

SESSION OF 2015

SUPPLEMENTAL NOTE ON SENATE BILL NO. 159

As Amended by Senate Committee of the Whole

Brief*

SB 159 would enact the Safe Families Act and amend law related to when a law enforcement officer is required to take a child into custody.

Safe Families Act

Under the Act, a parent 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 attorney-in-fact) any powers regarding the care and custody of the child for up to one year. A new power of attorney would have to be executed for each additional year the delegation is to exist.

A “serving parent,” defined by the Act to include a parent under one of several specified military 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.

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

*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>

The parent or legal custodian could revoke 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, 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 foster care, foster care homes, or child care facilities. The delegation would not constitute an out-of-home placement. The execution of a power of attorney would not constitute abandonment, abuse, or neglect unless the parent or legal custodian failed to take custody of the child or execute a new power of attorney after the one-year time limit has elapsed.

A power of attorney would be legally sufficient if the wording complied substantially with the form provided in the statute, the form was properly completed, and the signatures of the parties were acknowledged.

During any child protective investigation by the Kansas Department for Children and Families (DCF) that does not result in an out-of-home placement resulting from abuse of a child, the child protective investigator would be required to provide information to parents in certain situations about respite care, voluntary guardianship, other support services for families in crisis (including churches and other organizations that work with Safe Families for Children), and the Act.

The 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 churches and other organizations that provide host families for Safe Families for Children.

When Law Enforcement Officer Required to take Child Into Custody

The bill would amend the Revised Kansas Code for Care of Children to require a law enforcement officer to take a child under 18 years of age into custody when the officer has probable cause to believe there is a crime involving controlled substances occurring in the child's residence and the officer reasonably believes such crime threatens the safety of the child.

Background

The bill was introduced by the Senate Committee on Judiciary at the request of Senator Knox. As introduced, the bill contained the provision regarding when a law enforcement officer is required to take a child into custody. In the Senate Committee, Senator Knox and a citizen testified in support of the bill. A representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs' Association provided neutral testimony. The Secretary for Children and Families provided written neutral testimony. There was no opponent testimony.

The Senate Committee adopted an amendment adding a probable cause requirement.

The Senate Committee of the Whole adopted an amendment that would enact the Safe Families Act. This language was originally introduced in SB 148, which the Senate Committee on Judiciary recommended favorably for passage. Further background information on SB 148 is provided below.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, DCF indicates the bill could increase the number of children placed in protective custody and the custody of DCF. The DCF estimates 37 additional children would be removed, 23 of whom would be

placed in foster care for an average stay of 17 months. At an average cost for foster care of \$1,473 per month, these additional placements would increase DCF expenditures by \$406,548, including \$297,252 from the State General Fund (SGF), in FY 2016. The DCF also would incur expenditures of \$23,000 from the SGF for an estimated 200 additional children placed in an emergency shelter for one night, at a daily cost of \$115.

The Office of Judicial Administration indicates the bill could result in additional child in need of care case filings, requiring additional time spent by court staff. However, a precise fiscal effect cannot be determined. Any fiscal effect is not reflected in *The FY 2016 Governor's Budget Report*.

Background of SB 148

SB 148 was introduced by the Senate Committee on Judiciary at the request of Senator Pilcher-Cook. In the Senate Committee, Senator Pilcher-Cook, Representative Rhoades, and representatives of Safe Families for Children and the Foundation for Government Accountability, as well as a licensed master social worker and citizens, testified in support of the bill. The Secretary for Children and Families submitted written proponent testimony. There was no neutral or opponent testimony.

According to the fiscal note prepared by the Division of the Budget, DCF estimates SB 148 would require an additional 0.50 Social Worker Specialist position in each of DCF's four regions to identify available services, at a total cost of \$117,785, including \$113,862 from the State General Fund. Salary and benefits for these positions would be \$109,925 and operating expenses would be \$7,860. The DCF also indicates the bill could increase the workload of investigative staff to determine needed services and make necessary referrals, but the potential increased demand cannot be estimated.

The Office of Judicial Administration states SB 148 would have a fiscal impact on Judicial Branch expenditures or revenues. Any fiscal effect is not reflected in *The FY 2016 Governor's Budget Report*.