

REVISED
SESSION OF 2011

SUPPLEMENTAL NOTE ON SENATE BILL NO. 14

As Amended by House Committee of the Whole

Brief*

SB 14 would amend existing law to, among other things, provide State High Risk Pool insurance coverage to children under the age of 19 in certain circumstances and would establish the Health Care Freedom Act.

State High Risk Pool-Related Changes

The bill would amend the Kansas Uninsurable Health Insurance Plan Act (the Act governing the administration of the State High Risk Pool) to:

- Allow the Kansas Health Insurance Association (the Pool's administrator) to accept children under the age of 19 who are otherwise eligible for the Pool, if no coverage is available under an individual health insurance policy for purchase in the county in which the child lives.

- Increase the statutory lifetime limit from \$2.0 million to \$3.0 million.

Health Care Freedom Act

The bill would enact the Health Care Freedom Act, which would codify the individual right of Kansas residents to

*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>

choose to purchase or refuse to purchase health insurance. The bill would state the government is prohibited from interfering with a resident's right to purchase or refuse to purchase the insurance.

The bill would state it is a resident's right to enter into a private contract with health care providers for lawful health care services, and that government is prohibited from interfering with this right. The bill would allow a person or employer to pay directly for the services and establish a prohibition against penalizing or fining for doing so. Likewise, the bill would allow a health care provider to accept direct payment for lawful health care services and establish a prohibition against penalizing or fining for doing so.

The bill would prohibit any state agency or other state entity from requiring an agreement to participate in Medicare, Medicaid or any other insurance plan, health care system or health information technology or benefit exchange as a condition for the licensure, registration or certification of a health care provider. State agencies and other governmental entities would not be allowed to prohibit participation by a health care provider in a health information organization for either health information technology or benefit exchange based on whether the health care provider participates in Medicare, Medicaid or any other insurance plans or health care systems.

The bill would provide that government is prohibited from enacting a law that would restrict any of the rights detailed in the Act or that would impose a form of punishment for exercising the rights. The bill also states none of the Act's provisions shall render a resident liable for any type of punishment or penalty as a result of the resident's failure to obtain health insurance coverage or participate in any health care system or plan.

The bill would define a number of terms, including "direct payment or pay directly" and "lawful health care services."

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

Background

SB 14 was introduced at the request of the Kansas Insurance Department whose representative indicated that in late 2010, the majority of insurance companies that market individual coverage in Kansas advised the agency that they would no longer issue individual coverage to children under the age of 19. As a result of discussions between the agency and insurance industry representatives, the agency determined that amending the eligibility requirements for the Pool through legislation was the preferred way to ensure this type of coverage would be available to children under 19 in the future.

The agency representative also indicated that the increase in the lifetime benefit would allow the Pool to continue to provide coverage for enrollees with ongoing serious health conditions. The agency representative stated that the increase in the lifetime benefit likely would increase the expenses incurred by the Pool, which could result in increased premiums or an increase in the amount of the assessment paid by the insurance companies operating in the state.

There were no opponents to the bill at the time of the Senate Committee hearing.

A representative for the Kansas Insurance Department appeared as a proponent before the House Committee on Health and Human Services. There were no neutral or opponent testimony at the House Committee hearing.

The House Committee on Health and Human Services amended the bill to remove a provision that would have allowed the Insurance Commissioner to approve any increases in the maximum lifetime coverage limits recommended by the Board (Kansas Health Insurance Association).

Health Care Freedom Act-Related Background

It should be noted that the version of the Health Care Freedom Act amended into this bill differs from that in HB 2129, which was recommended by the House Committee on Health and Human Services. However, the general topic is the same.

In March 2010, Congress enacted the federal health insurance reform law. The Affordable Care Act contains a provision requiring certain individuals to have a minimum level of health insurance. Covered individuals who fail to maintain sufficient coverage would be subject to a financial penalty beginning in 2014.

Testimony in support of HB 2129 was received from Senator Mary Pilcher-Cook; representatives of the Kansas Chamber, the National Federation of Independent Business, and the American Legislative Exchange Council; one practicing physician; and one retired attorney.

There was no testimony opposing the bill at the House Committee hearing.

The fiscal note on the original SB 14 states that the Kansas Insurance Department indicates that the passage of the bill would have no fiscal effect upon its operations.

No fiscal note was available at the time of the House Committee hearing on HB 2129.