

SESSION OF 2021

SUPPLEMENTAL NOTE ON SENATE BILL NO. 83

As Amended by Senate Committee of the Whole

Brief*

SB 83, 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. Specifically, the bill would clarify the language of a current exception to this confidentiality for certain legislators and legislative committees and would add the following additional 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 Board of the same type included in the Board's annual report;
- 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, the cause of the child's death was from abuse or neglect; and the Board had knowledge of a law enforcement investigation involving the death of a 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>

- 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, the cause of the child's death was from abuse or neglect; and the Board had knowledge of a law enforcement investigation 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 federalwide 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.

The bill also would make technical amendments to ensure consistency in statutory phrasing and remove a date reference.

Background

The bill was introduced by the Senate Committee on Public Health and Welfare at the request of a representative of the Office of the Attorney General.

[*Note:* A companion bill, HB 2062, has been introduced in the House Committee on Children and Seniors.]

Senate Committee on Public Health and Welfare

In the Senate Committee hearing, representatives from the Board, Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association provided **proponent** testimony. Written-only **proponent** testimony was provided by the Children's Alliance of Kansas and Safe Kids Kansas. Proponents stated the bill would allow more information to be provided to law enforcement officials to assist them with conducting investigations and would allow access to the Child Death Review Case Reporting System for record-keeping and data purposes.

A representative of the National Center for Fatality Review and Prevention provided neutral testimony. The representative gave an overview of the National Fatality Review-Case Reporting System. According to the representative, the goal of the web-based system is to collect aggregated, de-identified information on risk and protective factors surrounding child deaths to inform and support prevention.

No **opponent** testimony was provided.

The Senate Committee amended the bill to modify the Board's disclosure determination conditions for law enforcement agencies and county or district attorneys, to specify the condition would apply if the Board had knowledge of a law enforcement investigation involving the death of a child.

Senate Committee of the Whole

The Senate Committee of the Whole amended the bill to add to the list of exceptions to confidentiality disclosures 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.

Fiscal Information

According to the fiscal note provided by the Division of the Budget on the bill as introduced, the Office of the Attorney General (Office) indicates 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 for requests to prosecute certain cases, but the Office cannot predict the number of additional cases, and a fiscal effect cannot be

estimated. The State Board of Healing Arts states it could receive an increase in the number of complaints received but that it could be managed within existing resources. The Department for Children and Families indicates there would be no fiscal effect. The Office of Judicial Administration states the bill would not have a fiscal effect on its operations. 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 associated with the bill is not reflected in *The FY 2022 Governor Budget's Report*.

Child Death Review Board; confidential information; records