

SESSION OF 2021

SUPPLEMENTAL NOTE ON SENATE BILL NO. 283

As Amended by House Committee on Judiciary

Brief*

SB 283, as amended, would amend law regarding the governmental response to the COVID-19 pandemic in Kansas.

Telemedicine

In the statute authorizing the use of telemedicine, the bill would amend a provision allowing an out-of-state physician to practice telemedicine to treat Kansas patients, to replace a requirement that such physician notify the State Board of Healing Arts (Board) and meet certain conditions with a requirement that the physician hold a temporary emergency license granted by the Board. The expiration date of this section also would be extended for one year, from March 31 2021, until March 31, 2022.

Temporary Licensure

The bill would amend a statute allowing the Board to grant temporary emergency licenses to practice the professions overseen by the Board to add a provision allowing an applicant to practice in Kansas pursuant to such license upon submission of a non-resident health care provider certification form to the Kansas Health Care Stabilization Fund and without paying the annual premium surcharge required by the Health Care Provider Insurance Availability Act. The bill also would extend the expiration of

*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>

this statute for one year, from March 31, 2021, until March 31, 2022.

Amendments to COVID-19 Response and Reopening for Business Liability Protection Act

Business Immunity Extension

The bill would amend the COVID-19 Response and Reopening for Business Liability Protection Act (Act) to extend the expiration date of the statute governing COVID-19 claim immunity for persons or agents of persons conducting business in the state by one year, until March 31, 2022.

Healthcare Provider Immunity

The bill would amend a statute in the Act regarding immunity for healthcare providers related to COVID-19 to specify such immunity would apply to claims arising between March 12, 2020, and March 31, 2022, and remove references to a declared state of disaster emergency.

Retroactivity

The bill would amend a statute regarding retroactivity of causes of action arising under the Act to specify the provisions related to healthcare provider immunity would apply retroactively to any cause of action accruing on or after March 12, 2020, and prior to March 31, 2022, rather than applying retroactively on or after March 12, 2020, and prior to termination of the state of disaster emergency related to COVID-19.

Expiration of Other Provisions

The bill would amend a statute regarding hospital facility usage for COVID-19 purposes to change its expiration to

March 31, 2022, from 120 calendar days after the expiration or termination of the COVID-19 state of disaster emergency proclamation..

The bill would amend a provision regarding critical access hospital bed limits to extend its expiration from June 30, 2021, until March 31, 2022.

Effective Date

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was introduced by the Senate Committee on Federal and State Affairs by Senator Petersen at the request of the Kansas Chamber. As introduced, the bill would have removed the March 31, 2021, expiration date included in the statute governing business liability and changed the retroactivity provision applicable to claims under the statute.

Senate Committee on Judiciary

In the Senate Committee hearing on March 2, 2021, a representative of the Kansas Chamber testified as a **proponent** of the bill. Written-only **proponent** testimony was provided by a representative of the American Property Casualty Insurance Association. No other testimony was provided.

On March 2, 2021, the Senate Committee adopted an amendment to extend the March 31, 2021, expiration date to March 31, 2022, and to remove the change to the retroactivity of such claims.

Senate Committee of the Whole

On March 3, 2021, the Senate Committee of the Whole adopted amendments regarding telemedicine, temporary licensure of professions overseen by the Board, and the expiration dates of other COVID-19-related statutes and provisions.

House Committee On Judiciary

In the House Committee hearing on March 18, 2021, representatives of the Kansas Chamber and Kansas Hospital Association provided **proponent** testimony on the bill. Written-only **proponent** testimony was provided by a representative of the American Property Casualty Insurance Association and a representative of the Kansas Grain and Feed Association, Kansas Agribusiness Retailers Association, and Renew Kansas Biofuels Association.

Written-only **opponent** testimony was provided by representatives of Kansas AFL-CIO, Kansas Trial Lawyers Association, and Working Kansas Alliance. No other testimony was provided.

On March 24, 2021, the House Committee adopted an amendment to modify provisions related to healthcare provider immunity and retroactivity in the COVID-19 Response and Reopening for Business Liability Protection Act.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, enactment of the bill could reduce litigation in the courts. However, it is not possible to estimate the reduced number of court cases that would occur and a fiscal effect cannot be estimated. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2022 Governor's Budget Report*.

["COVID-19", "business", "liability", "out-of-state providers", "telemedicine", "health care providers", "temporary emergency licensure"]