

House Committee on Judiciary
March 9, 2009

**SB 87/Public agencies relating to disclosure of certain records,
administrative procedure; judicial review**
As Amended by the Senate Committee

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Chairman Kinzer and Members of the Committee,

I am Joann Corpstein, chief counsel for the Kansas Department on Aging. The KDOA thanks you for this opportunity to comment on Senate Bill 87 as amended by the Senate Committee. As you are aware, the KDOA, among other responsibilities, licenses, inspects and certifies adult care homes.

The KDOA's concern with this bill lies with the amendments to K.S.A. 77-537, Section 20, specifically the amendment at lines 18 through 29. It is unclear to the Department how this amendment could impact the types of enforcement action, Notices and Orders our agency issues. First, the term "summary proceeding" is not defined. It could therefore be argued that any Notice or Order issued by a State agency could fall within the umbrella of a summary proceeding. If this is the case, then the amendments greatly limit the enforcement and other types of actions an agency can take.

We recommend striking lines 10 through 29 in Section 20. Section 7 (amending 77-513) which states that "When a statute provides for a hearing in accordance with this act, the hearing shall be governed by K.S.A. 77-513 through 77-532, and amendments thereto, except as otherwise provided by: (a) a statute other than this act; or (b) K.S.A. 77-533 through 77-542, and amendments thereto." It is important for KDOA to have certainty that hearings which may be requested in response to Notices of Findings and Orders issued by KDOA will be governed by K.S.A. 77-513 through 77-532. If K.S.A. 77-537 were deemed applicable, the amendments would preclude the vast majority, if not all, of KDOA's case types including hearings requested on Notices of Findings issued in cases involving abuse, neglect and exploitation of adult care home resident and Notices relating to the revocation of a license due to failure to meet regulatory requirements.

The KDOA appreciates the opportunity to express our concern regarding this language and asks the committee to remove the amended language. I'll be happy to answer any questions the Committee may have.