

SESSION OF 2006

**SUPPLEMENTAL NOTE ON HOUSE
SUBSTITUTE FOR SENATE BILL NO. 317**

As Recommended by House Committee on
Federal and State Affairs

Brief*

House Sub. for SB 317 would create, within the Office of the Attorney General, the "Abuse, Neglect and Exploitation of Persons with Disabilities Unit." The unit would work in partnership with the agency in Kansas which is designated under federal law and by the Governor as the state protection and advocacy agency.

The bill would provide that the Attorney General's Office and the state protection and advocacy agency would have a free exchange of information and that the unit in the Attorney General's Office would have access to all records of reports, investigation documents, and written reports of findings related to abuse, neglect, or exploitation of persons with disabilities received or generated by the Department of Social and Rehabilitation Services, the Department on Aging, the Department of Health and Environment, and the Long-Term Care Ombudsman. Information received and investigations conducted by the unit would be confidential as required by state or federal law.

Except for reports alleging self-neglect, the state agencies named in the bill which receive reports of abuse, neglect, or exploitation of persons with disabilities would have five days to forward to the unit the following:

- Each report of abuse, neglect, or exploitation of persons with disabilities at the time the report is received and, upon completion, the investigative reports and written report of findings;
- All incident reports of abuse, neglect, or exploitation of persons with disabilities, incident investigations reports, and any other reports generated as a result of reports of abuse, neglect, or exploitation of persons with disabilities;

*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>

- All licensing surveys, facility surveys, and other reports of surveys required by federal law, rules and regulations, or state law, rules and regulations; and
- Each report of an investigation in which such state agency was denied the opportunity or ability to conduct or complete a full investigation of abuse, neglect, or exploitation of persons with disabilities.

The unit would have to submit, before the first day of each Legislative session, a written report of such unit's activities, investigation and findings.

Background

The provisions of House Sub. for SB 317 were taken from Senate Sub. for HB 2105, as amended by the Senate Committee of the Whole.

Senate Sub. for HB 2105 was prompted by the Kaufman case which ended with prosecution of individuals charged with abusing disabled individuals who were in their care. According to the representative of the Attorney General, the bill is an effort to improve the sharing of information among agencies most likely to receive reports about individuals who are abused.

The bill would create a partnership between the Office of the Attorney General and the "state protection and advocacy agency." The agency in Kansas which has been designated under federal law and by the Governor of Kansas as the state protection and advocacy agency is the Disability Rights Center of Kansas. Under certain conditions provided for in Kansas law, the Center has greater access to individuals who are developmentally disabled or mentally ill, to facilities, and to records than has the Department of Social and Rehabilitation Services and has greater authority to conduct an investigation of alleged abuse.

In addition to the representative of the Attorney General, individuals appearing in support of the bill before the Senate Ways and Means Committee included representatives of the Disability Rights Center of Kansas, Kansans for Life, the Kansas Commission on Disability Concerns, and two women who were residents at the Kaufman House. A representative of the Office of Judicial

Administration expressed concern about an earlier version of the legislation which was not considered by the Committee.

The Senate Committee deleted provisions of HB 2105 as passed by the House and replaced them with the provisions concerning the unit within the Attorney General's Office, resulting in Senate Sub. for HB 2105. HB 2105 as it passed the House would have allowed certain employees of the State Fire Marshal's office to join the Kansas Police and Firemen's Retirement System.

The Senate Committee of the Whole amended Senate Substitute for HB 2105 to provide that the Attorney General shall request a subpoena for medical records in an investigation relating to any abuse, neglect or exploitation of person with disabilities. A provision also was added for the Attorney General to adopt rules and regulations to administer this bill.

The House Federal and State Committee met and approved the placement of the provisions of Senate Sub. for HB 2105, as amended by the Senate Committee of the Whole into SB 317, creating House Sub. for SB 317. However, the provision that would require the Attorney General to request a subpoena for medical records if necessary in the investigation of abuse, neglect, or exploitation of persons with disabilities was not included. The House Committee further amended the provision regarding the forwarding requirement to decrease from 30 days to five days the amount of time that the state agencies named in the bill have to forward reports of to the unit of abuse, neglect, or exploitation of persons with disabilities.

No fiscal impact statement was available at the time the Committee considered the bill.