

SESSION OF 2006

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 62**

As Agreed to May 10, 2006

Brief*

Grandparents as Caregivers Act

SB 62 would create the Grandparents as Caregivers Act. The Act would direct the Secretary of Social and Rehabilitation Services (SRS) to establish a Grandparents as Caregivers Program. A grandparent would be eligible to participate in the program if he or she is at least 50 years old; has custody of a grandchild through state placement, legal guardianship or other legal means and has an annual income of less than 130.0 percent of the federal poverty level. Grandparents would not be eligible for the program if the parent or parents of the child reside with them. SRS would be required to review the eligibility of program participants annually. If there were no grandparent willing to participate in the program, SRS could allow any other close relative who is the legal guardian or has legal custody of the child to participate who meets the program criteria.

Subject to appropriations, program participants would receive \$200 per grandchild per month not to exceed a total of \$600 a month. The reimbursement received pursuant to this program would not be considered income in determining eligibility for public assistance benefits except for Temporary Assistance for Needy Families (TANF). Grandparents participating in the program also could not receive assistance from the TANF program. The reimbursement would continue until the child reached 18 years old, or 21 years old if the child is in full-time attendance at a secondary school, postsecondary educational institution, or an institution defined by KSA 74-32,163 or is in a state-accredited job training program.

The bill would give the Secretary the discretion to provide support services, such as respite care, child-care, parenting skills training, childhood immunizations and other health screenings,

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clothing allowances and transportation assistance. Annually, the grandparent would have to submit a sworn statement that the child is still living with and receiving support from the grandparent. The parent of the child receiving assistance would remain liable for the support of the child.

The bill would require the Secretary to annually report to the Legislature on:

- The number of children participating in the program and the breakdown of where these children were placed, with either a grandparent or other close relative;
- The number of children moved from a foster care placement or other state custody to a grandparent or other close relative;
- An overview of the moneys spent on the program; and
- The cost-savings analysis of implementing the program by having the children placed with a grandparent or other close relative instead of being placed in state custody.

Child Support Payments—Applicants for Privileges from Wildlife and Parks

The bill also would provide a mechanism to bar the purchase of any license, permit, stamp, tag, or other authorization issued by the Department of Wildlife and Parks to an applicant who is in arrearage under a child support order issued in a Title IV-D case (part D of Title IV of the Social Security Act relating to child support enforcement) or who has failed to comply with an outstanding warrant or subpoena in a IV-D case directed to the applicant.

Under the provisions of the bill, the Secretary of Social and Rehabilitation Services would furnish the Secretary of Wildlife and Parks, at least quarterly, a list of names and other information sufficient to allow the Secretary of Parks and Wildlife to match applicants for licenses, permits, tags, stamps or other authorizations issued by the Secretary against the list furnished by the Secretary of Social and Rehabilitation Services. Provision would be made for delivering a written notice to an applicant for a recreational licenses or permit stating the reason for denial of the application and how the applicant may dispute the denial or request other relief. On receiving

a release from an authorized agent of the Secretary of Social and Rehabilitation Services, a permit or license could be issued. The bill sets out those circumstances in which a release would be issued. The Secretaries of the two agencies would be authorized to enter into an agreement for administering the provisions of the new law, and each would be authorized to adopt rules and regulations to carry out the provisions of the new statute that would be created by the bill.

Personal Needs Allowance Increases

The bill also would allow the head of the designated Medicaid state agency to increase the personal needs allowance for persons residing in Medicaid approved institutions from \$30 per month to not less than \$50 per month in fiscal year 2007 and adopt appropriate rules and regulations to implement this change. In the case of persons who are not receiving Supplemental Security Income (SSI), the bill would shift an additional \$20 per month of expenses to the state Medicaid program. In the case of persons who are receiving SSI, the state would be required to provide an additional \$20 per month per individual. In fiscal year 2008, the personal needs allowance would increase to not less than \$60 per month with an increase of \$30 per month for individuals receiving SSI.

The bill would allow the designated Medicaid state agency to make adjustments to the personal needs allowance for cost of living increases based on the annual average increase in the chained consumer price index for urban consumers for the previous calendar year published by the U.S. Department of Labor.

Nursing Facility Reimbursement Rates

The bill would increase nursing facility reimbursement rates in FY 2007 by utilizing the average of the cost data from 2003, 2004, and 2005 (instead of 2001 cost data) as the base year and eliminating the 85 percent occupancy rule for nursing facilities with 60 licensed beds or less. Additionally, the bill would direct that the base year be reestablished not less than once every seven years.

Conference Committee Action

The Conference Committee agreed to the bill as passed by the House Committee of the Whole with the exception of sections nine

and ten of the bill relating to visitation rights, and agreed to further amend the bill to:

- Insert language to clarify that a grandparent in the program may not receive TANF for the same grandchildren;
- Insert the provisions of SB 459 (bar purchase of privileges issued by the Department of Wildlife and Parks to an applicant who is in arrearage of child support) as it passed the Senate;
- Insert the provisions of SB 491 (personal needs allowance for persons residing in Medicaid approved institutions) with the clarification that the allowance would be increased to \$50 in FY 2007 and would be increased to \$60 in FY 2008 and thereafter; and
- Insert the provisions to increase nursing facility reimbursement rates.

Background

The Senate Committee on Ways and Means heard testimony in support of the original bill from Senator John Vratil, Representative Oletha Faust-Goudeau, representatives from the Silver-Haired Legislature, Kansas Action for Children, AARP Kansas, Kansas Catholic Conference, the Family Friends Program, and several grandparents. The Department of Social and Rehabilitation Services spoke as a neutral party on the bill, and written testimony was submitted by the Kansas Area Agency on Aging.

The Senate Committee on Ways and Means amended the bill to direct the Department of Social and Rehabilitation Services to pursue a Title IV-E (foster care) waiver to fund the program, and to report to the President of the Senate and Speaker of the House before August 1, 2005 on the status of the waiver. The bill was further amended to eliminate references to the use of TANF and maintenance of effort funds, because these sources of funding are not available. The age of eligible participants was increased from 50 years of age or older to 60 years of age or older and the annual household income was reduced from 130.0 percent of the federal poverty level (FPL) to 100.0 percent of FPL. A section relating to grandparents who would be eligible for increased benefits but do not meet the age requirement and do not attend training was eliminated

to guarantee that grandparents receiving benefits under the Act participate in such activities as foster parent training and parenting skills training.

The House Committee on Federal and State Affairs amended the bill as follows:

- Changed language in the bill from Grandparents as Foster Parents to Grandparents as Caregivers to clearly delineate this program is separate and distinct from the Foster Care Program;
- Changed the eligibility age to 50 and the annual household income to be less than 130 percent of the federal poverty level;
- Added the clarifying statement that a relative qualifying for the program shall be considered a grandparent for purposes of the Act; and
- Added a limitation on reimbursement to grandparents in the program to \$200 per grandchild per month but not to exceed \$600 per month. The reimbursement received would not be considered income in determining eligibility for public assistance benefits.

Representatives Faust-Goudeau and Powers and the Secretary of SRS presented testimony in favor of the balloon amendments suggested by SRS on SB 62. Twenty-nine other conferees testified in support of the SRS balloon amendments suggested by SRS on SB 62. The President of the Silver Haired Legislature testified in opposition to the balloon amendments suggested by SRS on SB 62 because the balloon amendment sets the federal poverty level at 100 percent rather than at 130 percent and he believed the permissive language in section 6(d) should be mandatory language.

The House Committee of the Whole adopted two amendments. One amendment made technical amendments and a substantive amendment striking language that would have established criteria for the reduction in cash benefits received by grandparents providing care for three or more grandchildren under the program. The Potorff amendment amended the language of 2006 HB 2670 (a bill that authorizes grandparents to intervene in pending litigation to establish visitation) into this bill. Grandparents would be permitted to intervene in a pending lawsuit which involves child custody or visitation rights

rather than requiring the grandparent to file an independent lawsuit to establish visitation rights. The grandparent would be permitted to request the court to grant grandparent visitation rights upon a finding that visitation rights would be in the child's best interest and that a substantial relationship between the child and the grandparent has been established.

The original fiscal note submitted by the Division of the Budget indicated the cost of the program would be \$4.5 million State General Fund. The fiscal note on this bill would not be affected by the addition of provisions of SB 459 (child support enforcement) but would be affected by the addition of the provisions of SB 491 (personal needs allowance for persons residing in Medicaid approved institutions). The fiscal note would be increased by the inclusion of the personal needs allowance in FY 2007 by \$2,788,000, including \$1,238,000 from the State General Fund distributed as follows:

- Department on Aging - \$2,590,000, including \$1,040,000 from the State General Fund; and
- Department of Social and Rehabilitation Services - Add \$198,000 from the State General Fund.

The fiscal note would be increased by \$9.9 million, including \$3.98 million from the State General Fund in FY 2007, with the inclusion of the nursing facility reimbursement rate increase from the State General Fund.