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MEMORANDUM

To: House Committee on Judiciary

From: Office of Revisor of Statutes

Date: February 3, 2021

Subject: Bill Brief on HB 2126

HB 2126 provides immunity from civil liability for COVID-19 claims for adult care facilities.

Current law in K.S.A. 60-5502 and 60-5506 provides that adult care facilities, defined as nursing facilities, assisted living facilities and residential healthcare facilities have an affirmative defense to liability in a civil action for a COVID-19 claim if the facility is acting in substantial compliance with public health directives and (1) was required by law to reaccept a resident who had been removed for treatment of COVID-19 or (2) treats a resident who has tested positive for COVID-19 in compliance with law.

This bill would amend K.S.A. 60-5502 to expand the definition of an adult care facility to include any adult care home as defined in K.S.A. 39-923 and centers approved by the centers for medicare and medicaid services as a program for all-inclusive care for the elderly. The bill would also amend K.S.A. 60-5506 to provide that these facilities would be immune from liability for any COVID-19 claim. The immunity would not apply when gross negligence or willful, wanton or reckless conduct is established. The amendments made to this section would be applied retroactively to conduct happening on or after March 12, 2020 and through the end of the state of disaster emergency related to COVID-19.