

SESSION OF 2011

**CONFERENCE COMMITTEE REPORT BRIEF ON  
HOUSE SUBSTITUTE FOR SENATE BILL NO. 23**

As Agreed to March 31, 2011

**Brief\***

House Sub. for SB 23 would add language to the revised Kansas Code for Care of Children and the revised Kansas Juvenile Justice Code requiring the board of education of a school district to award a high school diploma to any person requesting a diploma if the person is at least 17 years of age, is enrolled or resides in such school district, is or has been a child in the custody of the Department of Social and Rehabilitation Services (SRS) or Juvenile Justice Authority (JJA) after turning 14 years of age, and has achieved the minimum high school graduation requirements adopted by the State Board of Education.

The bill would further amend the revised Kansas Code for Care of Children to automatically make a grandparent an interested party in a child in need of care proceeding. Under current law, a grandparent must notify the court that he or she desires to become an interested party in order to obtain interested party status.

Finally, the bill would establish a statutory right to jury trial for juvenile offenders and provide a jury trial procedure within the revised Kansas Juvenile Justice Code. The procedural provisions would be borrowed from the statutes governing adult jury trials, with some modifications.

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\* Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

The principal differences from the adult jury trial provisions would be:

- A juvenile would have to request a jury trial in every case, within 30 days from the entry of a plea of not guilty. In adult felony cases, trial by jury is automatic unless waived.
- A juvenile would not have the right to personally participate in voir dire. Adult defendants have this right.

### **Conference Committee Action**

The Conference Committee agreed to amend the bill by restructuring the high school diploma provision, adjusting the age requirements of that provision, and adding the provision regarding interested party status for grandparents (taken from SB 52).

### **Background**

The Kansas Judicial Council requested the Senate Committee on Judiciary introduce SB 23 to respond to the Kansas Supreme Court's decision in *In re L.M.*, 286 Kan. 460, 186 P. 3d 164 (2008), holding that juveniles have a right to jury trials. As introduced, the bill contained the juvenile jury trial provisions.

In the Senate Committee on Judiciary, a representative of the Kansas Judicial Council appeared in support of SB 23, explaining that the bill largely borrows jury trial procedural provisions from the Criminal Code. The conferee stated that due to some historical differences in the structure and goals of the juvenile justice system, the Judicial Council juvenile offender advisory committee recommended that juveniles be required to request a jury trial, even in felony cases. The advisory committee also recommended that juveniles not be permitted to personally participate in voir dire. No opponents

provided testimony. The Senate Committee recommended the bill be passed.

In the House Committee on Corrections and Juvenile Justice, the same conferee appeared in support of SB 23. At the request of the Commissioner of the Juvenile Justice Authority, the House Committee amended the bill by adding provisions regarding the awarding of a high school diploma to persons in the custody of SRS or the Juvenile Justice Authority. The House Committee recommended a substitute bill incorporating the amended language.

The fiscal note on SB 23, as introduced, states the bill has the potential to increase litigation in the courts and, therefore, have a fiscal effect on the court system, although a precise fiscal effect cannot be determined. It is unlikely the fiscal effect would require additional resources. The Juvenile Justice Authority indicates there would be no fiscal effect on its agency operations. Any fiscal effect is not reflected in *The FY 2012 Governor's Budget Report*. There is no fiscal note available for the substitute bill.

### ***Background of SB 52 – Interested party status for grandparents***

Senator Oletha Faust-Goudeau requested the Senate Committee on Federal and State Affairs introduce SB 52.

In the Senate Committee on Judiciary, Senator Faust-Goudeau, representatives of the Kansas Silver Haired Legislature and the Family Friends Program of Children's Mercy Hospital, and several grandparents appeared in support of SB 52, explaining that grandparents need more involvement in child placement decisions and this bill would help ensure grandparents receive notice of child in need of care proceedings. AARP, United Methodist Youthville, and additional grandparents provided written testimony supporting the bill. No opponents provided testimony. The Committee made no changes to the bill and recommended it be passed.

The fiscal note on SB 52 states the bill could increase costs to the courts by requiring additional mailings, but a precise fiscal effect cannot be determined and would most likely be accommodated within existing resources. Any fiscal effect is not reflected in *The FY 2012 Governor's Budget Report*.

Code for Care of Children; Juvenile Justice Code; K-12 Education; Schools; Social and Rehabilitation Services; Juvenile Justice Authority; Grandparents; Child in Need of Care; Jury Trials