

**Testimony on House Bill 2228
Children and Seniors**

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Madam Chair and Members of the Committee, thank you for the opportunity to provide testimony in support of HB 2228. HB 2228 proposes to amend K.S.A. 65-526 expanding the reasons the Department may assess a civil fine for violations of the Child Care Act.

The Child Care Act, K.S.A.65-501 et. seq, makes it unlawful to conduct or maintain a child care facility without a temporary permit or license. Public regulated child care as a business represents a basic level of protection for children receiving care away from their parents and home. Children's health, safety and well-being is at greatest risk when an individual fails to comply with the law and operates without a license. Facilities operating without a license are not inspected or monitored by KDHE. As a result, parents have no assurance that foundational health and safety standards are met. HB 2228 increases protections for children in out-of-home care by serving as deterrent to illegal care and potentially increasing the number of licensed and inspected child care facilities.

On an average, the Child Care Licensing Program receives 230 complaints of illegal child care a year. Reporting by the public is the primary means for the Department to identify potential illegal care providers. Complaints of illegal care are investigated. If the complaint is substantiated, the local licensing surveyor provides the individual written notification that a license is required and provides guidance to assist with application and licensure. The Department follows up with a formal letter notifying the individual of the requirement to apply for a license or cease care. Some individuals fail to comply with the law and continue to operate without a license or illegally. This is verified through a second on-site visit. The Department's very limited authority to intervene after a provider has demonstrated an unwillingness to comply is a point of concern for the regulated community providing safe and nurturing care to children of working families. Further, it may also be a disincentive to the public for the reporting illegal care.

Counties do have the authority under the law to act in cases of substantiated illegal child care. Pursuant to K.S.A. 65-514, violations of the Child Care Act are a misdemeanor and the authority to prosecute lies with the county attorney (K.S.A. 65-515). Regardless of the authority already in place, few county attorneys move forward and initiate prosecution or impose fines in accordance with the law.

Amending K.S.A.65-526 would allow the Department to assess a civil fine when an individual, after written notification and an opportunity to comply with the law, continues to provide child care without a license. Upon finding that any person continues to violate K.S.A. 65-501, the Department may assess a \$1,000 fine for each violation, and in the case of a continuing violation, every day that the violation continues shall be deemed a separate violation. The fine would not be applicable in situations where licensure does not apply. For example, when the provider is related to the children in care or when providing inconsequential care. A license is not required for one or two unrelated children not to exceed a combined total of twenty care hours a week.

Thank you for this opportunity to share the critical importance of this bill. I will now stand for questions.