the monetary cap to \$10,000, would state on July 1, 2022, and each July 1 thereafter, such amount shall be increased in an amount equal to the average percentage increase in the Consumer Price Index for all urban consumers in the Midwest region, as published by the U.S. Bureau of Labor Statistics.

*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>

Coroner's Permit and Documentation (Section 2 and 3)

The bill would amend the Act to require a coroner's permit to be executed only if the death or cause of death occurred in Kansas or in a state where such a permit to cremate is required. The Act would also be amended to allow an electronic signed copy of a coroner's permit to cremate as legal authorization to cremate. Further, the bill would amend the Act by repealing the statute requiring Kansas funeral directors to provide the Secretary of Health and Environment with a monthly report of the bodies prepared for burial.

Background

HB 2254, as introduced, would have amended the cap on irrevocable prearranged funeral agreements, contracts, and plans. The Senate Committee on Public Health and Welfare amended the bill to add the contents of HB 2262 regarding documentation for a licensed crematory operator.

HB 2254 (Irrevocable Prearranged Funeral Agreement)

HB 2254 was introduced by the House Committee on Health and Human Services at the request of Representative Eplee on behalf of the Kansas Funeral Directors Association.

House Committee on Health and Human Services

In the House Committee hearing on February 16, 2021, **proponent** testimony was provided by a representative of the Kansas Funeral Directors Association. The proponent stated the current \$7,000 monetary cap on the amount of funds a person can place in an irrevocable prearranged funeral agreement had not been modified since 2010. The proponent stated the majority of states have no monetary cap on the amount that may be placed in an irrevocable prearranged funeral agreement. She said in Kansas, any funds remaining in the account after the payment of funeral expenses are

returned to the estate or to the State's Estate Recovery Unit to the extent of Medicaid medical expenses expended, which would benefit the State. The proponent was in agreement within a proposed amendment to increase the monetary cap to \$10,000 instead of removing it.

No other testimony was provided.

The House Committee amended the bill by reinserting stricken language referencing the retail price of a casket, urn, and outside burial container and increasing the monetary cap to the first \$10,000 of funds paid, instead of removing the monetary cap as proposed in the bill as introduced.

Senate Committee on Public Health and Welfare

In the Senate Committee hearing on March 10, 2021, **proponent** testimony was provided by a representative of the Kansas Funeral Directors Association. The proponent said prearranged funeral agreements are designed to take the burden off the family after a death and are often used to spend down assets to become eligible for Medicaid coverage. The proponent reviewed the amendments made by the House Committee and indicated support for the House amendment to increase the cap to \$10,000.

No other testimony was provided.

The Senate Committee amended the bill to state on July 1, 2022, and each July 1 thereafter, the monetary cap shall be increased in an amount equal to the average percentage increase in the Consumer Price Index for all urban consumers in the Midwest region, as published by the U.S. Bureau of Labor Statistics. In addition, the Senate Committee amended the bill to insert contents pertaining to coroner's permits and cremation documentation (HB 2262, as amended by House Committee of the Whole).

HB 2262 (Coroner's Permit and Documentation)

HB 2262 was introduced by the House Committee on Health and Human Services at the request of Representative Eplee on behalf of the Kansas Funeral Directors Association.

House Committee on Health and Human Services

In the House Committee hearing on February 16, 2021, **proponent** testimony was provided by a representative of the Kansas Funeral Directors Association. The proponent stated the bill would address instances in which a death occurs out of state, but the family is served by a Kansas funeral home and crematory. The proponent noted the state where the death occurred may not require a coroner's permit to cremate and instead only require a death certificate to be filed; Missouri is such a state. The proponent noted Kansas law requires a Kansas funeral director to obtain a coroner's permit to cremate in the state; Kansas coroners are then required to investigate a death not under their jurisdiction before they can sign the coroner's permit to cremate. The proponent stated the bill would remove that burden from Kansas coroners, eliminate delays, and assure cremation can occur in a timely manner. The proponent stated permits to cremate are usually executed under the Office of Vital Statistics electronic death registration system, and the bill would allow an electronically signed copy to be accepted. The proponent also noted since Kansas now uses an electronic death registration system, the State obtains the information immediately when the death record is filed electronically, making the monthly reports to the Secretary of Health and Environment unnecessary.

No other testimony was provided.

House Committee of the Whole

The House Committee of the Whole made a technical amendment to the bill.

Senate Committee on Public Health and Welfare

In the Senate Committee hearing on March 10, 2021, **proponent** testimony was provided by a representative of the Kansas Funeral Directors Association. The representative stated the bill would primarily affect the Kansas City metropolitan area, typically when a death occurs in the state of Missouri but the family of the deceased lives in Kansas. The representative said this would ease the documentation burden on Kansas funeral homes and crematory operators.

No other testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the HB 2254, as introduced, the Kansas Insurance Department and the Board of Mortuary Arts stated enactment of the bill would have no fiscal effect.

According to the fiscal note prepared by the Division of the Budget on the HB 2262, as introduced, the Kansas Department of Health and Environment and the Board of Mortuary Arts indicate enactment of the bill would have no fiscal effect.

Irrevocable prearranged funeral agreements; monetary cap increase; Board of Mortuary Arts; cremation documentation requirements; Uniform Vital Statistics Act; electronic permits to cremate; funeral director reporting requirements