Memorandum

Date: January 12, 2020
Re: Kansas Chapter American Academy of Pediatrics 2020 Legislative Session Preview

Overview

The peace and restfulness of the holidays fades, as the Statehouse slowly awakens from its seven-month slumber. Lawmakers and others are preparing for the 2020 Session that begins Monday, January 13th. While the first day of Session is largely ceremonial, it will kick off what promises to be a fast and furious Session before lawmakers leave town again to spend the interim campaigning for re-election. We’re anticipating the focus of the 2020 Session will include at least the following: Medicaid Expansion, a number of potential constitutional amendments (concerning the right to an abortion as well as how Supreme Court justices are nominated), and a slew of new tax bills. The Kelly administration is in its first year with their budget, revenue, and leadership positions. This is the year for hard work and major initiatives from the new administration.

Elections

• Every member of the House and Senate faces election this year. The Republican majorities will face a Democratic administration with a year’s experience and campaigns, forcing votes on issues, and a political calculus will influence every decision this Session.
• Election considerations will impact all aspects of the session.

Medicaid Expansion

• Arguably the Governor’s top priority for the 2020 Session is Medicaid expansion and supporters are hopeful Kansas will become the 37th state to expand Medicaid. The Governor’s Council on Medicaid Expansion in mid-December forwarded a straight Medicaid expansion bill. The Senate Special Committee on Medicaid Expansion and the Senate Select Committee on Healthcare Access endorsed a complex plan that garnered both support and opposition. The Senate plan included multiple waiver and components that had the potential to delay or stall outright expansion.
• On January 9th the Governor and Senate Republican and Democratic expansion supporters announced an agreement on a Medicaid expansion bill. The House passed expansion in 2019 and the Governor/Senate bill was 22 co-sponsors and 21 votes are needed to pass. The compromise means the chance for passage has increased.
• The agreement is a straight 90/10 federal/state-funded expansion to cover Kansans who earn up to 138% of the federal poverty level with no work referral and no lockouts.
• Details to the plan can be found here: https://governor.kansas.gov/governor-senate-majority-leader-announce-compromise-proposal-to-lower-healthcare-costs-for-kansas-families/
• The bill can be found here: http://www.kslegislatu.re.org/li/b2019_20/measures/documents/sb252_00_0000.pdf

Department of Human Services
• On January 8, 2020 Governor Kelly announced she would submit an executive reorganization order to the Legislature that will consolidate all the functions of the Department for Children and Families, the Department for Aging and Disability Services, and the juvenile services from the Kansas Department of Corrections.
• This executive action is submitted to the Legislature and it will take place unless either the House or Senate passes a resolution opposing the reorganization within 60 days of its submission.
• Attached are the official press release and a summary of the proposed benefits of the transition.
• It is unclear whether this reorganization will generate significant opposition.

State Supreme Court
• There have been several big announcements from the State Supreme Court as the session begins:
  • Justice Marla Luckert becomes the second woman in the state’s history to lead the Court as Chief Justice. Because the Court is presiding over a case brought by a group of judges accusing the State Legislature of chronically underfunding the state’s Judicial Branch, Chief Justice Luckert withdrew from the opportunity to address the Legislature. Consequently, Luckert plans to ask the Legislature for $20 million in 2020 to increase judicial salaries across the board.
  • The Supreme Court has another new member, Justice Evelyn Wilson, who was appointed by the Governor and has received some pushback from conservative Republican lawmakers, as well as conservative groups such as Kansans for Life.
  • Wilson’s appointment has sparked continued conversation about changing the Supreme Court nomination process by constitutional amendment, from a merit selection process by the nominating committee, to a Senate confirmation of a Governor-appointed candidate.
  • The lawsuit, funding issues, the abortion decision, and possible constitutional amendments will keep judicial selection and the Court front and center in 2020.
Taxes

• Besides Medicaid Expansion, taxes will likely dominate the bulk of the 2020 Session.
• Together, the Kansas Chamber and Kansas Tax Foundation released the Tax Modernization Report, which made several recommendations, including removing international income from the tax base; allowing Kansans to itemize on state returns as well as federal returns; removing barriers to interstate commerce; and directing county appraisers on consistently and fairly appraising big-box retail properties. A summary of the report, as well as the full report, can be found here: https://www.kansaschamber.org/taxmodernizationreportrelease/
• Additionally, there will be renewed interest in the failed 2019 tax bills focusing on decoupling from the federal tax code, GILTE, itemized deductions, a food sales tax rebate, and more. Sales tax on remote retailers and establishing a minimum sales threshold will also be debated.
• Property taxes and appraisal policy will get action this Session due to support from some to change the commercial valuation process.
• The potential impact of changes to tax policy will impact current and future budget actions the Governor and Legislature may take. Reductions in available revenue mean reductions in

Other Issues to Watch

• There should be minimal challenges to funding the second year of the Gannon school finance lawsuit.
• Transportation plans are in the works. Watch for funding and project discussions to begin in earnest this Session. Highway projects make great election issues.
• Watch continued attention and funding for behavioral health services due to concerns about suicide and the impact of addictions. Among the handful of pre-filed pieces of legislation is a mental health parity bill designed to ensure coverage for individuals struggling with substance use disorders and/or suicide and two anti-red flag gun bills, prohibiting any law to authorize red flag provisions.
• Economic development tools will be scrutinized because STAR bonds must be renewed before June 30, 2020.

General Health Issues

New Developments on the T21 Front

• With the recent federal passage of Tobacco 21, raising the legal age to 21, advocates at the state level may shift their focus when it comes to addressing youth tobacco and vaping use. New approaches could include flavor bans, an increased tobacco and e-cigarette tax, as well as updating the Kansas Indoor Clean Air Act to include vaping.
Kansas’ (Not so) Clean Bill of Health

- A United Health Foundation report recently released ranks Kansas 29th in the nation when it comes to health outcomes and healthcare. Nearly 30 years ago, however, Kansas ranked 12th in the nation. The report also found that a few of the unhealthiest states have not expanded Medicaid, while the top handful of healthiest states are expansion states. The report detailed a decrease in Kansans’ overall physical well-being, including increases in obesity and diabetes, while Kansans’ overall mental health and well-being have also suffered.
- The state summary for Kansas can be found on page 62 of the report: https://assets.americashealthrankings.org/app/uploads/ahr_2019annualreport.pdf

State Hospital under Scrutiny

- Osawatomie State Hospital may lose federal Medicare funds unless KDADS adequately addresses concerns raised by CMS. Citing inadequate patient care, as well as other issues including missing treatment notes, CMS has threatened to withdraw Medicare funding, which would add to the hospital’s growing list of issues, not the least of which is being severely understaffed. KDADS has submitted a corrective plan for CMS to review.
- Problems with CMS and halted federal funding has contributed to significant disruption of behavioral health services for the last three years.

Surprise Medical Billing

- A solution to surprise medical billing and the hardships it causes families throughout the country has been fiercely debated by Congress in the last several months and will likely be a priority in the new year. The crux, however, is what exactly is the best solution to end surprise billing and ensuring payment for out-of-network providers. Some believe a benchmark where the government sets a rate for providers who see out-of-network patients is best, while others believe arbitration—who a third-party rules on offers brought by a provider and an insurer—is the answer. Lawmakers are looking to compromise by proposing a “median in-network benchmark” while also being able to utilize arbitration if needed.
- Here’s more on this issue from Kaiser Health News: https://khn.org/news/congress-compromise-legislation-on-surprise-medical-bills/
- Surprise medical billing and medical debt has also taken its toll on Kansas families, and while Medicaid expansion may help some of these families, communities, and rural providers, reform at the state level is the first step in addressing these issues. The following article illuminates just how devastating ballooning healthcare costs and complicated billing practices are for Kansas families. https://www.kcur.org/post/when-medical-debt-collectors-decide-who-gets-arrested-welcome-coffeyville-kansas#stream/0

Medical Marijuana
• The Federal and State Affairs committees will likely take up the issue of legalizing medical marijuana. During the interim the Joint Committee on Federal and State Affairs held an informational hearing on the topic and learned about legalization of medical marijuana in surrounding states, including Missouri, Oklahoma, and Ohio. Committee members recommended further examination of Ohio’s policies, as well as the need to dig deeper into the implications for financial institutions and law enforcement agencies.

Health Topics to Anticipate
• There are numerous issues related to funding that should be resolved or become clear when the Governor’s budget is made public on January 16th.
• We have begun monitoring a handful of bills that lawmakers have pre-filed, including:
  o Senate Bill (SB) 245: Anti-red flag law which would prohibit the enforcement of extreme risk protection orders that prevent individuals from buying or owning a gun. There is an equivalent bill on the House side, House Bill (HB) 2425.
  o SB 249: A mental health parity bill that would require insurers to cover treatment for suicidal individuals and/or individuals with a substance use disorder. The bill would require insurers to cover 14 days of inpatient treatment for those individuals, or 180 days of outpatient treatment.
  o SB 252: Compromise Medicaid expansion agreement.
• There are currently no bill hearings scheduled and our next report will include a list of legislation likely to see action.

Upcoming Activities
• First day of Session is Monday, January 13th. The Governor’s State of the State address is scheduled for 6:30 pm on Wednesday, January 15th and will provide a window into the Governor’s budget and how she plans to address concerns about a potential recession, as well as projected revenue shortfalls in a few years.
• On Thursday, January 16th, the Governor’s budget will be introduced to the Senate Ways & Means and House Appropriations committees.
• Thursday January 16: House Children and Seniors Committee update on the Family First Preservation Services Act.

Legislative activities will begin Monday January 13 and informational briefings are scheduled for the first week. Please let me know if you have questions.

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Governor Kelly Announces Reorganization Creating
Kansas Department of Human Services

New agency to include DCF, KDADS and KDOC Juvenile Services

Governor Laura Kelly today announced her intent to submit an executive reorganization order to the Kansas Legislature creating the Kansas Department of Human Services (KDHS). The new agency will include the current programs at the Department for Children and Families (DCF), Department for Aging and Disability Services (KDADS) and the juvenile services division of the Department of Corrections.

Current Secretary of DCF and KDADS, Laura Howard, will lead the new KDHS.

“I ran for office, in part, to ensure that our most vulnerable citizens were protected and that somebody in Topeka was advocating for them,” Kelly said. “One of my key priorities since taking office has been fixing our broken safety net and ensuring that we have a system that is worthy of our citizens. The creation of this new, combined agency reinforces my commitment to our children and families in need and ensures they have access to critical services.”
“The creation of the new agency allows us to focus on prevention, so that we can get to these families before their situation becomes a crisis,” Kelly said. “The Department of Human Services will partner with communities across the state to create a single point of entry for those who need access to services for things like child welfare, mental health, economic support and juvenile justice.”

Programs included in the new agency will include:

- Adult protective services
- Adult behavioral health
- Long-term services and supports
- Economic supports
- Employment supports
- Children’s mental-health supports
- Child protective services
- Juvenile justice and crossover youth
- Foster care
- Prevention
- Licensing, credentialing, survey and certification
- Kansas Juvenile Correctional Complex
- Larned State Hospital
- Parsons State Hospital
- Osawatomie State Hospital
- Kansas Neurological Institute

Governor Kelly recognizes juvenile justice reform has resulted in a reduced need for incarceration while at the same time improving county community corrections case management. Including juvenile services in the new agency continues the improvement process.

“Given the needs of families for community collaboration and overlap, it makes sense to organize juvenile services and child welfare resources under one agency,” Kelly said.

“This is not going to be business as usual,” Howard said. “This combination of services gives us an opportunity to think differently about service delivery. We want Kansans to have seamless access to programs and services that will allow them to thrive. KDHS will be known for its innovation and willingness to work with community partners.”

“Secretary Howard is the perfect person to lead the new agency,” Kelly said. “I am confident that she has the vision and experience to launch an organization of this magnitude and ensure that all Kansans are well served by a commitment to continuous improvement and accountability.”

Governor Kelly will submit the ERO to the legislature within the first 30 days of session. The ERO becomes effective on July 1, following its transmittal to the Legislature, unless either the Senate or the House takes action on the ERO within 60 calendar days after submission.
Today, Governor Kelly and Secretary Howard announced that during the upcoming Legislative session, the Governor will submit an executive reorganization order to the Kansas Legislature creating the Kansas Department of Human Services (KDHS).

- KDHS will absorb all programs currently associated with the Department for Children and Families (DCF), Department for Aging and Disability Services (KDADS) and the juvenile services division currently housed at the Department of Corrections.
- Current DCF and KDADS Secretary Laura Howard will lead the new KDHS, effective July 1, 2020.
- The agency will include adult protective services; adult behavioral health; long-term services and supports; economic and employment supports; children’s mental health supports; child protective services; juvenile justice and crossover youth; foster care and all related facilities, including the Kansas Juvenile Correctional Complex in Topeka and Kansas’ four state hospitals.
- Governor Kelly has made it clear that one of her top priorities is ensuring the safety and well-being of Kansas children and families. Creating this agency provides Kansas the opportunity to strengthen families and support individuals by focusing on prevention, delivering enhanced services and forging stronger connections with community partners.
- The reorganization is about creating a single point of entry for Kansans who need to access services in related areas like child welfare, juvenile justice, mental health and economic supports.
- The new agency will allow Kansas to focus on prevention, so families can receive help before their situation becomes a crisis.
- Kansas juvenile justice reform has resulted in a reduced need for incarceration by strengthening case management services through community corrections and treating many justice-involved youth in their communities rather than in a facility. Given the needs of families for community collaboration, it makes sense to organize juvenile justice services and child welfare resources under one agency.
- The new agency reduces the number of systems families will need to navigate for support.
- Secretary Howard has the vision and experience to launch a large new agency because she has already been leading two agencies and closely collaborating with the third. The governor knows Secretary Howard will ensure that Kansans are well-served because of her commitment to continuous improvement and accountability.
- The ERO is not designed to simply move programs from one agency to another. Instead, it is about creating a new agency with a wholistic approach to serving those Kansans in need.
- The combination of services in the new agency gives KDHS an opportunity to think differently about service delivery. Kansans need seamless access to programs and services that will allow them to thrive. Secretary Howard’s vision for the agency will be one that is known for its innovation and close relationship with community partners.
- KDHS employees will be engaged in the strategic development process – they will have a voice in helping shape KDHS.
- There is no anticipated reduction in agency staffing levels. All current employees will be retained.