

SESSION OF 2022

SUPPLEMENTAL NOTE ON SENATE BILL NO. 276

As Amended by Senate Committee on Public
Health and Welfare

Brief*

SB 276, as amended, would, among other things, prohibit blindness from being a determinant factor for denial or restriction of legal custody, residency, or parenting time when it is determined to otherwise be in the best interest of a child. The bill would also make certain findings and declarations of the Legislature.

Definitions

The bill would define the following terms:

- “Blind” or “blindness” would mean a central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. The term “blind” or “blindness” would include any degenerative condition that reasonably can be expected to result in blindness;
- “Family foster home” would mean a child care facility that is a private residence, including any adjacent grounds, where a person provides care for 24 hours per day for one or more children in foster care and for which a license is required under statute; and
- “Supportive parenting services” would mean services including, but not limited to, services, aids, and supports that may assist a parent or

*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>

prospective parent who is blind in the effective use of non-visual techniques and other alternative methods to enable the parent or prospective parent to discharge parental responsibilities as successfully as a parent who is not blind.

Legal Custody, Residency, or Parenting Time

The bill would provide that, in any action brought under the Kansas Parentage Act or law related to dissolution of marriage, a parent's blindness would not serve as a basis for denial or restriction of legal custody, residency, or parenting time when such legal custody, residency, or parenting time is determined to otherwise be in the best interest of the child.

The bill would require, if a parent's blindness is alleged to not be in the best interests of a child, the party asserting such an allegation would be required to prove by clear and convincing evidence that the parent's blindness is not in the best interests of the child. The bill would provide, if the party asserting the allegation satisfies the burden of proof, the blind parent would have an opportunity to present evidence that, with the implementation of supportive parenting services, placement with such parent is in the best interests of the child.

The bill would allow the court to issue an order requiring supportive parenting services to be implemented and allow the parties to request the court review the need for continuing such supportive parenting services after a reasonable period of time. The bill would require a court, if it denies or otherwise restricts a blind parent's request for legal custody, to make specific findings of fact stating the basis for its decision, including reasons why the provision of supportive parenting services is not a reasonable accommodation required to prevent such denial or restriction.

The bill would provide that, in any action brought under the Kansas Adoption and Relinquishment Act, an individual's

blindness not serve as a basis for the denial of such prospective parent's participation in any adoption or, in any action brought under the Act for Obtaining a Guardian or a Conservator, or Both, appointment as a guardian when such appointment is determined to be in the best interest of the child.

The bill would also provide that an individual's blindness would not serve as the basis for the denial or restriction of licensure as a family foster home.

The bill would provide, in any action brought under the Revised Kansas Code for Care of Children, that an individual's blindness would not serve as the basis for an order of temporary custody, adjudication, disposition, finding of unfitness, or termination of parental rights. The bill would require the court, if it issues such an adverse order, to make specific findings of fact stating the basis for its decision, including reasons why the provision of supportive parenting services is not a reasonable preventative accommodation.

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 at the request of Senator Ware.

Senate Committee on Public Health and Welfare

In the Senate Committee hearing on February 1, 2022, private citizens and representatives of the Disability Rights Center of Kansas, National Federation of the Blind of Kansas, and Southeast Kansas Independent Living Resource Center provided **proponent** testimony, stating the bill would prevent discrimination against blind parents and provide procedural

safeguards that are not specified in the Americans with Disabilities Act.

Written-only proponent testimony was provided by ten private citizens.

No other testimony was provided.

The Senate Committee amended the bill to change the effective date to upon publication in the *Kansas Register*.

Fiscal Information

According to the fiscal note provided by the Division of the Budget on the bill, as introduced, the Department of Children and Families indicates enactment of the bill would have no fiscal effect on the agency. The Office of Judicial Administration (OJA) indicates enactment of the bill could have a fiscal effect on revenue and expenditures of the Judiciary. The bill would require the court to consider specific items in certain cases if one of the parties is blind. While this could increase the workload of judges and make cases more complicated, OJA states the workload is not anticipated to be significant. However, OJA indicates it is not possible to estimate the number of additional court cases that would arise or how complex and time-consuming they would be, so a fiscal effect cannot be determined. Any fiscal effect associated with the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Children; families; blindness; parental rights