

2021 KANSAS LEGISLATIVE RECAP

COVID-19 and KEMA Dominate Early Part of Session

Session Overview

The 2021 legislative session began on Jan. 11 with legislators immediately setting to work on the state's response to the COVID-19 pandemic and how state government would respond to public health emergencies in the future. With the introduction of more than 100 health-related bills, legislators worked many behavioral health, child welfare, and licensing and scope of practice bills, but fewer than 20 became law. Medicaid expansion briefly appeared but failed to receive any significant attention this year.

COVID-19 and KEMA

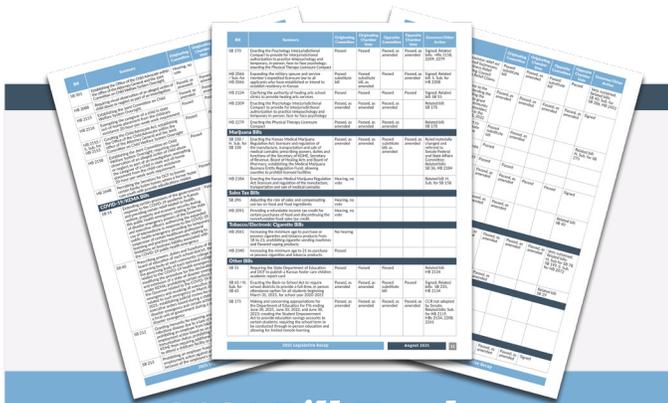
Legislators wasted no time getting started on bills related to COVID-19 and the Kansas Emergency Management Act (KEMA). Senate Bill (SB) 14 amended the statute ratifying and continuing the COVID-19-related state of disaster emergency created by 2020 Special Session House Bill (HB) 2016 and subsequent extensions by the State Finance Council. SB 14 also ratified and continued the state of disaster emergency (which had been set to expire on



Jan. 26) until March 31, 2021. In addition, the bill amended KEMA to (1) extend through 2021 a provision prohibiting the governor from proclaiming any new state of disaster emergency related to the COVID-19 public health emergency (PHE) without approval by at least six legislative members of the State Finance Council and (2) limit the governor's closure or cessation of business activity by limiting its application to a state of disaster related to the COVID-19 PHE. The bill also amended statutory provisions of existing law related to telemedicine, temporary emergency licensure by the Board of Healing Arts, temporary licensure measures for additional health care providers, and business immunity

KEY POINTS

- ✓ A district court judge in Johnson County ruled on July 14, 2021, that SB 40, which concerns governmental response to the COVID-19 emergency, is "unenforceable" but an appeal of that ruling has been filed.
- ✓ SB 159, the Omnibus Appropriations bill, provides \$2.7 million, including \$1.2 million SGF, for certified community behavioral health centers, a new delivery model for behavioral health services.
- ✓ Although Gov. Kelly announced in her State of the State address that Medicaid expansion was a priority for the session, companion bills introduced in March failed to receive hearings.
- ✓ SB 199, which would have amended Kansas law related to policy periods for short-term, limited duration insurance (STLDI) to conform with federal health insurance regulations approved in 2018, was passed on May 7 but vetoed by Gov. Kelly on May 20.
- ✓ H. Sub for SB 159, a bill that would have created the Kansas Medical Marijuana Regulation Act, was passed by the House on May 6. This bill and SB 315, introduced by the Senate on the same day, will be available for consideration during the 2022 session.
- ✓ SB 283, signed by Gov. Kelly on March 31, allows out-of-state physicians to treat patients in Kansas via telehealth through March 31, 2022, if they hold a temporary emergency license from the Kansas State Board of Healing Arts.



2021 Bill Tracker

Check out our table with descriptions and progress updates of health-related bills for the 2021 session.
Pages 8-12

2021-2022 Budget

Read more on House Bill 2007 (the base budget bill) and SB 159 (the Omnibus Appropriations bill).
Page 6

from liability for a COVID-19 claim. It was passed by the Senate on Jan. 14 on a vote of 34-1, and by the House on Jan. 21 on a vote of 119-3 and, on Jan. 25, became the first bill signed by Gov. Laura Kelly.

With many of the governor’s COVID-19 response executive orders set to expire on March 31, on March 16, legislators passed SB 40, which addresses a wide range of health-related issues, including (1) the powers and duties of state and local governing bodies and local health officers, (2) the procedure for the declaration and extension of a state of disaster emergency under KEMA, (3) prohibiting certain actions by the governor related to the COVID-19 PHE, and (4) limiting powers granted to the governor during a state of disaster emergency. A special edition of Kansas Health Institute’s *Health at the Capitol* providing a comprehensive summary of the contents of the 15-page bill signed by Gov. Kelly on March 24 can be reviewed online [here](#). On July 14, 2021, a district court judge in Johnson County ruled that SB 40 is unenforceable through its enforcement provisions because it “deprives the relevant governmental units of due process while also violating the constitutional separation of powers between the judicial and legislative branches.” An appeal of this ruling was filed on July 21, 2021.

SB 283, signed by the governor on March 31, continued the governmental response to the COVID-19 pandemic by extending until March 31, 2022, (1) the expanded use of telemedicine, (2) the authority of the Board of Healing Arts to grant certain temporary emergency

licenses, (3) the suspension of certain requirements related to medical care facilities and (4) immunity from civil liability for COVID-19 claims for certain health care providers and persons conducting business in the state.

HB 2126, signed by Gov. Kelly on April 9, provides immunity from civil liability for COVID-19 claims for certain covered facilities, including adult care homes, community mental health centers, crisis intervention centers, community service providers and community developmental disability organizations.

SB 273, which would have made significant changes to KEMA and the powers of the governor, the secretary of the Kansas Department of Health and Environment (KDHE), and city, county and school officials when responding to public health disasters, was significantly amended by both the Senate and House Judiciary Committees, producing two substitute bills which ultimately became H. Sub. for Sub. for SB 273 – the COVID-19 Small Business Relief Act. The final bill, which was adopted by both chambers on May 7, was vetoed by Gov. Kelly on May 21 and there was no motion to reconsider so the veto was sustained on May 26.

Sub. for SB 286 would have enacted the COVID-19 Business Relief Act to provide funds for impacted businesses; created the COVID-19 Business Relief Fund; and created the COVID-19 Business Relief Claims Board. The bill required the attorney general to administer the Act and also required certain counties and cities to establish and administer county and city COVID-19 business relief funds, respectively. The contents of H. Sub. for Sub. for SB 273 (discussed above) were replaced with the contents of this bill.

SB 212, as amended, which would have granted immunity for exposing another person to infectious disease due to a lack of immunization, prohibited an employer from taking adverse employment action based on an employee’s immunization status, and prohibited the Secretary of KDHE from requiring additional immunizations to attend a childcare facility or school, was passed favorably out of the Senate Public Health and Welfare Committee on March 29 but received no further action. SB 313, a related bill that would have prohibited an employer from taking any adverse employment action because of an employee’s vaccination status, received a hearing in the Senate Commerce Committee but no vote.

SB 159 (the Omnibus Appropriations bill) includes a proviso directing the Strengthening People and Revitalizing Kansas (SPARK) Executive Committee

to be composed of three members appointed by the governor with one serving as chairperson, two appointed by the speaker of the House, and two appointed by the president of the Senate. The bill also directs that no expenditures authorized by the State Finance Council shall be made by any agency from coronavirus relief funds without prior review and recommendation by the SPARK Executive Committee for fiscal year (FY) 2022.

Behavioral Health

In January, the 2020 Special Committee on Mental Health Modernization and Reform submitted its recommendations to the 2021 Legislature. Several recommendations were discussed throughout the session, and a few key recommendations were adopted by the Legislature.

S. Sub. for HB 2208, signed by Gov. Kelly on April 22, which established rural emergency hospitals as a hospital licensure category, also established the requirements for licensure, certification and funding for certified community behavioral health centers (CCBHC), a new delivery model for behavioral health services. CCBHCs will receive cost-based reimbursement for providing a set of required services including, but not limited to, crisis services, peer and family supports, psychiatric rehabilitation services, and outpatient mental health and substance use treatment services. The Omnibus Appropriations bill, SB 159, provides \$2.7 million, including \$1.2 million State General Funds (SGF), for CCBHCs and 10 full-time equivalent positions for certification in FY 2022. S. Sub. for HB 2208 also (1) reduced the number of clinical supervision hours required for most masters' level behavioral health clinicians from 4,000 to 3,000, (2) allowed clinical supervision hours to be completed via televideo, and (3) eliminated direct-client contact hours for clinical social work licensure practicums.

SB 159 also provides \$3.0 million, all SGF, to support implementation and operation of the 988 Crisis Hotline. In July 2022, the National Suicide Prevention Lifeline (NSPL) will convert from a traditional 10-digit phone number to 988, similar to dialing 911 for emergency services. The 988 hotline funding will support increasing the number of calls answered by Kansas providers and help callers connect to in-state resources.

HB 2007, the base budget bill, includes \$1.0 million SGF for a psychiatric residential treatment facilities pilot program in Newton for FY 2022, and up to \$4 million for operation (or contract for the operation) of eight

acute inpatient psychiatric beds for children in Hays or the surrounding area. For the FY ending June 30, 2022, the bill also requires the Kansas Department for Aging and Disability Services (KDADS) to expend funds to lift the moratorium on admissions to each state psychiatric hospital on or before Oct. 1, 2021, and prohibits the agency from expending funds to impose a moratorium on admissions. The same prohibition on expending funds to impose a moratorium is also included in the bill for the FY ending June 30, 2023.

HB 2079, signed by the governor on May 21, enacted the Kansas Fights Addiction Act and established the Kansas Fights Addiction and Municipalities Fight Addiction funds. The funds will be administered by the attorney general, who is required to remit to the state treasurer all moneys received by the state from opioid litigation in which the attorney general is involved. The funds in the Kansas Fights Addiction Fund are required to be used for grants to qualified applicants for projects and activities that prevent, reduce, treat or mitigate the effects of substance use disorder and addiction.

Child Welfare

On the first day of the session, the Special Committee on Foster Care Oversight submitted its report to legislators with recommendations for program improvement and oversight. HB 2158, signed by Gov. Kelly on May 21, contained several of these recommendations, including:

- Establishing the Joint Committee on Child Welfare System Oversight;
- Exempting caregivers of a child in state out-of-home placement from the childcare assistance 20-hours-per-week work requirement; and
- Requiring visual observation of an alleged victim of child abuse or neglect as part of an investigation (known as Adrian's Law).

The bill also provides certain exceptions to the confidentiality of State Child Death Review Board documents.

Licensing and Scope of Practice

Sub. for HB 2066, signed by Gov. Kelly on April 21, shortens the period of time in which professional regulatory bodies (e.g., Board of Healing Arts, Kansas Board of Technical Professions, Behavioral Sciences Regulatory Board, Kansas Society of Certified Public Accountants) are required to issue occupational

credentials to military service members or military spouses seeking to establish residence in Kansas and provides for expedited credentialing of non-military prospective residents who have received professional licensure in other states. The bill also (1) expands and clarifies existing conditions on expedited occupational credentialing, (2) permits temporary credentialing during states of emergency and the use of electronic credentials, and (3) requires licensing bodies to issue the appropriate credential to a military service member or spouse within 15 days from the date of the submission of a “complete application,” as defined by the bill, or within 45 days for all other applicants.

S. Sub. for HB 2208 enacted the Rural Emergency Hospital Act and created a category of licensure to enable certain Kansas hospitals to receive federal health care reimbursement as rural emergency hospitals (REH) and created the Rural Hospital Innovation Grant Program to provide support for eligible hospitals transitioning to the REH model.

SB 170 enacted the Psychology Interjurisdictional Compact, which allows psychologists to practice across state boundaries to offer telepsychology and allows participating psychologists to provide temporary (30 days in one calendar year) in-person psychology services. The bill also enacted the Physical Therapy Licensure Act. A third licensure compact — the Audiology and Speech-Language Pathology Interstate Compact — was enacted by SB 77.

Bills to update the scope of practice requirements for advanced practice registered nurses without a supervising physician (SB 174 and HB 2256), to expand the pharmacist’s scope of practice to include point-of-care testing for and treatment of certain health conditions (SB 200) and to provide for the licensure of dental therapists (SB 129) were once again introduced this session but failed to receive a vote following their hearings.

KanCare

Many flexibilities spurred by the COVID-19 pandemic continued for the KanCare program throughout the session, and new opportunities were included in the federal American Rescue Plan Act (ARP) of 2021, signed by President Joe Biden on March 11, 2021, including (1) 100 percent of the Federal Medical Assistance Percentage (FMAP) for COVID-19 vaccines and vaccine administration, effective April 1, 2021, through the last day of the quarter beginning one year after the COVID-19 PHE ends and (2) enhanced

FMAP from April 2021 to March 2022 for Home and Community Based Services (HCBS) waivers and the Program of All-Inclusive Care for the Elderly (PACE).

Legislators also addressed reimbursement rates for some providers through the budget process. HB 2007, the base budget bill approved by the governor on April 26, continued nursing facility reimbursement rate increases of an additional \$15 per day through May 1, 2021, and increased provider reimbursement rates for the Intellectual/Development Disability (I/DD) waiver by five percent for the last three months of FY 2021 and an additional two percent for FY 2022.

SB 159, the Omnibus Appropriations bill signed by the governor on May 21, extended the \$15 per day nursing facility increase through June 30, 2021. Increased reimbursement rates during FY 2022 for the Technology Assisted (TA) waiver for in-home registered nurses and licensed practical nursing services were included in both HB 2007 and SB 159.

HB 2007 also requires KDADS to submit quarterly reports on the Brain Injury waiver to the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight in FY 2022. The reports are to include the number of members enrolled in the waiver, the number of members receiving services for longer than two years and four years, and the number of members who did not receive services within a period of 60, 90 or 120 days after being enrolled.

SB 159 also raised the Protected Income Level (PIL) for FY 2022 from 150 percent of the 2019 federal Supplemental Security Income (SSI) limit (150 percent = \$1,157/month) to 300 percent (\$2,383/month) of the current SSI limit for HCBS waivers and PACE. Prior to changes that began two years ago, the PIL had been set at \$727 per month. HB 2249, which received a hearing but no further action, would have codified the increase to 150 percent of SSI in statute.

SB 154, as amended, which would have increased reimbursement rates for providers of HCBS under the I/DD waiver and directed the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight to study the waiting list for such services, passed favorably out of the Senate Ways and Means Committee but received no further action. The companion bill, HB 2046, received a hearing in the House Appropriations Committee but no vote.

HB 2373, which would have required KDADS to establish and implement a mobile crisis services program

for individuals with intellectual and/or developmental disabilities, was passed by the House Health and Human Services Committee but received no further action.

Medicaid Expansion

On Jan. 12, Gov. Kelly included Medicaid expansion as a priority for the session in her State of the State message and subsequently included funding for expansion in her 2021-2022 budget proposal. For fiscal year (FY) 2022, expenditures of \$596.0 million from all funds were included for expansion, with \$19.0 million from the SGF. Costs for expansion also were included in her recommendation for FY 2022 caseloads. On Feb. 1, she announced a new proposal to expand eligibility for Medicaid to adults with income up to 138 percent of the federal poverty level, with components like those in 2020 SB 252, which included the creation of a new funding mechanism for the state's share of expansion — revenue from the legalization of medical marijuana.

On March 3, during the Senate's deliberations on a bill related to behavioral health and telemedicine, an amendment was offered to establish the Kansas Innovative Solutions for Affordable Health Care Act, which would have expanded Medicaid, but the motion was defeated 23-12.

HB 2436, which would have enacted the Kansas Medical Marijuana Regulation Act and expanded Medicaid, and the companion bill, SB 287, were introduced in March but neither bill received a hearing and no further attempts to pass expansion were made during the remainder of the session.

If legislators choose to take another look at expansion in 2022, Congress is now providing a new financial incentive to the 12 states, including Kansas, that have not yet chosen to expand Medicaid. Under the ARP, states that do not have expansion in place are eligible for a five-percentage point increase in the state's regular match rate, which applies to most services for children, non-expansion adults, seniors and people with disabilities, for two years if they implement expansion.

Health Insurance Regulation

A handful of bills related to health insurance received hearings during the session, but only one passed out of committee and none became law.

SB 199, introduced on Feb. 10, would have amended existing insurance law to update the term "short-term limited duration" insurance (STLDI) to specify a policy

period of less than 12 months (currently 6 or 12 months) and a policy that offers renewal or extension periods of up to a maximum policy period of 36 months total in duration (currently not more than one renewal period). The bill also required the addition of a notice to consumers in STLDI contracts and application materials that these policies are not required to comply with federal Affordable Care Act requirements. Following two days of hearings in the Financial Institutions and Insurance Committee, the bill was amended to remove the notice language because similar language is already required under federal law and passed favorably out of committee. On May 6, a conference committee replaced the contents of SB 29 (related to risk-based capital instructions) with the contents of SB 199, and the bill was passed on May 7. After Gov. Kelly vetoed the bill on May 20, the House failed to override the veto on May 26.

SB 48 would have required every individual or group health insurance policy, and other types of health insurance plans that provide coverage for accident and health services and benefits for diagnostic examinations for breast cancer, to apply the same cost-sharing requirements and treatment limitations to diagnostic examinations for breast cancer that are applicable to screening examinations (i.e., mammograms) for breast cancer.

HB 2110 would have required the State Employees Health Care Commission, which administers the State Employee Health Plan, to provide coverage for the diagnosis and prescribed treatment of pediatric acute-onset neuropsychiatric syndrome (PANS) and pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections (PANDAS) beginning Jan. 1, 2022. Patients, typically children, are diagnosed with PANS and PANDAS after experiencing a sudden onset of symptoms such as obsessive-compulsive disorder, tics or severe eating restriction.

HB 2157 would have required insurers, when coverage for a prescription drug or treatment is restricted by the patient's health insurance plan through the use of a step therapy protocol, to provide patients and prescribers with a clear, readily accessible and convenient process to request an exception from the step therapy requirements.

HB 2129 would have required the State Employees Health Care Commission to provide coverage for tobacco cessation benefits for enrollees. Cessation benefits under the bill would have included any U.S. Food and Drug Administration approved medication

2021-2022 BUDGET

House Bill 2007 (the base budget bill), approved by Gov. Kelly on April 25, 2021, with 26 line-item vetoes, provided funding for FY 2021 and FY 2022.

The FY 2021 revised budget included:

- Reduction of Human Services Caseloads expenditures by \$166.5 million SGF to reflect the revised FMAP match rate contained in the federal Families First Coronavirus Response Act.
- \$37.4 million, including \$13.1 million SGF, to provide a \$15 increase for the daily reimbursement rate for nursing facilities for 178 days in FY 2021, to continue the daily rate increase provided due to the COVID-19 pandemic for the remainder of calendar year 2020.
- \$37.8 million, including \$13.2 million SGF, to provide a \$15 increase for the daily reimbursement rate for nursing facilities for 120 days, starting Jan. 1, 2021, in FY 2021 and adds language making this increase subject to review and approval of the Legislative Coordinating Council at the end of the 120 days, or May 1, 2021, for continuation through June 30, 2021. This recommendation is to continue the daily rate increase provided during the COVID-19 pandemic for the remainder of FY 2021.
- \$5.5 million, including \$2.0 million SGF, to provide a 5 percent increase in the provider reimbursement rates for the Medicaid HCBS I/DD waiver for the last three months of FY 2021.

The FY 2022 approved budget included:

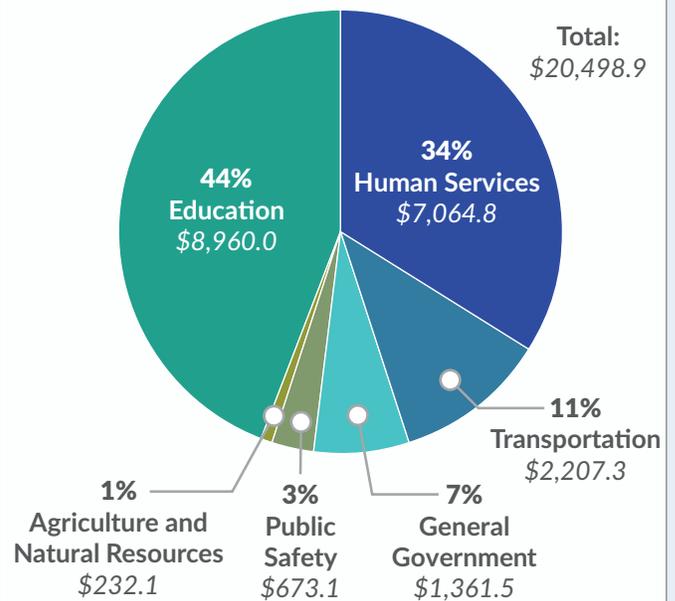
- \$31.0 million, including \$12.4 million SGF, to continue the 5 percent increase in the provider reimbursement rates for the HCBS I/DD waiver from FY 2021 and provide an additional 2 percent increase for FY 2022.
- \$20.5 million, including \$8.2 million SGF, to provide a 3-percent increase in the Medicaid reimbursement rate for nursing facilities.
- \$10.5 million, including \$4.2 million SGF, for the HCBS Technology Assisted waiver, to increase provider reimbursement rates for the Specialized Medical Care (T1000) services code.
- \$3.0 million, all SGF, for Senior Care Act services.
- \$2.0 million, all SGF, for additional funding for Community Mental Health Center grants.
- \$1.0 million, all SGF, for a psychiatric residential treatment facilities pilot program at Ember Hope in Newton.

Senate Bill 159 (the Omnibus Appropriations bill), approved by Gov. Kelly on May 21, 2021, with one line-item veto, included funding for bills enacted during the 2021 session and various mid-year expenditure adjustments.

FY 2021 adjustments totaling \$13.0 million, including \$4.4 million from the SGF, included:

- Adoption of the Governor's Budget Amendment No. 3, Item 1, to delete \$353.7 million, including \$189.5 million SGF, to adopt the Spring 2021 Human Services Caseloads.

Figure 1. Fiscal Year 2022 Approved Expenditures From All Funding Sources (in Millions)



Note: Includes expenditures authorized during the 2021 legislative session. Total may not sum because of rounding.
Source: Fiscal Year 2022 Comparison Report, Kansas Division of the Budget.

- \$12.6 million, including \$4.4 million SGF, to provide a temporary \$15 increase to the daily Medicaid reimbursement rate for nursing facilities from May 1, 2021, through June 30, 2021.

FY 2022 adjustments totaling \$83.2 million, including \$70.7 million SGF, included:

- \$10.0 million, all SGF, for the Kansas Promise Scholarship Act.
- \$31.1 million, including \$20.6 million SGF, for the Human Services function and deletion of \$268.8 million, including \$141.6 million SGF, to implement the Spring 2021 Human Services Consensus Caseloads.
- \$2.7 million, including \$1.2 million SGF, for CCBHC funding, and 10 full-time equivalent positions for CCBHC certification.
- \$5.6 million, including \$2.0 million SGF, for the Medicaid HCBS Technology Assisted waiver.
- \$3.0 million, all SGF, for costs associated with the 988 Crisis Hotline, and lapse SGF funds associated with the 988 Crisis Hotline implementation if federal funds are available for this purpose.
- \$9.6 million, including \$4.3 million SGF, to raise the PIL for HCBS waivers and PACE from 150 percent to 300 percent of the federal supplemental security income limit.
- A proviso requiring the KDHE Division of Environment to issue a request for proposal to construct or renovate and equip a laboratory within eight miles of the Capitol Complex.

prescribed as a tobacco cessation treatment and would have required coverage for at least four 90-day medication supported tobacco cessation attempts per year.

Tobacco Products and Electronic Cigarettes

HB 2061, which would have (1) increased the minimum age for the purchase or possession of cigarettes and other tobacco products, including vaping devices, (2) prohibited the sale of “regulated products” (cigarettes, electronic cigarettes or flavored consumable material or tobacco products) in vending machines, and (3) prohibited flavored vaping products, except tobacco or menthol flavors, failed to receive a hearing.

HB 2340, which would have (1) amended the Kansas Cigarette and Tobacco Products Act to increase the minimum age from 18 to 21 years to purchase or possess cigarettes, electronic cigarettes, consumable materials, and tobacco products, (2) prohibited the use of electronic cigarettes under the Kansas Clean Indoor Air Act; (3) amended K.S.A. 72-6285, which currently prohibits the use of tobacco products in school buildings, to include the four products mentioned above, and (4) increased the number of compliance checks of retailers from one to two unannounced controlled buys per year, was passed favorably out of the House Federal and State Affairs Committee on Feb. 26, but received no further action.

Executive Reorganization Order — Restructured Agencies

On Jan. 25, Gov. Kelly submitted Executive Reorganization Order (ERO) No. 47 to the Legislature, which was similar to one disapproved during the 2020 session, that would have (1) renamed the Kansas Department for Children and Families (DCF) to the Kansas Department of Human Services (DHS), (2) authorized DHS and the Secretary of DHS to administer all programs and services currently administered by DCF, (3) abolished KDADS, and (4) transferred all jurisdiction, powers, functions and duties from KDADS to DHS. The House disapproved ERO No. 47 on a vote of 84-38 on March 25.

Medical Marijuana

On May 6, the House, on a vote of 79-42, passed H. Sub. for SB 158, which would have created

the Kansas Medical Marijuana Regulation Act and Kansas Medical Marijuana Regulation Program. On May 7, when the Senate ruled that the bill was “materially changed” and chose not to consider it this session, Senate President Ty Masterson stated the bill would be available for consideration during the 2022 session and suggested that a joint committee might consider it during the interim period. That same day, SB 315, which would create the Kansas Medical Marijuana Regulation Act, was introduced by the Senate. Both bills will likely be considered by legislators when the Legislature reconvenes in 2022. A summary and comparison of both bills has been prepared by KHI staff and can be reviewed online [here](#).

Telehealth

The Legislature considered multiple bills related to telehealth. SB 14 extended flexibilities added during the pandemic, including allowing qualifying out-of-state physicians to treat patients located in Kansas via telehealth. While this provision in SB 14 expired on March 31, SB 283, which was passed and signed by the governor on March 31, allows out-of-state physicians to treat patients located in Kansas if they hold a temporary emergency license from the Kansas State Board of Healing Arts through March 31, 2022.

S. Sub. for HB 2208, signed by the governor on April 22, authorizes telemedicine waivers for out-of-state health providers and allows applicable health care licensing agencies to offer telehealth waivers to other professions licensed by these agencies. As of June 2021, the Kansas State Board of Healing Arts is offering telemedicine waivers for all health care professions it regulates.

Sub. for SB 238, which made several updates to the Kansas Pharmacy Act, defines telepharmacy as the “practice of pharmacy by a pharmacist located in Kansas using telecommunications or other automations and technologies to deliver personalized, electronically documented, real-time pharmaceutical care to patients ... who are located at sites other than where the pharmacist is located, including prescription dispensing and counseling and to oversee and supervise telepharmacy outlet operations.” The bill also requires the State Board of Pharmacy to adopt rules and regulations for managing telepharmacy and telepharmacy outlets by Jan. 1, 2023.

Other Health-Related Issues

HB 2114, signed by Gov. Kelly on April 21, established the Senior Care Task Force, with a sunset date of June 30, 2023. The bill (1) outlines the topics to be studied by the Task Force, (2) provides for the appointment and compensation of Task Force members, (3) establishes the frequency and location of meetings, (4) requires a preliminary and final report to the Legislature, and (5) requires KDADS to provide the Task Force with data and information that is not prohibited or restricted from disclosure by state and federal law.

HB 2056, which would have regulated the sale and distribution of kratom products as a part of the Kansas Food, Drug and Cosmetic Act, was passed by the House on May 6 but was not taken up by the Senate.

SB 211, which was introduced on Feb. 10 but did not receive a hearing, would have allowed physicians to have patients sign a liability waiver for off-label use of prescription drugs. The text of the bill was subsequently inserted into HB 2280, which was passed by the House on March 3, and passed by the Senate Public Health and Welfare Committee on March 30, but received no further action.

HB 2004, referred to as Charlie's Law, would have created the right to appeal an involuntary discharge or transfer from an adult residential care facility. The bill received a hearing in the House Children and Seniors Committee on Jan. 21 but no vote.

SB 296 and HB 2091, related to the sales tax rate on food, were introduced and received hearings but neither received a vote.

HB 2058, which became law on May 3 after the governor's veto was overridden, provides reciprocity for licenses to carry concealed handguns, created a class of concealed carry license for individuals 18 to 20 years of age, and created the Kansas Protection of Firearm Rights Act. Another firearms bill, Sub. for HB 2089, which would have created standardized firearm safety education programs to be conducted in public schools, was vetoed by the governor on April 22 and sustained on May 8.

H. Sub. for SB 63, signed by the governor on April 5, enacted the Back-to-School Act, which required school districts to provide a full-time, in-person attendance option for all students beginning March 31, 2021, for school year 2020-2021.

Bill Tracking

The following table describes some of the health-related bills monitored by KHI during the 2021 session, showing how far they moved through the legislative process.

Bill	Summary	Originating Committee	Originating Chamber Vote	Opposite Committee	Opposite Chamber Vote	Governor/Other Action
Behavioral Health Bills						
HB 2079	Enacting the Kansas Fights Addiction Act; prescribing powers, duties and functions of the Attorney General related thereto	Passed, as amended	Passed, as amended	Passed, as amended	Passed, as amended	Signed; Related bills: SBs 56, 264, HB 2080
HB 2208 / S. Sub. for HB 2208	Establishing rural emergency hospitals as a rural healthcare licensure category; requirements for licensure; certification and funding for certified community behavioral health clinics; prescribing powers, duties and functions of KDADS and KDHE related thereto; authorizing telemedicine waivers for out-of-state healthcare providers; expanding out-of-state temporary permits to practice behavioral sciences professions; establishing the rural hospital innovation grant program	Passed, as amended	Passed, as amended	Passed as S. Sub. for HB 2208	Passed as S. Sub. for HB 2208	Signed; Related bills: SBs 138,175, Sub. for HB 2066, HB 2174
HB 2412	Enacting the Kansas Fights Addiction Act	Passed, as amended	Passed, as amended			
Child Welfare Bills						
SB 120	Establishing the Joint Committee on Child Welfare System Oversight	Passed	Passed	Passed, as amended	Stricken from Calendar	

Bill	Summary	Originating Committee	Originating Chamber Vote	Opposite Committee	Opposite Chamber Vote	Governor/Other Action
SB 301	Establishing the Office of the Child Advocate within the office of the Attorney General and the Joint Committee on Child Welfare System Oversight.	Hearing, no vote				Related bill: S. Sub for HB 2153
HB 2088	Requiring visual observation of an alleged victim of child abuse or neglect as part of an investigation	Passed, as amended	Passed, as amended			Related bill: HB 2158
HB 2115	Establishing the Joint Committee on Child Welfare System Oversight.	Passed, as amended	Passed, as amended	Passed, as amended		Related bill: HB 2158
HB 2116	Exempting the caregiver of a child in state out-of-home placement from the childcare assistance 20-hour-per-week work requirement	Passed	Passed	Passed, as amended		Related bill: HB 2158
HB 2153 / S. Sub. for HB 2153	Creating the Child Advocate Act; establishing the Office of the Child Advocate within the office of the Attorney General and the Joint Committee on Child Welfare System Oversight	Passed	Passed	Passed substitute bill	Passed substitute bill	Related bill: SB 301
HB 2158	Establishing the Joint Committee on Child Welfare System Oversight; requiring visual observation of an alleged victim of child abuse or neglect as part of an investigation; exempting the caregiver of a child in state out-of-home placement from the child-care assistance 20-hour-per-week work requirement	Passed	Passed	Passed, as amended	Passed, as amended	Signed; Related bills: SB 170, S. Sub for HB 2063, HBs 2088, 2115, 2116, 2448
HB 2448	Permitting the Secretary for DCF to license certain family foster homes where a former foster care youth with juvenile adjudications resides	Passed	Passed			Related bill: HB 2158

COVID-19 and KEMA Bills

SB 14	Extending certain provisions of the governmental response to the COVID-19 pandemic in Kansas and providing certain relief related to health, welfare, property and economic security during this public health emergency; relating to the state of disaster emergency powers of the governor and executive officers; authorizing the expanded use of telemedicine in response to the COVID-19 public health emergency; providing for temporary suspension of certain healthcare professional licensing and practice requirements; relating to limitations on business liability associated with the COVID-19 public health emergency	Passed	Passed	Hearing, no vote, referred to Committee of the Whole	Passed	Signed
SB 40	Prescribing powers, duties and functions of the board of education of each school district, the governing body of each community college and the governing body of each technical college related to the COVID-19 health emergency; modifying the procedure for the declaration and extension of a state of disaster emergency under KEMA; prohibiting certain actions by the governor related to the COVID-19 health emergency and revoking all executive orders related to such emergency on March 31, 2021; establishing judicial review for certain executive orders issued during a state of disaster emergency and certain actions taken by a local unit of government during a state of local disaster emergency	Passed, as amended	Passed, as amended	Passed,	Passed, as amended	Signed; Related bills: SB 38, H. Sub. for Sub. for SB 273, HB 2416 Note: On July 14, 2021, Johnson Co. district court judge ruled SB 40 unenforceable because it violates certain constitutional principles. Appeal filed July 21, 2021
SB 212	Granting immunity for exposing another to infectious disease due to a lack of immunization; prohibiting an employer from taking adverse employment action based on an employee's immunization status; prohibiting the Secretary of KDHE from requiring additional immunizations to attend a childcare facility or school.	Passed, as amended				Related bill: SB 213
SB 213	Prohibiting an employer from taking any adverse employment action against an employee because of the employee's vaccination status	Hearing, no vote				Related bill: SB 212

Bill	Summary	Originating Committee	Originating Chamber Vote	Opposite Committee	Opposite Chamber Vote	Governor/Other Action
SB 273 / Sub. for SB 273/ H. Sub. for Sub. for SB 273	Enacting the COVID-19 small business relief act to provide funds for impacted small businesses; created the COVID-19 Small Business Relief Fund of the Legislative Coordinating Council and the COVID-19 Small Business Relief Claims Board	Passed substitute bill	Passed, as amended	Passed substitute bill	Passed	Veto sustained; Related bills: SB 40; Sub. for SB 286, HB 2451
SB 283	Continuing the governmental response to the COVID-19 pandemic in Kansas by extending the expanded use of telemedicine; extending the authority of the Board of Healing Arts to grant certain temporary emergency licenses; immunity from civil liability for certain healthcare providers and certain persons conducting business in the state for COVID-19 claims until March 31, 2022	Passed, as amended	Passed, as amended	Passed, as amended	Passed, as amended	Signed
SB 286 / Sub. for SB 286	Enacting the COVID-19 business relief act to provide funds for impacted businesses; create the COVID-19 Business Relief Fund and the COVID-19 Business Relief Claims Board	Passed substitute bill	Passed, as amended			Related bill: H. Sub. for SB 273
SB 295	Giving counties the authority to adopt prioritized COVID-19 vaccination plans separate from state guidelines.	Passed				
SB 304	Removing the sunset provision in the COVID-19 contact tracing privacy act.	Passed	Passed			
HB 2126	Providing immunity from civil liability for COVID-19 claims for certain covered facilities, including adult care homes, community mental health centers, crisis intervention centers, community service providers and community developmental disability organizations	Passed, as amended	Passed, as amended	Passed	Passed	Signed
HB 2416	Modifying the procedure for declaring and extending a state of disaster emergency; limiting powers granted to the governor during a state of disaster emergency; prohibiting the governor or the State Board of Education from closing private schools during a state of disaster emergency	Passed, as amended	Passed, as amended			Related bill: SB 40
Health Insurance Bills						
SB 29	Amending existing law governing short-term, limited duration policies to redefine such policies to specify a policy period of less than 12 months and offer renewal or extension periods up to a maximum policy period of 36 months total in duration and remove language required to be included in STLDI contracts and application materials regarding their noncompliance with federal ACA requirements	Passed, as amended	Passed, as amended	Passed, as amended	Passed, as amended	Veto sustained; Related bills: H. Sub for SB 78, SB 199, S. Sub. for HB 2072
SB 199	Amending existing law governing short-term, limited duration policies	Passed, as amended	Passed, as amended			Related bill: SB 29
KanCare Bills						
SB 154	Increasing reimbursement rates for providers of home and community-based services under the intellectual or developmental disability waiver; making appropriations for FYs ending June 30, 2021, and June 30, 2022, for KDADS	Passed, as amended				
HB 2046	Increasing reimbursement rates for providers of home and community-based services under the intellectual or developmental disability waiver; making appropriations for FYs ending June 30, 2021, and June 30, 2022, for KDADS	Hearing, no vote				
Licensing and Scope of Practice Bills						
SB 77	Enacting the Audiology and Speech-Language Pathology Interstate Compact.	Passed	Passed	Passed, as amended	Passed, as amended	Signed

Bill	Summary	Originating Committee	Originating Chamber Vote	Opposite Committee	Opposite Chamber Vote	Governor/Other Action
SB 170	Enacting the Psychology Interjurisdictional Compact to provide for interjurisdictional authorization to practice telepsychology and temporary, in-person, face-to-face psychology; enacting the Physical Therapy Licensure Compact	Passed	Passed	Passed, as amended	Passed, as amended	Signed; Related bills: HBs 2158, 2209, 2279
HB 2066 / Sub. for HB 2066	Expanding the military spouse and service member's expedited licensure law to all applicants who have established or intend to establish residency in Kansas	Passed substitute bill	Passed substitute bill, as amended	Passed	Passed, as amended	Signed; Related bill: S. Sub. for HB 2208
HB 2124	Clarifying the authority of healing arts school clinics to provide healing arts services	Passed	Passed	Passed	Passed	Signed; Related bill: SB 55
HB 2209	Enacting the Psychology Interjurisdictional Compact to provide for interjurisdictional authorization to practice telepsychology and temporary in-person, face-to-face psychology	Passed, as amended	Passed, as amended	Passed, as amended		Related bill: SB 170
HB 2279	Enacting the Physical Therapy Licensure Compact	Passed, as amended	Passed, as amended	Passed, as amended		Related bill: SB 170
Marijuana Bills						
SB 158 / H. Sub. for SB 158	Enacting the Kansas Medical Marijuana Regulation Act; licensure and regulation of the manufacture, transportation and sale of medical cannabis; prescribing powers, duties and functions of the Secretary of KDHE, Secretary of Revenue, Board of Healing Arts and Board of Pharmacy; establishing the Medical Marijuana Business Entity Regulation Fund; allowing counties to prohibit licensed facilities	Passed, as amended	Passed, as amended	Passed substitute bill, as amended	Passed, as amended	Ruled materially changed and referred to Senate Federal and State Affairs Committee; Related bills: SB 36, HB 2184
HB 2184	Enacting the Kansas Medical Marijuana Regulation Act; licensure and regulation of the manufacture, transportation and sale of medical cannabis	Hearing, no vote				Related bill: H. Sub. for SB 158
Sales Tax Bills						
SB 296	Adjusting the rate of sales and compensating use tax on food and food ingredients	Hearing, no vote				
HB 2091	Providing a refundable income tax credit for certain purchases of food and discontinuing the nonrefundable food sales tax credit.	Hearing, no vote				
Tobacco and Electronic Cigarette Bills						
HB 2061	Increasing the minimum age to purchase or possess cigarettes and tobacco products from 18 to 21; prohibiting cigarette vending machines and flavored vaping products.	No hearing				
HB 2340	Increasing the minimum age to 21 to purchase or possess cigarettes and tobacco products.	Passed				
Other Bills						
SB 51	Requiring the State Department of Education and DCF to publish a Kansas foster care children academic report card	Passed	Passed	Passed		Related bill: HB 2134
SB 63 / H. Sub. for SB 63	Enacting the Back-to-School Act to require school districts to provide a full-time, in person attendance option for all students beginning March 31, 2021, for school year 2020-2021	Passed, as amended	Passed, as amended	Passed substitute bill	Passed	Signed; Related bills: SB 235, HB 2134
SB 175	Making and concerning appropriations for the Department of Education for FYs ending June 30, 2021, June 30, 2022, and June 30, 2023; creating the Student Empowerment Act to provide education savings accounts to certain students; requiring the school term to be conducted through in-person education and allowing for limited remote learning	Passed, as amended	Passed, as amended	Passed, as amended	Passed, as amended	CCR not adopted by Senate; Related bills: Sub. for HB 2119, HBs 2134, 2208, 2261

Bill	Summary	Originating Committee	Originating Chamber Vote	Opposite Committee	Opposite Chamber Vote	Governor/Other Action
SB 238 / Sub. for SB 238	Requiring emergency medical services operators be overseen by medical directors or physicians; clarifying duties and functions of the State Board of Pharmacy; defining telepharmacy and requiring the adoption of rules and regulations related thereto	Passed substitute bill	Passed, as amended	Passed, as amended	Passed, as amended	Signed; Related bills: SB 138, HBs 2234, 2280
HB 2007	Appropriations for FY 2021, FY 2022, FY 2023 and FY 2024 for state agencies	Passed	Passed	Passed, as amended	Passed, as amended	Signed, with 26 line-item vetoes; four line-item vetoes overridden; Related bill: SB 26
HB 2058	Providing reciprocity for licenses to carry concealed handguns and creating a new class of concealed carry license for individuals 18 to 20 years of age	Passed, as amended	Passed, as amended	Passed, as amended	Passed, as amended	Veto overridden; Related bill: HB 2089
HB 2089 / Sub. for HB 2089	Creating law related to firearm safety education programs conducted in public school districts; allowing a local school board to provide firearm safety education programs; directing the State Board of Education to establish curriculum guidelines for a standardized firearm safety education program	Passed substitute bill	Passed	Passed, as amended	Passed, as amended	Veto sustained; Related bill: HB 2058
HB 2114	Establishing the Senior Care Task Force; a Kansas elder and dependent abuse multidisciplinary team coordinator and teams; prescribing requirements for membership and reporting to the Legislature; requiring additional persons to report abuse, neglect or financial exploitation of adults	Passed, as amended	Passed, as amended	Passed, as amended	Passed, as amended	Signed; Related bills: HBs 2150, 2151
HB 2134	Making appropriations for the Kansas State Department of Education for FY 2021, FY 2022 and FY 2023; requiring a Kansas foster care children annual academic report card; authorizing limited remote learning	Passed	Passed	Passed, as amended	Passed, as amended	Signed; Related bills: SBs 28, 32, 51, H. Sub. for SB 63, SBs 173, 175, HBs 2067, 2068
HB 2150	Creating a definition of financial exploitation; requiring additional mandatory reporters and increasing investigation days in the abuse, neglect and financial exploitation of certain adults	Passed, as amended	Passed, as amended			Related bill: HB 2114
HB 2151	Creating a Kansas elder and dependent adult abuse multidisciplinary team coordinator and elder and dependent adult abuse multidisciplinary teams	Passed	Passed	Passed		Related bill: HB 2114
HB 2174	Establishing the rural hospital innovation grant program to assist rural hospitals in serving rural communities	Hearing, no vote				Related bill: S. Sub. for HB 2208
HB 2234	Requiring medical directors of emergency medical services to provide medical oversight of such services and emergency medical service providers	Passed	Passed	Passed		Related bill: Sub. for SB 238
HB 2261	Enacting the Rural Emergency Hospital Act to provide for the licensure of rural emergency hospitals	Passed	Stricken from Calendar			Related bill: SB 175
HB 2280	Allowing patients to sign a liability waiver to be prescribed off-label use drugs; defining telepharmacy and requiring rules and regulations be adopted for oversight and administration thereof	Passed	Passed, as amended	Passed, as amended		Related bills: SB 211, Sub. for SB 238

ABOUT THE ISSUE BRIEF

This brief is based on work done by Linda J. Sheppard, J.D., Peter F. H. Barstad, Hina B. Shah, M.P.H., and Sydney McClendon. It is available online at khi.org/policy/article/21-39.

KANSAS HEALTH INSTITUTE

The Kansas Health Institute supports effective policymaking through nonpartisan research, education and engagement. KHI believes evidence-based information, objective analysis and civil dialogue enable policy leaders to be champions for a healthier Kansas. Established in 1995 with a multiyear grant from the Kansas Health Foundation, KHI is a nonprofit, nonpartisan educational organization based in Topeka.

Copyright© Kansas Health Institute 2020. Materials may be reprinted with written permission. Reference publication number KHI/21-39.

 212 SW 8th Avenue | Suite 300
Topeka, Kansas | 66603-3936

 785.233.5443

 khi.org

 /KHIorg

 @KHIorg

 KHIorg