



Strong Families Make a Strong Kansas

Senate Judiciary Committee

February 19, 2014

Testimony on:

SB 394

Presented by:

Kathy Armstrong

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Kansas Department for Children and Families

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Kansas Department for Children and Families
Topeka, Kansas

Testimony on:

SB 394, Establishment of a Foster Parents Bill of Rights

Chairman King, Vice-Chair Smith, Ranking Member Haley and Members of the Committee:

I am Kathy Armstrong, Staff Attorney for the Prevention & Protection Services, Kansas Department for Children and Families (DCF).

This bill provides for establishment of a Foster Care Parent Bill of Rights. Our agency strives to involve the foster care parents in the process for children in the care and custody of the DCF Secretary. We value and appreciate the role the foster parents play in the lives of kids who have for various reasons been removed from their home. Our first goal is always to ensure the safety of children in our care, promote permanency with priority to returning them to their family and promote their well-being. The foster care parents provide a stable and safe environment for kids during the time they are in out-of-home placement.

While we are offering neutral testimony on SB 394, we support the concept and establishment of a Foster Care Parents' Bill of Rights. DCF researched similar statutory provisions that have been enacted into law in ten other states and have attached a proposed Bill of Rights based on that review. This proposed Bill of Rights covers many topics and is consistent with the privatized foster care system as it exists in the State of Kansas. It is also consistent with many policies and practice already in effect in Kansas, and DCF would support the attached proposed Foster Care Parents Bill of Rights. SB 394 is based on the Missouri child welfare system, which is a partially privatized foster care system, and, thus, dissimilar to the Kansas system. DCF has additional concerns with the legislation before the Committee today, including diminished protection of confidentiality, increased adoption waiting periods and giving preference to foster parents over family members.

SB 394 establishes a State foster care and adoption board with at least eight members. We believe there are numerous existing opportunities for foster care parents and the public to provide assistance and offer input on the Kansas foster care system. Advisory boards in connection with both of DCF's contracted providers are already in existence and foster care parents participate on such boards. The contracts that were effective July 1, 2013, require each provider to establish and maintain such an advisory board in each region and foster parents are invited and encouraged to participate on such boards. The Kansas Foster Care Parent Association is fully operational and ongoing. Said organization receives a small grant annually from DCF. Said organization is the official affiliate of the National Foster Parent Association. Both of these organizations have websites with much information posted to assist and support foster parents.

Kansas has numerous other stakeholder groups including, but not limited to, Child Safety and Permanency Review Panel, Kansas Child Welfare Quality Improvement Committee, Permanency Advisory Committee, Supreme Court Task Force on Permanency Planning, Children's Alliance, Kansas Children Services League, Kansas Judicial Council Juvenile Offender/Child In Need of Care Advisory Committee and Kansas Family Advisory Network. These groups provide input and assistance to the agency relating to child welfare law, agency policies and practice. Casey Family Programs and various National Resource Centers are just two examples of national organizations that serve as resources for Kansas child welfare system. Casey Family Programs specifically focuses on issues relating to foster care children and placements.

The bill further provides the following:

- a. The bill requires that DCF, KDHE and DCF's contractors shall treat foster care parents "in a manner consistent with the national association of social workers' code of ethics." DCF fully supports treating all persons including, but not limited to foster parents, with dignity and respect. However, not all staff of DCF, KDHE and DCF's contractors are social workers and it is inappropriate to have the ethics code of a national organization relating to one specific field of mental health professionals as the controlling ethics code for appropriate treatment between state agencies and foster parents, many of whom are not social workers.
- b. The bill uses language that confuses the roles/construct of DCF and KDHE as they operate in this State with respect to licensure and training.
- c. The bill requires "full disclosure" of all medical, psychological, and psychiatric information related to a child, any information regarding the child or the child's family's mental or physical illness, criminal background of the child or the child's family and certain behaviors that may or may not be known to DCF when the child is placed in the foster home or may be appropriate to protect certain information depending on the facts and circumstances of the case. Foster care parents, by policy and practice, are provided information about the child placed in their homes that is determined by the professionals working with the children and the family to be relevant and needed information to ensure the foster parents can provide a safe and secure environment for the child and the family with whom the child is placed.

DCF Prevention and Protection Policy and Procedure Manual is posted on the DCF public website. The policies are reviewed every six months which allows for revision and adjustment as new research or best practice guides. This flexibility and discretion is required to best serve the needs of children in need of care and their families. The proposed revised policies are always posted for a period of time and open for public comment and input.

- d. The bill mandates arrangement for pre-placement visits between foster children and family foster home parents, except in emergencies. Circumstances in some cases would make such a mandate impractical, if not impossible.
- e. The bill mandates establishment of "reasonably accessible respite care for children in foster care for short periods of time". The agency already works with foster care homes for respite, but to mandate is impractical as respite care is on occasions difficult to arrange, depending upon options available.

- f. The bill required DCF to provide, upon request from foster parents, information on the child's progress after the child leaves foster care. When a child returns home to parents, this may or may not be deemed to be in the best interests of the child.
- g. The bill requires the foster parents be given 30 days' advance notice and a written statement of the reasons for removal before child is removed. This notice is already legally required if the child has been with the foster parent for more than six months. If a pre-adoptive placement has been identified that is not the foster parent or the child has not been placed with the foster parent more than six months, the 30 day notice of removal is not required currently. The goal for children is permanency. Requiring a 30 day notice if child has been with foster parents less than six months will delay permanency for the child. Practically, a foster parent should be involved in the case plan process and aware of the possible adoptive placements and possibility of move to a pre-adoptive resource.
- h. K.S.A. 2013 Supp. 38-2210 list persons and entities authorized to exchange information during a child in need of care investigation. The bill amends this provision to include foster parents or placement providers responsible for the care of the child among those authorized to have information shared with them and to share. The current provision would not prohibit a foster parent from sharing information during an investigation if applicable, but there could be situations where sharing of all investigatory information by county or district attorney, law enforcement, DCF secretary and all other persons currently listed in the statute with a current or prospective foster parent would not be deemed to be in the best interests of the child. Such shared information from persons/entities currently listed in 38-2210 should be discretionary based upon need to know, appropriateness of sharing of certain information and what is in the best interest of a particular child.
- i. K.S.A. 2013 Supp. 38-2212 currently proscribes disclosure of child in need of care confidential information in broad categories to allow for discretion in information to be shared in each particular fact circumstance given the situation and the child involved. The bill proposes amending 2212 to require/mandate specific information that is to be shared in every case with respect to every child. DCF policy and practice is to openly share all information appropriate to assist, advise and support the child and the foster parent home in which the child will be placed, but it is challenging to mandate specifics that will apply to every child in every situation.
- j. K.S.A. 2013 Supp. 38-2213 concerns the disclosure of law enforcement records relating to child in need of care cases. The bill amends the statutory provision to add foster parents to the list of persons with access to confidential law enforcement records of the child. The current statute allows DCF the discretion to share such information if deemed relevant and in the best interests of the child in a specific case and needed to appropriately support the foster parent placement. In some cases, free access to such records by foster parents may not be deemed to be appropriate.
- k. K.S.A. Supp 2013 Supp. 38-2270(b) relates to custody of a child following the termination of parental rights. The current statute provides the court must first give preference to relatives and second preference is to a person with whom the child has close emotional ties. The bill would amend too require the court give first preference not to a relative adding "*within the third degree*", but also to the adoptive parents of the child's siblings. The bill would also amend current statute to second preference to person

with close emotional ties by adding language “*giving preference to a foster parent who has had physical custody of the child for six months or longer.*”

DCF works with children from many diverse cultural backgrounds. Certain cultures especially emphasize the familial relationship and do not view that as tied to a degree. DCF currently applies definition of relative to include relative to the fifth degree. This allows a broad consideration of “relative” as same is not only important to many families, but based upon DCF expertise and knowledge and observation, many foster youth deem it of great importance to have some connection to family and that isn’t tied to a limited definition of family. Such definition which includes relative to the fifth degree is consistent with other programs with DCF. Such definition is also consistent with definition in federal law as applies to IV-E eligibility. It defines specified relative as “any relation by blood, marriage or adoption who is within the fifth degree of kinship to the dependent child.” Limiting the definition of relative in Kansas statutes as relates to children in need of care could subject Kansas to closer scrutiny by federal partners as relates to IV-E funding and, at worst, negatively impact IV-E funding.

In conclusion, the Kansas Department for Children and Families looks forward to working with foster care parents and the Kansas Legislature in crafting a Foster Care Parents Bill of Rights that meets the needs of foster care parents, and, most importantly, is in the best long-term interest of Kansas children in need of care.

Thank you, Chairman King, for the opportunity to submit testimony about this proposed legislation.