

## HOUSE BILL No. 2438

By Representative Garner

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AN ACT creating the children's protective services commission; pre-  
scribing the membership, powers, duties and functions of the  
commission.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. (a) There is hereby created the children's protective serv-  
ices commission. The commission shall be a separate and independent  
state agency with such powers, duties and functions as prescribed by law.

(b) The children's protective services commission shall be composed  
of five members who shall be appointed, subject to confirmation by the  
senate as provided in K.S.A. 75-4315b and amendments thereto, as fol-  
lows: (1) One member shall be appointed by the speaker of the house of  
representatives, (2) one member shall be appointed by the minority  
leader of the house of representatives, (3) one member shall be appointed  
by the president of the senate, (4) one member shall be appointed by the  
minority leader of the senate, and (5) one member shall be appointed by  
the governor. No person who is an officer or employee of any other state  
agency in the executive branch of government may serve as a member of  
the children's protective services commission. No person who is a mem-  
ber of the senate or house of representatives may serve as a member of  
the children's protective services commission. No more than two mem-  
bers of the commission shall be members of the same political party.  
Except as provided in K.S.A. 46-2601 and amendments thereto, no person  
appointed as a member of the commission shall exercise any power, duty  
or function as a member of the commission until confirmed by the senate.

(c) Members of the children's protective services commission shall  
be appointed for terms of office of four years and until their successors  
are appointed and confirmed, except that of the members first-appointed,  
(1) the member appointed by the speaker of the house of representatives  
shall be appointed for a term of three years, (2) the member appointed  
by the minority leader of the house of representatives shall be appointed  
for a term of two years, (3) the member appointed by the president of  
the senate shall be appointed for a term of two years, (4) the member  
appointed by the minority leader of the senate shall be appointed for a  
term of three years, and (5) the member appointed by the governor shall

1 be appointed for a term of four years. All members appointed to fill  
2 vacancies in the membership of the children's protective services com-  
3 mission and all members appointed to succeed members of the commis-  
4 sion shall be appointed in the same manner as that provided for the  
5 original appointment. Each member appointed to fill the vacancy in the  
6 office of a member shall be appointed to fill the unexpired term of such  
7 member.

8 (d) The children's protective services commission shall elect annually  
9 a chairperson and a vice-chairperson from among the members of the  
10 commission. The chairperson shall preside over meetings of the commis-  
11 sion and perform such other duties as prescribed by the board or by law.  
12 The vice-chairperson shall perform the duties of the chairperson in the  
13 absence of the chairperson or upon the chairperson's inability to act.

14 (e) Members of the children's protective services commission attend-  
15 ing meetings of such commission, or attending a subcommittee meeting  
16 thereof authorized by such commission, shall receive compensation, sub-  
17 sistence allowances, mileage and other expenses as provided in K.S.A. 75-  
18 3212 and amendments thereto for members of the legislature.

19 Sec. 2. (a) The children's protective services commission shall have  
20 the following powers, duties and functions:

21 (1) The commission shall undertake and maintain a program of mean-  
22 ingful oversight over the child welfare system, which shall include:

23 (A) An ongoing review of the appropriateness of the placement and  
24 the types and quality of the services provided to each child in the child  
25 welfare system to determine whether each child in the system is receiving  
26 regular assessments and evaluations and is receiving the attention, care  
27 and services that are required under the system and whether any child is  
28 overlooked and is not receiving such attention, care and service;

29 (B) a thorough review and cost accounting of foster care services,  
30 adoption services and family preservation services to assure that service  
31 providers are providing the quality and level of services specified under  
32 the contracts for such services;

33 (C) regular audits of the financial operations of the service providers,  
34 including a professional review of the amounts allocated for administra-  
35 tive costs and the amounts allocated for services to children and the basis  
36 for such allocations;

37 (D) periodic reviews of the department of social and rehabilitation  
38 services to assure compliance with the provisions of the Kansas child  
39 welfare reform act and other applicable federal and state statutes, rules  
40 and regulations and policies; and

41 (E) periodic assessments of the activities of the department of social  
42 and rehabilitation services and service providers in achieving the expected  
43 outcomes for the child welfare system and report the results of the out-

1 come assessments to the governor, appropriate legislative committees and  
2 representatives of the news media;

3 (2) the commission and the officers and employees of the commission  
4 shall serve as ombudsmen for the child welfare system and shall have the  
5 authority to hold hearings or undertake investigations on the commis-  
6 sion's own motion or on complaints from children in the system, natural  
7 parents of such children, foster parents of such children, family members  
8 of such children, members of the legislature and members of the general  
9 public;

10 (3) the commission shall investigate the use of welfare reform and  
11 other moneys appropriated for foster care services, adoption services,  
12 family preservation services and the child welfare system as a whole and  
13 shall make recommendations to the governor and appropriate legislative  
14 committees for more effective and outcomes-oriented adjustments to  
15 funding strategies and mechanisms for the provision of child welfare  
16 services;

17 (4) the commission shall create and maintain a uniform, central in-  
18 formation collection system and database to make available meaningful  
19 data to provide the basis for determining which policies, programs and  
20 other factors are successful in the child welfare system and which are not;

21 (5) the commission shall assess the service needs of children in the  
22 child welfare system and their families on a periodic basis and shall assess  
23 the quality and availability of needed services throughout the state;

24 (6) the commission shall assess the housing needs of foster children  
25 on a periodic basis and determine the availability and quality of housing  
26 placement opportunities and facilities and regularly shall determine  
27 whether needed housing placement providers are available throughout  
28 the state;

29 (7) the commission shall make recommendations to the secretary of  
30 social and rehabilitation services regarding whether a contract with a serv-  
31 ice provider should be renewed or should be terminated for cause;

32 (8) the commission shall conduct periodic professional reviews of rate  
33 structures applicable to service providers in order to ensure that the com-  
34 pensation for service providers attracts and retains quality service provid-  
35 ers for the child welfare system;

36 (9) the commission shall review and propose rates of compensation  
37 for service providers under the child welfare system to ensure that service  
38 providers receive a reasonable and legitimate rate for the services pro-  
39 vided under the system; and

40 (10) the commission shall submit on or before July 1, 2002, and each  
41 July 1 thereafter, the proposed rates of compensation and a proposed  
42 budget for the services provided under the child welfare system during  
43 the fiscal year commencing in the next calendar year, to the division of

1 the budget and to the legislative research department.

2 Sec. 3. (a) On and after July 1, 2002, notwithstanding the provisions  
3 of any other statute to the contrary, the rates of compensation for service  
4 providers under the child welfare system that are proposed by the chil-  
5 dren's protective services commission under this act shall be the rates of  
6 compensation used by the secretary of social and rehabilitation services  
7 and the division of the budget to prepare the budget estimates for the  
8 department of social and rehabilitation services and by the governor in  
9 preparing the governor's budget report to the ensuing session of the  
10 legislature.

11 (b) On and after July 1, 2002, notwithstanding the provisions of any  
12 other statute to the contrary, the rates of compensation for service pro-  
13 viders under the child welfare system that are proposed by the children's  
14 protective services commission under this act for a fiscal year shall be the  
15 rates of compensation used by the secretary of social and rehabilitation  
16 services for compensation of service providers for such fiscal year, subject  
17 only to the provisions of appropriation acts.

18 Sec. 4. In the performance of the powers, duties and functions pre-  
19 scribed by statute for the children's protective services commission, the  
20 commission may require each service provider and the secretary of social  
21 and rehabilitation services to preserve and make available to the com-  
22 mission such information, books, accounts and records of the service pro-  
23 vider or the department of social and rehabilitation services as may be  
24 requested by the commission. For the purposes of discharging the pow-  
25 ers, duties and functions prescribed by statute, the children's protective  
26 services commission and the officers and employees of the commission,  
27 shall have access to all such information, books, accounts and records of  
28 each such service provider and the department of social and rehabilitation  
29 services. The members and other officers and employees of the commis-  
30 sion shall be subject to the same duty of confidentiality imposed by law  
31 on the officers and employees of such service provider or the department  
32 of social and rehabilitation services with regard to such information,  
33 books, accounts and records and shall be subject to any civil or criminal  
34 penalties imposed by law for violation of such duty of confidentiality.

35 Sec. 5. As used in this act, (a) "child welfare system" means all serv-  
36 ices and programs and all institutions, buildings and facilities under the  
37 supervision and control of the secretary of social and rehabilitation serv-  
38 ices, or under the supervision and control of any service provider, which  
39 relate to the health or welfare of children in the care or custody of the  
40 secretary of social and rehabilitation services, including but not limited  
41 to, foster care services, adoption services and family preservation services;  
42 and (b) "service provider" means any entity providing programs or serv-  
43 ices under contract with the secretary of social and rehabilitation services

1 to one or more children through foster care services, adoption services  
2 or family preservation services of the department of social and rehabili-  
3 tation services.

4 Sec. 6. This act shall take effect and be in force from and after its  
5 publication in the statute book.

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