

STATE OF KANSAS



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GOVERNOR JEFF COLYER, M.D.
LARRY L. CAMPBELL, CHIEF BUDGET OFFICER

February 9, 2018

The Honorable John Barker, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 285-N
Topeka, Kansas 66612

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2676 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2676 is respectfully submitted to your committee.

HB 2676 would amend the Developmental Disabilities Reform Act. The bill would authorize the Secretary of the Kansas Department for Aging and Disability Services (KDADS), or the Secretary's designee, to issue a correction order to a community service provider that is found to be in non-compliance with the provisions of the Developmental Disabilities Reform Act. The correction order would need to reflect that the non-compliance is likely to adversely affect the health, safety, nutrition or sanitation of consumers or the public. The correction order would have to be in writing and state the specific deficiency, statutory provision or rule and regulation alleged to have been violated. The correction order would also need to reflect the amount of time allowed for the correction and be delivered personally or by certified mail, with a return receipt requested.

The bill would allow a civil penalty not to exceed \$500 per day, per deficiency, from the day beginning after the allotted correction time has expired. This penalty could not exceed \$2,500 and the community service provider would receive written notification of the assessment delivered personally or by certified mail, with a return receipt requested. Prior to assessing a civil penalty, the Secretary could consider the severity of the violation, the good faith effort of the community service provider to correct the violation, and the history of compliance with rules and regulations.

The Secretary could double the civil penalty, not to exceed \$5,000, if it is found the community service provider has been cited with some or all of the deficiencies cited in the correction order within 18 months prior to inspection or investigation that resulted in such correction order. All penalties assessed would be due and payable within ten days of the community service provider receiving written notice, unless the Secretary grants a longer

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February 9, 2018

Page 2—HB 2676

repayment period. All civil penalties would be deposited into the State General Fund. If penalty is not paid within the allotted time period, the Secretary can file a certified copy of notice of assessment with the clerk of the district court in the county where the community service provider is located. The assessment could be enforced in the same manner as a judgment of the district court.

HB 2676 further provides the Secretary the authority to require the community provider to maintain consumers in place until alternative community services can be secured and to remove the designation as “community service provider.” The Secretary could issue an emergency order if the Secretary makes written findings that would show the situation involves imminent danger to the health, safety or welfare of the person with a developmental disability unless immediate action is taken.

KDADS states that enactment of HB 2676 would have a fiscal effect on the agency. The fiscal effect is unknown because the number of community service providers that would be not in compliance cannot be estimated. Any fiscal effect associated with HB 2676 is not reflected in *The FY 2019 Governor’s Budget Report*.

Sincerely,

A handwritten signature in cursive script, appearing to read "L. Campbell".

Larry L. Campbell
Chief Budget Officer

cc: Cody Gwaltney, Aging & Disability Services