

SESSION OF 2016

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 159**

As Recommended by House Committee on
Judiciary

Brief*

House Sub. for SB 159 would establish the "Host Families Act." The Act would allow a child placement agency to establish a program in which it coordinates with private organizations to provide temporary care of children by placing a child with a host family. Such programs would be required to include screening and background checks for potential host families that are the same as those required by the Secretary for Children and Families for foster home licensing, and a host family would not receive payment other than reimbursement for actual expenses of providing the temporary care. The bill would require that the placement of a child into such a program be voluntary and would establish that such placement would not be considered an out-of-home placement by the State, would not supersede any order under the Code for Care of Children or any other court order, and would not preclude any investigation of suspected abuse or neglect.

A parent could place a child into a program established under the Act by executing a power of attorney delegating to a host family any of the powers regarding the care and custody of the child, except the power to consent to marriage or adoption, the performance or inducement of an abortion, or the termination of parental rights to the child. The power of attorney could not be executed without the consent of all individuals with legal custody of the child. The power of attorney could not exceed one year in duration but could be renewed for one additional year.

*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 delegation of powers would not deprive any parent of any parental or legal authority regarding the care and custody of the child; deprive any non-delegating parent of any parental or legal authority, if such parent's rights have not otherwise been terminated or relinquished; or affect any parental or legal authority otherwise limited by a court order. A parent executing a power of attorney under the Act would have the authority to revoke or withdraw the power of attorney at any time. Upon such withdrawal or revocation, the child would have to be returned to the parent as soon as reasonably possible. The execution of a power of attorney under the Act would not be evidence of abandonment, abuse, or neglect as defined in the Code for Care of Children.

Background

The bill was introduced by the 2015 Senate Committee on Judiciary at the request of Senator Knox. As introduced, the bill contained only a provision regarding when a law enforcement officer is required to take a child into custody. In the hearing before 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 2015 Senate Committee adopted an amendment adding a probable cause requirement.

The 2015 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.

In the hearing before the 2015 House Committee on Judiciary, conferees testifying in support of the bill were

Senator Knox; Representative Rhoades; representatives of the Foundation for Government Accountability, Lifeline Children's Services, and the Department for Children and Families (DCF); and a citizen. Written proponent testimony was received from a representative of Safe Families for Children. A family law attorney testified in opposition to the bill. Written neutral testimony addressing the provision regarding taking children into custody when a drug violation occurs was submitted by a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs' Association.

Following the 2015 Session, Senator King requested the Judicial Council study the language of the Safe Families Act contained in SB 159. In December 2015, the Judicial Council submitted a report on its study of the bill, including proposed legislation the Judicial Council recommended be used if the Legislature decided to proceed with a program like Safe Families.

Following a staff briefing on the Judicial Council proposed legislation, the 2016 House Committee on Judiciary recommended a substitute bill containing the Judicial Council language, modified with additional language regarding background checks, the consent required to execute a power of attorney, and the impact of the power of attorney on the rights of non-delegating parents or parental or legal authority limited by a court order.

According to the 2015 fiscal note prepared by the Division of the Budget on the bill, as introduced, DCF indicated the bill could increase the number of children placed in protective custody and the custody of DCF. The DCF estimated 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 indicated 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 was not reflected in *The FY 2016 Governor's Budget Report*.

There was no fiscal note available for the House substitute bill at the time of the House Committee hearing.

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 2015 fiscal note prepared by the Division of the Budget, DCF estimated 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 indicated 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 stated SB 148 would have a fiscal impact on Judicial Branch expenditures or revenues. Any fiscal effect was not reflected in *The FY 2016 Governor's Budget Report*.