

Approved: 4-30-99
Date

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE.

The meeting was called to order by Chairperson Phill Kline at 12:00 Noon on April 2, 1999 in Room 514-S of the Capitol.

All members were present except: Rep. Sharon Schwartz

Committee staff present: Legislative Research - Little, Waller, Sparks
Revisor of Statutes - Mike Corrigan
Secretary - Ann McMorris

Conferees appearing before the committee:
Tim Shallenburger, State Treasurer
Rep. Ed McKechnie
Joyce Allegrucci, Commissioner, SRS Children & Family Services
Rene Netherton, Attorney, Topeka

Others attending: See attached list

Chair opened for committee consideration of:

HB 2115 - Printing of session laws; binding, quantity

Rep. Powell reported that **HB 2115** hearings had been held by the Tax, Judicial and Transportation Budget Committee and explained the new language in regard to printing of session laws which would result in a savings to the State and allow for earlier distribution. Written testimony from Chuck Knapp of the Secretary of State's Office was distributed. (Attachment 1)

Moved by Representative Powell, seconded by Representative Neufeld, to pass **HB 2115** favorably. Motion carried.

Chair closed on **HB 2115**.

Chair opened for hearing and consideration of:

HB 2571 - Child Welfare Reform Act

Proponents:
Rep. Ed McKechnie (Attachment 2)

Rene Netherton spoke in support of **HB 2571** and suggested insertion of language "private cause of action" to prevent law suits. Ms. Netherton agreed to provide written testimony of her comments.

Written testimony had been distributed to the committee from Bob Harder, League of Women Voters of Kansas - (Attachment 3); Sky Westerlund, National Association of Social Workers - (Attachment 4)

Neutral:
Joyce Allegrucci, Commissioner, SRS Children and Family Services (Attachment 5)
Ms. Allegrucci commented on **HB 2571** section by section and agreed to provide written copy of her review on request of the committee.

CONTINUATION SHEET

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE, Room 514-S Statehouse, at 8:00 a.m. on April 2, 1999.

At this time, the Chair noted there were several other conferees and time was limited so he would appoint a special subcommittee to study **HB 2571**. He appointed Rep. Melvin Neufeld as chair, and Representatives Landwehr, Weber, Powell, Reardon, McKechnie, Nichols and Henry to this special subcommittee. Representative Neufeld announced hearings would be held on Monday, April 5 and Tuesday, April 6 and the schedule would be announced.

Chair opened for hearing and consideration of:

HB 2559 - State treasurer, registration of bonds, disposition of certain fees.

Proponent

Tim Shallenberger, State treasurer (Attachment 6)

Moved by Representative Powell, seconded by Representative Phil Kline, to pass HB 2559 out favorably. Motion carried.

Closed hearing on **HB 2559**.

SB 56 - University of Kansas hospital authority; member's terms, expiration dates.

Chair explained that Senator Oleen, due to conflicting legislative schedules, could not attend but had requested an amendment concerning the advisory commission on African-American affairs. Chair will ask the Revisor of Statutes to study this request and bill consideration will be taken up at a later date.

Chair announced there would be meetings scheduled for week of April 5 and the committee will be notified. Any member wishing to have a bill considered should notify the chair.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments -6

ADDENDUM

Written testimony was requested from Commissioner Allegrucci outlining the changes section by section in **HB 2571** suggested by Department of Social and Rehabilitation Services. Commissioner Allegrucci provided the attached document on April 2, 1999. (Attachment 7)

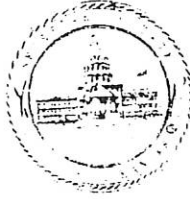
TOTAL ATTACHMENTS - 7

**HOUSE APPROPRIATIONS COMMITTEE
GUEST LIST**

DATE: April 2, 1999

NAME	REPRESENTING
Bob Harder	LWV-KS
January H. Scott	KCSL
Sherry Love	KVC
Gene Netherton	Plaintiffs in Class Action
Sky Weitzel	KNA SW
MELISSA BOISEN	The Farm, Inc.
Barb Nemeo	Secretary of State
FRANK NAYLOR	THE FARM, INC.

Ron Thornburgh
Secretary of State



2nd Floor, State Capitol
300 S.W. 10th Ave.
Topeka, KS 66612-1594
(913) 296-4575

STATE OF KANSAS

TESTIMONY ON HB 2115

Presented to the Tax, Judicial and
Transportation Budget Committee

By

Chuck Knapp
Office of the Secretary of State

Tuesday, February 16, 1999

Attachment 1-1
House Appropriations Committee
April 2, 1999

Mr. Chairman and members of the committee:

Thank you for the opportunity to testify on House Bill 2115. The Secretary of State enthusiastically supports this legislation for two reasons; it will save the state money and allow the printer to complete the *Session Laws* sooner for earlier distribution by the Secretary of State.

State law mandates that the secretary of state print the laws of each legislative session in a hardbound book in a quantity of 3,750. Current law also stipulates that the secretary can only order additional books in quantities of 1,000.

The proposed legislation would allow the secretary of state to print softbound books in the quantity that he or she deems sufficient. By printing a softbound book, the state general fund would realize savings of approximately 29 percent. For example, if the *1999 Session Laws* were the same size as the *1998 Session Laws*, the state would save approximately \$27,000. This figure does not include the likelihood of printing a smaller quantity of books, which would result in additional savings to the state general fund.

By allowing the secretary of state to print a softbound book, the state printer will be able to do the binding here in Topeka rather than using an out-of-state subcontractor. A softbound book also takes less time to bind, which will allow the secretary of state to distribute the *Session Laws* well before most laws take effect on July 1. Kansas judges should be most appreciative of this change.

The secretary of state believes HB 2115 is good public policy and respectfully requests that the committee recommend this bill be placed on the consent calendar.

Thank you again for the opportunity to appear before you today.

TO: Duane A. Goossen, Director of Budget
FROM: Chuck Knapp, Office of the Secretary of State
DATE: February 1, 1999
SUBJECT: Fiscal note for HB 2115

- 1) This legislation would eliminate the requirement for the Secretary of State's office to print a specified number of hard bound copies of the laws passed at each session of the legislature. Currently, the Secretary of State is required to print 3,750 copies and can only increase the order in quantities of 1,000.
- 2) This legislation would not impact the human resources required to publish Session Laws. However, by allowing the Secretary of State's Office to print paperbound books, distribution of the books could be commenced at an earlier date.
- 3) This legislation would potentially save the State General Fund approximately \$27,000 in FY 2000.
- 4) The State Printer produced a cost estimate comparison between hard bound and softbound books. This estimate was based on the page count from the 1998 Session Laws. It is important to remember that it is impossible to guess accurately how many laws the legislature will pass each session. This estimate also assumes the quantity of books ordered remains at 4,750.

Hard Bound Book each volume (Two volumes recommended)	\$46,222.50	\$92,445.00
Perfect Bound Book each volume (Two volumes recommended)	\$32,658.00	\$65,316.00
<i>Savings with Perfect Bound Book (29% reduction in cost)</i>		\$27,129.00

- 5) This legislation could be implemented with existing staff and current operating expenditure levels.
- 6) Under current printing procedures there would be a potential savings of approximately 29 percent each year over the next three years. The Secretary of State also believes the quantity of books printed can be reduced by approximately 750, resulting in additional savings to the State.



TOPEKA

HOUSE OF
REPRESENTATIVES

April 2, 1999

ED MCKECHNIE
REPRESENTATIVE, THIRD DISTRICT
224 W. JEFFERSON
PITTSBURG, KANSAS 66762
(316) 231-1669

OFFICE
JAN.—APRIL
ROOM 502-S
STATEHOUSE
TOPEKA, KS 66612
(785) 296-7699

COMMITTEE ASSIGNMENTS
VICE CHAIR: RULES AND JOURNAL
MEMBER: APPROPRIATIONS
BUDGET COMMITTEE ON
CORRECTIONS AND PUBLIC
SAFETY
JOINT COMMITTEE ON LEGISLATIVE
POST AUDIT
COUNCIL OF STATE GOVERNMENT
EXECUTIVE COMMITTEE
MIDWEST LEGISLATIVE CONFERENCE
HIGH SPEED RAIL TASK FORCE

Testimony of Rep. Ed McKechnie
To the House Appropriations Committee
In support of HB 2571 - Kansas Child Welfare Reform Act

Good morning Mr. Chairman and members of the committee, on behalf of Rep. Rocky Nichols and Brenda Landwehr I appreciate the opportunity to brief you on the contents of HB 2571 the Kansas Child Welfare Reform Act. Obviously it is late in the 1999 session and reform of the child welfare system could be a difficult goal. But with the current demands by SRS for the Legislature to pump millions of additional dollars into the foster care system we would be derelict in our duty to the citizens of this state if we did not attempt to fix the current crisis.

We began working on this bill shortly after SRS announced the need for additional money. Working with staff for more than three weeks we crafted this legislation to do three things:

- 1) Place accountability in the law;
- 2) Place a statutory expectation for quality; and
- 3) Create a true reform effort that encompasses the child, the family, the community the contractor, SRS and the Legislature.

We believe HB 2571 meets those goals and then subsequently allows those of us with concerns over the system to have the comfort level necessary to fund the foster care system. I will now review each section of the bill for you.

Attachment 2-1
House Appropriations Committee
April 2, 1999

April 2, 1999

To: House Appropriations Committee
Re: Kansas Child Welfare Reform Act - HB 2571

During the 2 ½ years of SRS/Privatization, there has been increasing concern about the lack of legislation to provide a frame work for privatization. There continues to be confusion as to roles and responsibilities. At times, it is hard to determine who is accountable. This legislation is drawn to correct some of those problems.

As background for the Kansas Child Welfare Reform Act, it is important to note the following comments which are taken from the LPA Report, Foster Care, Part II, December 1998, pages 6 and 7.

If they could start over, the Contractors told us they would make changes. We asked officials from each contractor what they would change about the way the foster care system was setup, if they could go back and start over.

All three contractors mentioned adjusting the amounts they were paid per child. One Contractor suggested making the case rate amount an annual payment. All three wished more "catastrophic" children would have had their costs paid on a fee-for-service basis that covered actual fee charges. One suggested having a financial summit of auditors, accountants, budget analysts, contractors, and Department staff to sit down and analyze true costs, and then set case rates accordingly.

Other assorted suggestions for change offered by the contractors were as follows:

- redesigning the cumbersome monitoring system
- increasing communication between the contractors, the courts, and the Department
- compensating the contractors for contract modifications that are costly to them
- removing "long term foster care" children from the contract and case rate system
- establishing a consensus about what Kansas expects from the foster care system, and establishing objective criteria to determine whether these goals have been met

We asked Department Officials what they would do differently if they had it to do over again. They said they thought many aspects of the system worked well. The things they thought were most effective were as follows:

- the contract is performance based
- spending is tied to outcomes
- there's less focus on process and more on outcomes
- all providers are Kansas-based agencies
- there's flexibility to make necessary changes within the contract design
- financial and clinical responsibility are held by the same entity

However, Department officials said they would make the following adjustments if they could start again:

- develop a more accurate and detailed historical analysis of the Department's foster care costs
- develop a more accurate analysis of the Department's achievement on the outcomes included in the request for proposal
- increase input from judges and foster parents
- increase the time required to transfer children to the contractors
- evaluate whether to transfer children already in foster care to the contractors, or just start with new children coming into foster care
- have more realistic outcome expectations for the first two years
- increase the amount of training offered to contractors and Department staff
- create a four-year internal contract budget to better predict long-term funding needs

SETTING FORTH THE PURPOSES OF THE BILL

Sec. 3 PURPOSE: To ensure that the family preservation program is seen as the first line of preventative defense. Family preservation is to be used on "hard" cases as well as "soft" cases.

RESPONDS To: Jim Bell Report, 1/12/99, pages 123,128
Several Legislators who thought the family preservation program is "creaming" the easier cases and avoiding the more difficult cases.

Sec. 4 PURPOSE: The purpose of this section is to set forth that the Secretary of SRS has the on-going responsibility for the care and disposition of the child. This authority and responsibility can not be delegated or contracted away.

RESPONDS To: Jim Bell Third Quarter Report, 1/12/99 - Division of legal authority from service provision: Pages 124, 134

Sec. 5 (Para. a) PURPOSE: To ensure that complete and accurate information is provided to relevant parties.

RESPONDS To: LPA Report, November 1998; page 46, Item 3
Joint Committee on SRS Transition Oversight, March 1999, page 7
Jim Bell Report, 1/12/99; pages 124,126,127
KS Judiciary Recommendations on F.C., page 1

Sec. 5 (para. b) PURPOSE: To ensure that the children in the foster care system are not warehoused.

RESPONDS To: LPA, Part I, November 1998 pages 46, 47, para. 4
Jim Bell Report, 1/12/99; page 131

Sec. 5 (para. c) PURPOSE: To ensure that SRS remains knowledgeable about the program for each child and can report to the courts.

RESPONDS To: LPA, FC Audit, Part I, November 1998; pages 13, 46, para. 3
Jim Bell Report, 1/12/99; page 134

Sec. 5 (para. d) PURPOSE: To ensure all parties be present in order to make timely and informed decisions.

RESPONDS To: LPA, Part I, November 1998 page 46, para 3
Jim Bell Report, 1/12/99, page 134
Kansas Judiciary Recs. on F.C., page 1

Sec. 5 (para. e) PURPOSE: Urges more community involvement in carrying out the child welfare program; this section gives standing to all stakeholders.

RESPONDS To: LPA, F.C. Report, No. 1, November 1998; page 46, no. 3
Several Legislators have indicated a frustration with the privatization system because of the lack of community involvement.

Sec. 5 (para. f) PURPOSE: Extends to community involvement concept and to make sure services are coordinated.

RESPONDS To: Jim Bell Report, 1/12/99, pages 128, 133
LPA, F.C. Report, Part I; Page 44 Part I, pages 45, 47

Sec. 5 (para. g) PURPOSE: To ensure there is a mechanism for the continuous up-dating of a housing inventory; to prevent the return of children to institutional settings.

RESPONDS To: LPA, F.C. Audit Part I, November 1998; page 44, Para. 1; page 47, para. 4, b
Joint Committee on SRS Transition Oversight, March 1999, Page 10

Sec. 5 (para. h) PURPOSE: This provides a mechanism for knowing service needs across the state.

RESPONDS To: LPA, F.C. Report, November 1998; page 44, para. 1
Jim Bell Report, 1/12/99, page 131

Sec. 5 (para. i) PURPOSE: To ensure that a child is not only moving through the system but that there is a qualitative improvement to the child while moving through the system. It also brings in the family to convey the importance of working with the child in/with a family.

RESPONDS To: LPA, F.C. Report, Part I, November 1998; Pages 44, 45, para b, c, d
Jim Bell report, 1/12/99, pages 124, 125, 128

Sec. 5 (para. j) PURPOSE: To ensure that a comprehensive and complete record on the child goes with the child.

RESPONDS To: LPA, F.C. Report, Part I, November 1998; page 46, para. 3
Jim Bell Report, 1/12/99; page 126
Kansas Judiciary Recs., Page 1

Sec. 5 (para. k) PURPOSE: To ensure that children are not lost in the system and that necessary services are being provided to the children. Also, it specifies that a system for collecting encounter data shall be maintained.

RESPONDS To: LPA, F.C. Report, Part I, November 1998; page 44-6, para 3
LPA, F.C. Report, Part II, December 1998; page 19, 29, para. 4
Jim Bell Report, 1/12/99; p. VII
Joint Committee on SRS Transition, March 1999, page 12

Sec. 5 (para. l) PURPOSE: To establish the seriousness of accurate reporting and if there is a falsification, the consequences of that falsification.

RESPONDS To: Testimony from several judges; reports of falsification from within system.

Sec. 5 (para. m) PURPOSE: To establish the expectation that the children in the system are expected to achieve functional improvement, not just processing through the system.

RESPONDS To: LPA, F.C. Report, Part I, pages 44, 45

Sec. 5 (para. n) PURPOSE: Establishes a mechanism for SRS to report the achievements of children in the system.

RESPONDS To: Testimony from several Legislators indicated a concern that a child could be processing through the system but that did not assure educational and psychological achievements.

Sec. 5 (para. o) PURPOSE: Establishes some of the basic and essential information to be included in the contract negotiations.

RESPONDS To: LPA, F.C. Report, Part II, page 19
Jim Bell Report, 1/12/99, pages 119, 120

Sec. 5 (para. p) PURPOSE: Provides that incentives and disincentives can be included in the contracts. The contracts are to be performance and outcomes based. The emphasis of the work is that of returning the child to the home, when appropriate or to have the child adopted.

RESPONDS To: LPA, F.C. Report, Part I; page 45, para. b
LPA, F. C. Report, Part II, Page 19, para. 3

Sec. 5 (para. q) PURPOSE: Provides that the local community mental health center will provide screening prior to a child entering the mental health system.

RESPONDS To: LPA, F.C. Report, Part I; page 44, para. 1
Jim Bell Report, 1/12/99; pages 124, 125

Sec. 5 (para. r) PURPOSE: To report to the public, through the Kansas Register, the contractor's adherence to contract outcomes.

RESPONDS To: Frustration by Legislators and the general public that there has been so little public discussion concerning privatization; this will provide public information.

Sec 5. (para. s) PURPOSE: Restores mental health services to the Title 19, medical assistance program, complete with utilization review.

RESPONDS To: LPA, F.C. Report, Part I, pages 44-5
Jim Bell Report, 1/22/99, pages 124-5

Sec. 5 (para. t) PURPOSE: Requires that SRS will provide necessary training.

RESPONDS To: Jim Bell Report, 1/12/99, pages 120-22.
A re-occurring need expressed in the legislative hearings.

Sec. 5 (para. u) PURPOSE: Provides a mechanism for SRS to call all stakeholders together to discuss strengths and weaknesses of the system and to work through solutions to improve the system.

RESPONDS To: Legislator's concern that privatization arrangements have involved only SRS and the Contractors.

Sec. 5 (para. v) PURPOSE: Provides that SRS will take action to overcome identified weaknesses.

RESPONDS To: LPA, F.C. Report, Part I, pages 44-6, Item 4 b, c
Joint Committee on SRS Transitions, page 12
Kansas Judiciary Recs.

Sec. 5 (para. w) PURPOSE: SRS is to be responsible for ensuring an accounting system which will show total costs in the child welfare system.

RESPONDS To: LPA, F.C. Report, Part II, pages 18, 19
Joint Committee on SRS Transitions, pages 11,12
Jim Bell Report, 1/12/99, pages 119-20

Sec. 5 (para. x) PURPOSE: SRS is to provide an accounting to the Legislature concerning the debt of foster care providers.

RESPONDS To: Legislative concern as expressed during 1999 Legislative Session.

Sec. 6 PURPOSE: Provides that the joint committee on children's issues shall monitor this act.

REPSONDS To: Increased concern on the part of legislators that greater oversight is needed from the Legislature.

Sec. 7 PURPOSE: Establishes a joint Legislative Committee for foster care - adoption advocates made up of 5 members of the Senate and 5 members of the House of Representatives.

There will be a Director of Foster Care - Adoption Advocates appointed by the above committee.

There is established the division of foster care - adoption within the legislative branch.

Sec. 8 PURPOSE: Sets forth the tasks of the foster care - adoption director.

Sec. 9 PURPOSE: Sets forth the mechanism for handling personal files and documents.

Sec. 10 PURPOSE: Calls for the director of foster care - adoption advocates to be an advocate for citizens on matters related to foster care and adoptions.

Sec. 7-10 RESPONDS To: an increased public demand and Legislative concern that the new privatization system needs an independent advocate to assist the Legislature, and the people of Kansas.

2-8

**Social & Rehabilitation Services
Children and Family Services
Analysis of Expenditures for Foster Care & Adoption: Pre and Post Privatization**

Several changes have been made which makes it difficult to compare expenditures pre-privitization and post-privitization. This chart details the adjustments made to allow a comparison. Expenditures for adoption are included in foster care for FY 1996. Additional expenditures that were shifted into the Foster Care & Adoption categories are shown as additions in FY 1996. Expenditures for services that were transferred to other agencies are shown as deletions in FY 1996.

Category	Adjustments for Program Shifts/Transfers	FY 1995 Actual	FY 1996 Actual	FY 1997 Actual	FY 1998 Actual	FY 1999 GBR	FY 2000 GBR
Foster Care *		64,317,031	63,592,540	72,857,897	68,348,534	86,457,334	83,199,701
	Privatization Adjustment	0	0	(15,000,000)	0	0	0
	Mental Health/Child Care Expenditures	0	0	(4,062,386)	(11,410,122)	(11,410,122)	(11,410,122)
	JJA Expenditures	0	0	0	8,574,117	8,574,117	8,574,117
	Risk Share Contract Expenditures	0	0	0	0	0	0
	Total Adjusted Foster Care	64,317,031	63,592,540	53,795,511	65,512,529	83,621,329	80,363,696
Adoption *		0	0	7,068,807	9,899,778	16,394,141	14,769,807
	Mental Health/Child Care Expenditures	0	0	(358,463)	(541,629)	(541,629)	(541,629)
	Total Adjusted Adoption	0	0	6,710,344	9,358,149	15,852,512	14,228,178
Comparison between FY 1996 and FY 1998 Foster Care			63,592,540		74,870,678		
Adoption Support *		4,942,737	6,574,124	8,143,025	10,617,403	13,492,668	14,532,284
All Other *		61,694,176	59,917,977	57,995,891	54,329,732	25,019,644	23,990,252
	KDHE Licensing Expenditures	0	0	0	530,016	530,016	530,016
	Adult Protective Services Expenditures	0	0	2,117,193	2,181,484	2,181,484	2,181,484
	Long Term Care Expenditures	0	0	0	1,720,367	1,720,367	1,720,367
	JJA Expenditures	0	0	0	7,052,156	7,052,156	7,052,156
	Field Staff Transfer	0	0	0	0	29,990,605	29,990,605
	Total Adjusted All Other	61,694,176	59,917,977	60,113,084	65,813,755	66,494,272	65,464,880
Total CFS		130,953,944	130,084,641	128,761,964	151,301,836	179,460,781	174,589,038
Summary							
	Foster Care	64,317,031	63,592,540	53,795,511	65,512,529	83,621,329	80,363,696
	Adoption	0	0	6,710,344	9,358,149	15,852,512	14,228,178
	Adoption Support	4,942,737	6,574,124	8,143,025	10,617,403	13,492,668	14,532,284
	All Other	61,694,176	59,917,977	60,113,084	65,813,755	66,494,272	65,464,880
	Total CFS	130,953,944	130,084,641	128,761,964	151,301,836	179,460,781	174,589,038

* Actual FY 95 - 98 expenditures per STARS, the State accounting system.

League of Women Voters of Kansas
House Appropriations Committee
April 2, 1999
Bob Harder

Children at Risk

BACKGROUND: Delegates to the 1995 State Convention adopted a state study on children at risk to identify and evaluate state and local services designed to meet the educational, psycho-social and physical needs of children and youths. The position was adopted by delegates to the 1997 State Convention.

STATEMENT OF POSITION: The League of Women Voters of Kansas recognizes the need for all children to live within a healthful and nurturing environment. Consequently, the League is especially concerned about those children identified by child-oriented community and/or government agencies and programs as children at risk.

The League supports the organization of comprehensive collaborative alliances with a statewide computerized central referral service that communicates the existence and availability of services for children and their families. In addition, the League endorses the development and implementation of policies and programs that address the physical, psychosocial, and educational needs of children at risk, especially those at or near the poverty level.

The League of Women Voters of Kansas believes that:

1. Health Services should be available within the city or county, with prevention and early intervention programs for all children from birth to age six. Health programs should provide prenatal and infant care and follow-up services for high risk mothers, with particular attention to teen parents. Schools, in cooperation with public health programs, should provide educational programs for the prevention of teen pregnancies and sexually transmitted diseases. Nutritional information should be made available to all agencies serving children.
2. Psychosocial Services should exist to prevent and relieve conditions of child abuse and neglect and to provide educational, intervention, and emergency services for violence prevention. Also, community programs, both public and private, should provide attractive, safe, growth-promoting settings for children during the out-of-school hours when parental supervision is not available. Substance abuse education, prevention, and treatment services should be implemented to foster a safe environment and to reduce the multiple problems related to alcohol, tobacco, and other drugs.
3. Educational Services should be provided for infants and toddlers with developmental, physical, and /or emotional delays. Preschool education should be available for all children beginning at age three. The League supports affordable child care services that are readily accessible and are held accountable for their quality. The League supports funding for strong alternative and vocational education programs in order that every student reach the goal of high school graduation or its equivalent and also supports sufficient public school funding to provide programs for at-risk children.

The League of Women Voters of Kansas recognizes that some of the programs and services suggested above are already in existence in Kansas communities and endorses funding for their continuation. The League strongly supports ongoing monitoring and evaluation of current programs and initiatives including:

welfare reform.

SRS privatization of foster care, adoption, and family preservation,
transfer of responsibility for juvenile offenders to the Kansas Youth Authority, and
future changes in Medicaid and mental health services.

The League strongly supports broad-based funding to develop other programs that improve the lives of Kansas' children at risk.

Attachment 3-1
House Appropriations Committee
April 2, 1999

League of Women Voters--Kansas

Children at Risk--H.B. 2571

I direct attention to specific sections which I think are relevant to the League's position on Children at Risk and H.B. 2571.

- Sec. 3. Early intervention through the use of Family Preservation Programs.**
- Sec. 5. (b) Services to be provided in the least restrictive setting, homelike.**
- Sec.5. (e) The utilization of a collaborative service model.**
- Sec.5. (j) The development of a portfolio to include the complete medical, health, educational, social, and psychological history of the child.**
- Sec.5. (k) The maintaining of a centralized record keeping system to ensure that children do not get lost in the system.**
- Sec.5. (m) The development of service contracts to include both programatic and process outcomes.**

**Bob Harder
1420 Ward Parkway
Topeka, KS 66604
785-272-8726**

April 2, 1999

Testimony Regarding HB 2571

Sky Westerlund, LMSW
KNASW Executive Director

Thank you for the opportunity to briefly express support for **HB 2571**. KNASW has been informally observing and commenting on the transition of Child Welfare services over the last two and a half years. **Social workers work in all parts of the Child Welfare system, from SRS, private contractors, schools, mental health system, courts, healthcare, community agencies, and private providers. My members, from all areas, have expressed consistent and constant concern about what they see in their everyday practice serving vulnerable children and their families.** KNASW has taken their individual experiences and has talked about their concerns in terms of the larger systems or structural problems.

HB 2571 appears to pull together in an organized, comprehensive fashion much of the many areas of concern over the last several years. For example,

A specific recognition and need to identify and include all stakeholders who are involved in the Child Welfare system to work together as equal players.

The creation of an autonomous division of advocacy, accountable to the legislature, with specific roles and responsibilities, as well as authority to carry out their charge.

A defining of other roles and responsibilities for various players of the Child Welfare system, especially those of SRS.

Finally, the need for accurate, reliable information and data collection including such facts as how many children in the system and where they are placed.

KNASW appreciates the thoughtfulness and depth of this bill and is available to offer assistance as you work to develop a Child Welfare Reform that faces the complex issues that have no simple solutions.

Thank you.

Attachment 4-1
House Appropriations Committee
April 2, 1999

**State of Kansas
Department of Social
& Rehabilitation Services**

Rochelle Chronister, Secretary
Janet Schalansky, Deputy
Secretary

For additional information, contact:

SRS Office of the Secretary
Laura Howard, Special Assistant
915 SW Harrison Street, Sixth Floor
Topeka, Kansas 66612-1570
☎785.296.6218 / Fax 785.296.4685

For fiscal information, contact:

SRS Finance Office
Diane Duffy, CFO
915 SW Harrison Street, Tenth Floor
Topeka, Kansas 66612-1570
☎785.296.6216 / Fax 785.296.4676



**House Appropriations
April 2, 1999**

Testimony: HB 2571

**Children and Family Services
Joyce Allegrucci, Commissioner
(785) 368-8448**

Attachment 5-1
House Appropriations Committee
April 2 1999

Contents

Testimony	HB 2571
Chart	Kansas Child Welfare Delivery System
HB 2571	Recommended Amendments
Paper	Confidentiality of Children's Records in Kansas
Chart	Performance Measurement Definitions
LPA Report Excerpt	Mental Health Services to Children in the Custody of the Secretary of SRS

Kansas Department of Social and Rehabilitation Services
Rochelle Chronister, Secretary

House Appropriations
HB 2571

April 2, 1999

Mr. Chair and Members of the Committee. I am Joyce Allegrucci, Commissioner of Children and Family Services, for the Department of Social and Rehabilitation Services. I thank you for the opportunity to appear before you today in regard to H.B. 2571. I would like to note that while I am listed as an opponent, I appear today as neutral rather than in opposition to this bill. I am heartened by the time and attention the legislature is willing to devote this year to issues surrounding children and families.

I am also heartened by the Committee's interest in a Child Welfare Reform Act, and before I walk through the sections of the bill with you, I would like to talk briefly about the Child Welfare System in Kansas. This system functions under State policy set in K.S.A. Chapter 38 which is the Kansas Code for Care of Children, also Chapter 21 which addresses crimes in this state, Chapter 39 which sets out the responsibilities and authority of the Secretary of SRS and Chapter 75 which created the Department of Social and Rehabilitation Services.

In your packet is a diagram which depicts the numerous participants in the life of a child who comes into the Kansas system. Those circles at the top of the diagram are the entities who most often have custody of the child, and are those most readily identified as "the system", but if you will consider all the circles, you will see that the Child Welfare system is much broader and more complex than is generally understood.

SRS is only one part of a system that addresses the needs of children and families. This bill is written as if the department has sole responsibility for the well being, safety and permanency for children and fails to recognize critical roles played others, which operate independent of SRS and may or may not share the goal of safety and permanency for children. The parents, courts, guardian ad litem, schools, mental health providers, prosecutors, law enforcement, and the Kansas Department of Health and Environment all share responsibility in achieving success for vulnerable children.

One of the general concerns I have around HB 2571 is that it takes one of the participants in the Child Welfare System and makes that one entity (Kansas Department of Social and Rehabilitation Services) responsible for all participants, without forming any kind of reciprocal responsibility from those entities and without granting the Department the kind of authority over those other entities that would be required to fulfill the responsibilities given to the Department.

Serious questions arise about the relationship of this proposal to existing legislation which define the duties and responsibilities of the Secretary in administering the agency in general and the specific responsibilities of the Secretary under the Kansas Code for Care of Children and creates confusion about what statute controls. Is it which ever statue is the most recent, or the most specific, or the most convenient? The assumption is that where existing legislation crosses paths with this proposal, something different is expected, but it is anyone's guess as to what that might be and opens the door for long and drawn out litigation which impedes permanency for children.

5-3

Safety and permanency for children, which is the stated goal of this bill and which is the current policy of both Kansas and Federal law, is not what is operationalized in the bill.

- It takes laudable goals for a model child welfare system and sets those goals into rules that are required of SRS.
- It fails to recognize the roles of other key stakeholders in the child welfare system such as the courts, guardian ad litem, law enforcement, educators, prosecutors, KDHE and others.
- It fails to recognize the relationship to existing legislation which governs the operation of the Department of Social and Rehabilitation Services (K.S.A. 39-708c., K.S.A. 75-5321) and the Secretary's authority to establish policy and rules and regulations for all SRS Services and to the existing Kansas Code for Care of Children (K.S.A. 38-1501 et. seq.).

If I may direct your attention to certain Sections of the bill, I believe I can illustrate my points more succinctly.

Mr. Chairman and members of the committee, I want to emphasize that SRS is not opposed to a Child Welfare Reform Law, and we believe HB 2571 could be a useful tool to begin the study, dialogue and debate that could lead to meaningful revamping of the laws that govern the Child Welfare System in Kansas.

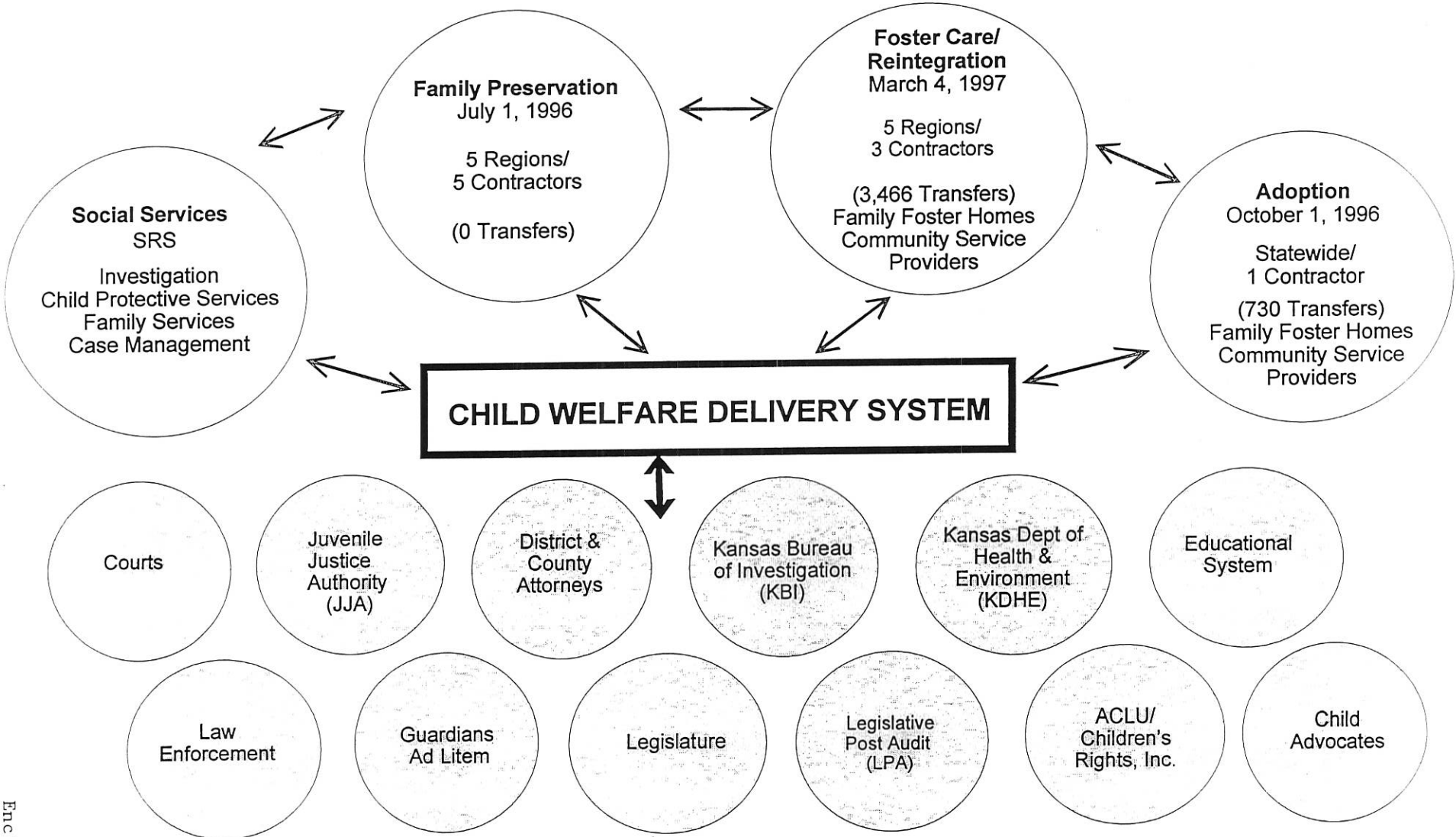
I want to thank you for hearing my concerns. The primary message I want to leave with you is that SRS does not equal the Child Welfare System. It is not possible to address the responsibilities of one part of a services delivery system without addressing the role and responsibilities of other parts of the system. As we have worked to improve the part of the child welfare system for which SRS is responsible, we set certain priorities, knowing that it would take a number of years to get where we wanted to be. Reasonable people may disagree on what those priorities should be. We set our priorities on achieving safety and permanency outcomes for children. This has meant that some of the information you desire is not yet as well developed as you may think it should be. We will continue to try to provide you with information you find useful as you go about your deliberations.

1. set out definitions

KANSAS CHILD WELFARE

March 5, 1999

5-5



HOUSE BILL No. 2571

By Committee on Appropriations

3-29

9 AN ACT enacting the Kansas child welfare reform act; prescribing cer-
10 tain duties and responsibilities for the secretary of social and rehabil-
11 itation services and the department of social and rehabilitation serv-
12 ices; *,courts; law enforcement, educators, and others;* providing for
13 certain studies and reports; establishing the joint
14 legislative committee for foster care--adoption advocates and the di-
15 vision of foster care--adoption advocates with the legislative branch of
16 state government; prescribing certain functions and duties therefor.

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

18 Section 1. This act shall be known and cited as the Kansas child
19 welfare reform act.

20 Sec. 2. The purposes and goals of the child welfare system admin-
21 istered by the secretary of social and rehabilitation services are to achieve,
22 for each child who may be or who is placed in the custody of the secretary
23 of social and rehabilitation services, permanency in a safe and stable en-
24 vironment with quality programs.

25 Sec. 3. The secretary of social and rehabilitation services shall in-
26 tegrate the provision of family preservation services under the child wel-
27 fare system with the provision of foster care services so that such services
28 are an integral part of the foster care services component of the system.
29 The secretary shall adopt and work to achieve the goal of intervening in
30 all appropriate cases with intensive, in-home family preservation services
31 to reduce the risks that children will be removed from their homes. *Schools,
community mental health centers, law enforcement agencies, juvenile intake
and assesment and all community agencies working with children or their
families shall adopt and work to achieve the goal of supporting families and
family preservation services to reduce the risks that children will be removed
from their homes.*

32 Sec. 4. From the time that a child is placed in the custody of the
33 secretary of social and rehabilitation services, the secretary of social and
34 rehabilitation services *along with the court, the guardian ad litem, and
the prosecutor* is responsible for all aspects of the child's life and
35 to achieve permanency for the child in a safe and stable environment with
36 quality programs as prescribed by this act and by other statutes. The

37 secretary of social and rehabilitation services may provide by contract for
38 services to be provided for children placed in the custody of the secretary,
39 but the responsibility remains with the secretary of social and rehabili-
40 tation services to provide family preservation, foster care, adoption and
41 other necessary services for each child placed in the custody of the sec-
42 retary and to ensure that all provisions of state or federal statutes, rules
43 and regulations, and policies and procedures of the department of social
HB 2571

2

1 and rehabilitation services are complied with and adhered to with respect
2 to the health, safety and welfare of such child.

3 Sec. 5. The responsibilities and duties of the secretary of social and
4 rehabilitation services and the department of social and rehabilitation
5 services for each child placed in the custody of the secretary of social and
6 rehabilitation services, or otherwise receiving care and services from the
7 department of social and rehabilitation services, specifically include, but
8 are not limited to, the duties and responsibilities prescribed by this act.
9 With respect to each such child, the secretary of social and rehabilitation
10 services shall:

11 (a) Ensure that all officers and employees of the department of social
12 and rehabilitation services provide complete and accurate information
13 *to the extent it is available or known and to the extent authorized by law*
14 about each child to law enforcement officers, judges, attorneys *for the*
15 *parents, child and state* and others
16 upon proper request, in all appropriate forums and circumstances, in-
17 cluding the *court's or law enforcement's* decision to remove a child from
18 the child's home, throughout
19 the period of continuing state responsibility for the child;

KSA 38-1507

17 (b) ensure that all children removed from their homes and placed in
18 the custody of the secretary of social and rehabilitation services are
19 housed in the least restrictive, most home-like setting consistent with each
20 child's needs and shall make every effort to ensure that each child placed
21 in the custody of the secretary is not relocated from one housing location
22 to another more frequently than is absolutely necessary and then only if
23 the relocation is required for the health, safety and welfare of the child;

24 (c) ensure that responsible personnel of the department of social and
25 rehabilitation services have and maintain current knowledge of and in-
26 formation about the exact placement of each child in the custody of the
27 secretary;

28 (d) ensure that all necessary and appropriate parties are invited and
29 encouraged to be in attendance at all periodic administrative hearings or *case planning conference?*
30 conferences about the child and to participate in all decisions regarding
31 the child and the child's family, including the social worker employed by
32 the department of social and rehabilitation services assigned to the child,

5-7

33 — staff of any contractor providing services for the child, the natural parents
34 — or guardians of the child, the foster parents of the child and the guardian
35 — ad litem of the child;

36 — (e) **require *build on the*** a collaborative service model for the provision of care
37 — and services to each child in the custody of the secretary so that thereby
38 — the secretary can (1) bring together all the stakeholders in providing serv-
39 — ices for the child including school teachers or other personnel, foster and
40 — natural parents, behavioral health providers and physicians when appro-
41 — priate, social workers and others, (2) ensure that appropriate services are
42 — recommended for children and their families, (3) ascertain whether chil-
43 — dren and their families are receiving the recommended services, and, (4)

HB 2571-

3

-1 — if services are not being provided, ensure that the reasons for services
-2 — not being provided are clearly documented and reviewed by appropriate
-3 — supervisory personnel of the department of social and rehabilitation
-4 — services;

5 — (f) require, under the collaborative service model for the provision
6 — of services, that each collaborative team meet regularly to review the
7 — service plan for each child and, in each case involving service providers,
8 — to regularly update a comprehensive service plan to coordinate and assure
9 — the provision of services by the contracting service provider and any sub-
10 — contracting service providers thereunder;

11 — (g) ***within the limits of appropriations therefore*** assess the housing
12 — ***placement*** needs of foster children on a periodic basis,
13 — determine the availability of housing placement opportunities and facili-
14 — ties and ensure that there are a sufficient number of needed housing
15 — placement providers throughout the state;

16 — (h) ***within the limits of appropriations therefore*** assess the service needs
17 — of children and their families on a pe-
18 — riodic basis, assess the availability of needed services and ensure that
19 — needed services are available on a statewide basis;

20 — (i) ***within the limits of appropriations therefore assess the extent to which***
21 — ***ensure that the communities, judicial districts, school districts and SRS area***
22 — ***offices are succeeding in ensuring that each*** child and the child's family are
23 — making functional

24 — improvement in such areas as socialization, educational attendance and
25 — achievement and lack of involvement in the juvenile justice system and,
for each child with behavior disorders, ensure that improvements are also
demonstrated in relation to the ability to remain in the community, re-
duction in symptomatology and achievement of developmental mile-
stones, among others that are specifically appropriate for the circum-
stances and characteristics of the child and the child's family;

5-8

26 (j) *within the limits of appropriations therefore and to the extent the*
information is available to the secretary develop a portfolio for each
 child receiving foster care or adoption
 27 ~~services~~ *in the custody of the secretary* to provide a readily available
 documentary record containing a
 28 comprehensive health, social, educational and developmental record of
 29 the child which shall *may* include, but is not limited to, each of the following:
 30 (1) Complete health history, including immunization and dental
 31 records;
 32 (2) mental health history;
 33 (3) early periodic, screening, diagnostic and treatment report;
 34 (4) results of psychological and educational testing;
 35 (5) development scales results;
 36 (6) educational placement and achievement level;
 37 (7) availability of health insurance or other health care coverage or
 38 resources;
 39 (8) involvement with law enforcement;
 40 (9) records of substance abuse;
 41 (10) employment information for each of the parents; and
 42 (11) income resources available to provide support for the child;
 43 (k) *within the limits of appropriations therefore* maintain a centralized record
 system for all children in the child

HB 2571

1 welfare system that includes statewide tracking of the placement of chil-
 2 dren in the custody of the secretary, the services recommended and re-
 3 ceived by the child and the child's family, the record of the child's func-
 4 tional outcomes progress, the encounter data for services provided to
 5 children for reimbursement purposes, and a system that will call imme-
 6 diate attention to supervising personnel of the department of social and
 7 rehabilitation services when a contractor, or any subcontractor, is not
 8 providing services for a child or is not supplying encounter data for a child
 9 receiving services from the contractor or subcontractor;

10 (l) *within the limits of appropriations therefore* develop and implement,
 in conjunction with other appropriate
 11 public agencies, a comprehensive system for the detection, investigation
 12 and prosecution of state employees or employees of contractors or sub-
 13 contractors who falsify any records of or regarding any child or the care
 14 or other services provided under the child welfare system for any child
 15 or the child's family;

16 (m) ~~develop and incorporate into all service provider contracts ap-~~
 17 ~~propriate and reasonable process and programmatic outcomes which are~~

KSA 21-3710 (forgery)
 KSA 21-3711 (false information)
 Both are level 8 np felonies

KSA 39-708c(b)

18 — applicable to contractors with whom the secretary of social and rehabili-
19 — tation services has placed children, which are focused on the child's func-
20 — tioning including, among other areas of functional improvement, im-
21 — provements in the child's socialization, educational attendance and
22 — achievement, lack of involvement in the juvenile justice system and, for
23 — each child with behavior disorders, improvements in the ability to remain
24 — in the community, reduction in symptomatology and achievement of de-
25 — velopmental milestones, and which are not simply outcomes prescribing
26 — records that track the number of placements and length of placements
27 — for each child;

28 (n) assess the achievement of children's, families' and contractors'
29 — outcomes on a periodic basis and report the results of those outcomes
30 — assessments to appropriate legislative committees, the governor, the ju-
31 — diciary, members of the press, families and the residents of Kansas;

32 (o) conduct contract negotiations with current and potential service
33 — providers for the child welfare system to include reasonable and antici-
34 — pated costs, the number and types of children projected to be in the
35 — system, the number and types of placements that such children will need,
36 — the number and types of services such children will need, the expected
37 — and acceptable caseloads of the social workers employed by contractors,
38 — and other reasonably anticipated costs and other factors that must be
39 — considered and provided for to achieve the purposes and goals of the
40 — system;

41 (p) enter into contracts with service providers which include financial
42 — incentives and disincentives that are based on the contractor's perform-
43 — ance and the functionally-based performance of the children served by

HB 2571-

—1 — the contractor, that are outcomes and performance based, and that are
—2 — designed to attain and have the primary goal of returning each child to
—3 — the child's natural home and parents, if a safe and nurturing environment
—4 — is provided in such home, and the secondary goal of meeting federal
—5 — requirements for adoption for the child, if this is the best option for the
—6 — child;

7 (q) require each contractor providing foster care services to have a
—8 — subcontract with the local licensed community mental health centers
—9 — within the geographic areas served by the contractor to provide pre-hos-
10 — pitalization screening and admittance to state mental health facilities;

11 (r) prepare and publish in the Kansas register a report of an evalu-
12 — ation of each contractor's adherence to the contractual requirements and
13 — to all applicable state or federal laws, rules and regulations and depart-
14 — mental policies and procedures and the functional performance the con-

15 — tractor achieved under the contract with the department of social and
16 — rehabilitation services;

17 (s) organize and administer the provision of all mental health serv-
18 — ices, including substance abuse services, for children under the child wel-
19 — fare system, so that such services, like physical health services, are pro-
20 — vided by qualified medicaid providers under the same procedures
21 — through the use of the child's medical card, with utilization review in
22 — accordance with the state medicaid plan, and such services are not pro-
23 — vided through family preservation, foster care or adoption service pro-
24 — vider contracts;

25 (t) identify and provide appropriate training to officers and employ- KSA 39-708c(e)
26 — ees of the department of social and rehabilitation services to ensure that
27 — the child welfare system is operated in a manner that is consistent with
28 — applicable state and federal laws, rules and regulations and departmental
29 — policies and procedures;

30 (u) communicate and work with the families, foster parents, service
31 — providers, subcontractors, social workers, judges, school personnel, law KSA 39-708c(i), (t)
32 — enforcement officers, district attorneys, guardians ad litem, officers and
33 — employees of the juvenile justice authority and other stakeholders in the
34 — child welfare system as needed to identify (1) the strengths and weak-
35 — nesses in the system, (2) barriers to achieving the purposes and goals of
36 — the system, (3) potential solutions for addressing any weaknesses or bar-
37 — riers identified, and (4) other appropriate matters to ensure that the sys-
38 — tem provides the care and services to each child in the custody of the
39 — secretary;

40 (v) take appropriate, positive actions to address and remedy all iden-
41 — tified weaknesses in the child welfare system and to remove all identified
42 — barriers to achieving the purposes and goals of the system, including pro-
43 — posing and supporting legislation to address such weaknesses and barriers

HB 2571-

6

1 — and related issues that need legislative action;

2 (w) maintain a timely, itemized and accurate accounting of the total KSA 39-708c(f), (m)
3 — costs of the child welfare system which includes any financial losses ex-
4 — perience or debts incurred by contractors and subcontractors in provid-
5 — ing services under the system; and

6 (x) prepare and submit a report by August 1, 1999, to the committee
7 — on appropriations of the house of representatives, the committee on ways
8 — and means of the senate and the legislative post audit committee which
9 — sets forth in detail the debt incurred by each entity contracting with the
10 — secretary to provide foster care services and the debt incurred by the
11 — subcontractors of such foster care service providers and which presents

seemed to be OK

5-11

Jump
KOS

12 recommendations on methods by which the state could appropriately and
13 effectively participate in reducing such debts.

14 Sec. 6. During the period from the effective date of this act until
15 the first day of the regular session of the legislature commencing in 2003,
16 the joint committee on children's issues shall monitor, review and make
17 recommendations relating to child welfare programs and services of the
18 department of social and rehabilitation services, specifically including, but
19 not limited to, family preservation, foster care and adoption programs and
20 shall prepare an annual report of findings and recommendations which
21 shall be provided to the legislative coordinating council and to the legis-
22 lature on or before the first day of the regular session of the legislature
23 in 2000, 2001, 2002 and 2003 and may prepare such additional reports
24 during such period as may be deemed appropriate by the joint committee
25 on children's issues to the committee on appropriations of the house of
26 representatives and the committee on ways and means of the senate.

27 Sec. 7. (a) There is hereby established the joint legislative commit-
28 tee for foster care--adoption advocates which shall consist of five mem-
29 bers of the senate and five members of the house of representatives. The
30 five members of the senate shall be appointed as follows: Three by the
31 president and two by the minority leader. The five members of the house
32 of representatives shall be appointed as follows: Three by the speaker and
33 two by the minority leader. Each senate member appointed and each
34 representative member appointed shall serve on the joint legislative com-
35 mittee for foster care--adoption advocates during such member's current
36 term as a legislator. The officer so appointing shall notify promptly the
37 joint committee of the appointment. A quorum of the joint committee
38 shall be six. Except as otherwise specifically provided by law, all actions
39 of the joint committee may be taken by a majority of those present when
40 there is a quorum. At the commencement of each regular session of the
41 legislature, the joint legislative committee for foster care--adoption ad-
42 vocates shall organize by electing a chairperson and a vice-chairperson
43 who are not members of the same house of the legislature. The vice-

HB 2571

7

1 chairperson shall exercise all of the powers of the chairperson in the
2 absence of the chairperson. The joint legislative committee for foster
3 care--adoption advocates may meet at any time, at any place in the state
4 on the call of the chairperson. The joint committee may introduce such
5 legislation as it deems necessary in performing its duties under this act.

6 (b) There is hereby established the office of the director of foster
7 care--adoption advocates. The director of foster care--adoption advocates
8 shall be appointed by the joint legislative committee for foster care--

5-12

9 adoption advocates and shall serve under its direction. The director of
10 foster care--adoption advocates may be removed from office by the affir-
11 mative vote of not less than seven members of the joint legislative com-
12 mittee for foster care--adoption advocates taken at any regular meeting
13 of such committee. The director of foster care--adoption advocates shall
14 be a person of extensive experience and recognized qualification in the
15 field of ombudsman representation and government advocacy. The di-
16 rector of foster care--adoption advocates shall be in the unclassified serv-
17 ice and shall receive such compensation as is determined by the legislative
18 coordinating council, except that such compensation may be increased
19 but not diminished during such service. The joint legislative committee
20 for foster care--adoption advocates may recommend to the legislative co-
21 ordinating council changes in the compensation of the director of foster
22 care--adoption advocates. The director of foster care--adoption advocates
23 shall receive travel expenses and subsistence expenses and allowances as
24 provided for members of the legislature in K.S.A. 75-3212 and amend-
25 ments thereto when attending any authorized meeting or business outside
26 the city of Topeka.

27 (c) There is hereby established the division of foster care--adoption
28 advocates within the legislative branch of the government. The division
29 of foster care--adoption advocates shall be under the direct supervision
30 of the director of foster care--adoption advocates in accordance with pol-
31 icies adopted by the joint legislative committee for foster care--adoption
32 advocates. Employees in the division of foster care--adoption advocates
33 shall be in the unclassified service, shall receive such compensation as is
34 provided under this act and shall be covered by the state group health
35 plan and Kansas public employees retirement system to the same extent
36 as other state employees. Employees of the division of foster care--adop-
37 tion advocates shall receive travel expenses and subsistence expenses and
38 allowances as provided for other state employees. Employees in the di-
39 vision of foster care--adoption advocates shall be employed by and be
40 responsible to the director of foster care--adoption advocates who shall
41 fix the compensation of each such employee subject to approval of the
42 joint legislative committee for foster care--adoption advocates and within
43 budget and appropriations therefor. The annual budget request of the

HB 2571

1 division shall be prepared by the director of foster care--adoption advo-
2 cates and the director of foster care--adoption advocates shall present it
3 to the joint legislative committee for foster care--adoption advocates. The
4 joint committee shall make any changes it desires in the budget request
5 and then shall transmit it to the legislative coordinating council. Such

6 council shall make any changes it desires in such budget request and upon
7 approval of the budget request by the council, the director of foster care-
8 -adoption advocates shall submit it to the director of the budget as other
9 budget requests are submitted.

10 (d) Members of the joint legislative committee for foster care--adop-
11 tion advocates shall receive compensation, travel expenses and subsis-
12 tence expenses and allowances as provided in K.S.A. 75-3212 and amend-
13 ments thereto. All compensation and expenses of members of the joint
14 legislative committee for foster care--adoption advocates arising out of
15 activities as members of such committee shall be paid from appropriations
16 made for the division of foster care--adoption advocates. All compensation
17 and expenses of the director of foster care--adoption advocates and em-
18 ployees of the division of foster care--adoption advocates shall be paid
19 from appropriations made for the division of foster care--adoption ad-
20 vocates. All payrolls and vouchers for payment of amounts from appro-
21 priations made for the division of foster care--adoption advocates shall be
22 approved by the director of foster care--adoption advocates.

23 Sec. 8. The director of foster care--adoption advocates shall:

24 (a) Employ such employees as may be necessary to carry out the
25 duties of the division of foster care--adoption advocates;

26 (b) enter and inspect documents relating to complaints, investiga-
27 tions and studies under the control of and performed by any advocates
28 at any reasonable time of day and may delegate that authority in writing
29 to any employee of the division of foster care--adoption advocates;

30 (c) ensure that no individual involved in the authorization of any
31 individual to represent the division of foster care--adoption advocates is
32 subject to a conflict of interest;

33 (d) ensure that no officer, employee or other representative of the
34 division of foster care--adoption advocates is subject to a conflict of in-
35 terest; and

36 (e) ensure that policies and procedures are in place to identify and
37 remedy all conflicts of interest.

38 Sec. 9. (a) Records of the division of foster care--adoption advocates
39 and records of the director of foster care--adoption advocates included
40 shall not be disclosed directly or indirectly to any person except as au-
41 thorized by the director of foster care--adoption advocates.

42 (b) No documents relating to complaints, investigations or studies in
43 the possession of the director of foster care--adoption advocates or any

HB 2571

1 employee of the director of foster care--adoption advocates shall be read,
2 copied or taken by any officer or employee of the state of Kansas except

3 as authorized by the director of foster care--adoption advocates or the
4 director's designee.

5 Sec. 10. The director of foster care--adoption advocates shall pro-
6 vide advocacy for citizens on matters relating to foster care or adoption,
7 or both, shall investigate complaints concerning the foster care and adop-
8 tion systems in this state and shall perform such other duties as may be
9 specified by the joint legislative committee for foster care--adoption
10 advocates.

Additional sections need to be added to address the roles and responsibilities of others. This should at the least include judges, prosecutors and guardians ad litem. Consideration should be given to the role of schools and other public community agencies might play in ensuring children are provided safe, permanent homes.

11 Sec. 11. This act shall take effect and be in force from and after its
12 publication in the Kansas register.
13

Image Not
Available

CONFIDENTIALITY OF CHILDREN'S RECORDS IN KANSAS

Roberta Sue McKenna
Office of General Counsel
Kansas Department of Social and Rehabilitation Services

I. STATUTORY FRAMEWORK

A. Federal Law

In order to qualify for federal funds, Kansas must have legal requirements safeguarding the privacy of all clients served. Federal law and regulation require that state legislation include sanctions for violation of the confidentiality requirements.

1. The Social Security Act

These requirements are primarily set out in regulations promulgated to implement provisions of Title 42 of the United States Code. For instance the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et. seq.) requires specific standards which must be met to qualify for grants under the act and to meet the requirements of the Adoption Assistance and Child Welfare Act of 1980 as amended by the Adoption and Safe Families Act of 1997. (42 U.S.C. 620 and 670 et seq.)

Congress modified CAPTA confidentiality provisions in 1992 and in 1996. The 1996 modification superseded previously controlling regulations set out at 45 C.F.R. sections 1340.14(I) and 1340.20. The 1992 modification emphasized the need for states to maintain the confidentiality of child abuse and neglect information, while at the same time providing for disclosure of information to persons and entities with a need for the information directly related to the purpose of CAPTA. The change was motivated by Congressional understanding that prior restrictions had placed an unreasonable burden on the states and were counter productive to the effort to investigate allegations of abuse and neglect of children. The trend toward a more open approach continued with the 1996 amendments.

New regulations have not yet been promulgated, but the U.S. Department of Health and Human Services Administration on Children, Youth and Families National Center on Child Abuse and Neglect issued an information memorandum in January of 1996 which concludes: "Because the 1992 CAPTA amendment gives States great latitude to decide what balance of confidentiality and disclosure will promote child protection, in the absence of revised regulations, the Department will interpret the confidentiality provisions broadly. Accordingly, Federal funds will not be jeopardized so long as amendments to State confidentiality provisions are reasonably within the language of the statute on its face." Information must be disclosed to service providers, multidisciplinary teams, mandatory reporters, and the child's

guardian ad litem. The state may expand this list through legislation. Information shared pursuant to CAPTA may not be further disclosed.

The AACWA at 42 U.S.C. 675(D) and (C) requires medical and education information be shared with foster parents. Specifically this includes names and addresses of the child's health care and educational providers; school record and grade level performance; immunization records, medical problems, and medications; and any additional information required by a state agency. Otherwise information sharing is limited to that which is necessary to administer any program receiving federal funds; as necessary to audit, investigate and prosecute criminal or civil proceedings related to the administration of such program; and the reporting of suspected or known child abuse or neglect to appropriate agencies. Information may only be released to entities with standards of confidentiality as high or higher than those required under this act. Administration of the program includes the provision of services to protect children and to provide children with permanency.

Temporary assistance for Needy Families (TANF) at 42 U.S.C. 602(a)(1)(A)(iv) and Child Support Enforcement (CSE) at 42 U.S.C. 654 are also covered under this act and contains confidentiality requirements. Protection for the privacy of children and families is required, but information may be shared as necessary to administer other programs. For instance CSE may be helpful in identifying and locating the absent parent of a child subject to child in need of care proceedings.

The Medicaid Act at 42 U.S.C. 1396a(a)(7) and 1320b-7 prohibits the disclosure of information except as necessary to administer the program and provide services.

2. Family Education and Privacy Act

Fondly referred to as FERPA, the Family Education and Privacy Act, 20 U.S.C. 1232, requires schools to provide parents full access to all educational records and prohibits release of educational records without the written permission of the parents except to school officials with a legitimate educational interest in the records. This allows the sharing of information within a school system necessary to provide instruction and allows the sharing of information with another school district in which the student has or intends to enroll.

FERPA authorizes disclosure outside the school system without parental consent in an emergency to protect the health and safety of the student or other individual and allows compliance with mandates to report suspected child abuse and neglect.

The act distinguishes between "educational records" and "directory information". School districts are allowed to define directory information by publishing what is and is not included. Directory information may not be defined to include information generally considered harmful or an invasion of privacy if disclosed. Disclosure of conduct which occurs in public view is not an invasion of privacy and school districts may define records of disruptive conduct as directory information. These records may then be disclosed without parental consent.

Information learned via sources other than education records are not controlled by FERPA. Facts learned through personal observation, conversations, court records, public media, public records, etc may be disclosed without violating the act.

After notice to the parents, the educational institution may release information pursuant to a court order or subpoena.

3. Juvenile Justice and Delinquency Protection Act

The Juvenile Justice and Delinquency Prevention Act or JJDP, 42 U.S.C. 5601 et seq. at sections 223(a)(18) and 296 require states receiving grant funds to provide assurances that procedures have been established to ensure that programs not disclose records containing the identity of individual juveniles. Exceptions to this requirement are rather board. Information may be disclosed pursuant to law, with the consent of the juvenile or his/her legally authorized representative or in order to carry out the functions of the act. Under no circumstances may public project reports or findings contain names of actual juvenile service recipients. States are free to define juvenile, juvenile offender and to promulgate laws regulating the confidentiality of their records. Access to information in from criminal justice agencies is also controlled by 42 U.S.C. 5119-5119c.

4. Confidentiality of Alcohol and Drug Abuse Patient Records

In 1992 42 U.S.C. 290dd-2 consolidated and replaced laws which had separately governed the confidentiality of alcohol abuse (42 U.S.C. 290dd-3) and drug abuse (42 U.S.C. ee-3) treatment records. The current law refers to alcohol and drug abuse as substance abuse and requires the same high standard of protection for these records previously afforded by the separate laws. Disclosure is limited except to actually provide the treatment and upon the consent of the patient. Parental consent is necessary if parental consent was necessary to provide treatment. See also 42 C.F.R. Part 2.

The states are free to define minor and to determine when a minor may consent to treatment. If the minor may consent to treatment (16 in Kansas per K.S.A. 65-5225), the minor must consent to disclosure. The minors consent is then required even for disclosure to parents. The minor must consent before the facility can contact the parents for consent if their consent is required for treatment unless the minor "lacks the capacity because of extreme youth or mental or physical condition to make a rational choice" AND the situation "poses a substantial threat to the life or physical well-being" or another person "may be reduced by communicating relevant facts to the minor's parent". (42 C.F.R. Ch.I 2.14) If parental consent is necessary for treatment both the minor and the parent must authorize release of information. The consent must be in writing and on a form compliant with the requirements set out in the regulations.

Passage of the Children's Justice Act in 1986 removed restrictions on treatment staff's compliance with compulsory reporting of child abuse/neglect. Staff are required to comply

with state statutes mandating the reporting of suspected child abuse or neglect. However, having reported the treatment agency may not provide additional information unless the patient consents or pursuant to court order.

Prior to ordering disclosure the court must find the disclosure is necessary to avoid death or serious injury; to investigate or prosecute a extremely serious crime or the patient has opened the door. Child abuse and neglect is specifically included as potentially a life threatening, extremely serious crime.

The law authorizes the sharing of information among agencies providing services under "qualified service ' organization agreements".

It is important to note the law protects treatment information not use/abuse information.

B. Kansas Law

1. Kansas Department of Social and Rehabilitation Services

K.S.A. 39-709b meets the general requirements of Title 42 by providing that information concerning applicants for and recipients of assistance from SRS shall be confidential, privileged and shall not be disclosed except pursuant to exceptions set out in the statute.

2. Kansas Code for Care of Children Children in Need of Care*

K.S.A. 38-1507 meets the specific requirements of the Child Abuse Prevention and Treatment Act by requiring that all records and reports concerning children adjudicated or alleged to be in need of care be confidential and disclosed only pursuant the specific exceptions set out in the statute.

While the Behavioral Sciences Regulatory Board has promulgated regulations (see particularly K.A.R. 102-2-7) pursuant to of K.S.A. 6506(d), K.S.A. 38-1507b bars their review of information sharing under this code. However K.S.A. 65-6315 prohibits social workers from disclosing information received from a client.

In re K.G.O., 12 Kan. App. 2d 7, provides that K.S.A. 38-1514 creates an exception to the confidential relationship between a psychologist and client granted by K.S.A. 74-5323.

3. Kansas Code for Juvenile Offenders

K.S.A. 38-1608 provides that records of law enforcement officers; agencies and municipal courts concerning a public offense committed or alleged to have been committed by a youth under 14 are not to be disclosed except to the court and designated court personnel; parties and their attorneys; SRS; individual or agency having custody or providing services; law enforcement and prosecutors when necessary; juvenile intake and assessment workers; JJA; pursuant to a court order, department of corrections under certain circumstances, and, of course, the juvenile information

system. If the juvenile is prosecuted as an adult, is 14 or older, the records are treated the same as adult records.

K.S.A. 38-1609 protects the diagnostic, treatment or medical records of juvenile offenders.

K.S.A. 38-1607 protects court records of juvenile offenders.

K.S.A. 38-1675 and 1676 require courts, prosecutors, schools, victims, and local law enforcement be notified prior to the release of certain juvenile offenders from juvenile correctional facilities.

K.S.A. 38-1692 requires certain juvenile offenders be tested for AIDS. The results are to be shared with the court, the offender, the parent or guardian, and the victim or victim's designee. Further disclosure is a class c misdemeanor.

4. Substance Abuse Treatment

K.S.A. 65-4050 prohibits the disclosure of records concerning treatment for alcoholism.

K.S.A. 65-5225 provides that drug abuse treatment records are confidential. In both cases disclosure is limited to the specific exceptions set out in statute and usually requires the written consent of the patient and, when appropriate, the patient's parent or guardian.

Kansas law conforms to the federal requirements. Therefore each disclosure requires specific consent and recipients must commit in writing to protect the information from court process.

5. Mental Health Records

K.S.A. 65-5601 et. seq. provides for confidentiality of mental illness treatment facilities and patient records. The records are confidential and privileged and may be shared only with members of the treatment team or pursuant to specific exceptions set out at K.S.A. 5603*.

6. Adoption Records

K.S.A. 59-2101, the Adoption and Relinquishment Act, contains provisions both restricting and authorizing access. Kansas is one of the few states to allow adult adoptees complete access to information concerning their birth families.

7. Miscellaneous

K.S.A. 65-118 protects information concerning contagious or infectious diseases.

K.S.A. 76-12b11 provides for confidentiality of state mental retardation institution records and the records of residents.

K.S.A. 74-5516 protects the confidentiality of records concerning individuals with developmental disabilities.

K.S.A. 65-525 limits public access to files of licensed or registered child care providers.

III. Open Records/Required Disclosure

A. Freedom of Information Act

Applies to records created or maintained by the federal government. It does not apply to state records.

B. Open Records Act

K.S.A. 45-215 - 223 Kansas Open Records Act provides records are open and available to the public unless otherwise provided. The rule is records maintained by the government are public records unless a specifically closed. Exceptions to this rule include:

Records the disclosure of which is specifically prohibited by law

Criminal Investigation records compiled in the process of preventing, detecting, or investigating violations of criminal law except by court order.

Certain personnel records and records which identify individuals and would constitute clearly unwarranted invasion of personal privacy.

C. Mandated Reporting

K.S.A. 38-1522 mandates report to SRS or law enforcement when one of the listed professionals suspects a child has been injured as the result of abuse or neglect. Reporters, whether mandated or not, are protected from retaliation by employers (K.S.A. 38-1525) and afforded good faith immunity (K.S.A. 38-1526) for reporting and for cooperating with the investigation of suspected child abuse or neglect. The Child Abuse Prevention and Treatment Act requires states to promulgate statutory requirements mandating reporting of child abuse and neglect.

D. Required Disclosure

K.S.A. 38-134 requires SRS to share available information with foster parents prior to placing a child in the home and to provide additional information as it becomes available. The Adoption Assistance and Child Welfare Act has recently been amended to include required sharing of information with foster care providers.

K.S.A. 38-1546 requires SRS to make records available to guardians ad litem at 48 hours before a scheduled hearing.

K.S.A. 65-516 prohibits certain individuals from working residing or volunteering in facilities licensed by the Kansas Department of Health and Environment to provide child care. Individuals confirmed by SRS for abusing or neglecting children are included. Therefore SRS is required to notify KDHE upon the receipt of a report of suspected abuse or neglect involving a licensed entity (K.S.A. 38-1523(e)) and maintains a central registry listing all individuals confirmed as perpetrators of abuse or neglect.

K.S.A. 22a-241 - 22a-244 establishes the Kansas Child Death Review Board, provides authority for the board to access information and restricts further disclosure.

Tarasoff v. Regents of University of California, 17 Cal. 3d 425, 131 Cal. Rptr. 14, 551 P. 2d 334 (1976) held a therapist had an affirmative duty to warn the victim that the defendant was likely to cause the victim harm.

Criminal defendant's rights under the sixth and fourteenth amendments to the U.S. Constitution do not require disclosure of confidential records concerning child victim. Pennsylvania v. Ritchie, 480 U.S. 39, 107 S.Ct. 989 (1987) holds the trial court should, after *in camera* inspection, disclose only such information as is material and relevant.

August 22, 1998

5-22

Kansas Department of Social and Rehabilitation Services
Commission on Children and Family Services

April 2, 1999

PERFORMANCE MEASUREMENT DEFINITIONS

Term	Definition
Process Measure	Describes the type and level of services that a program provides
Intermediate Outcome Measure	Documents interim improvements in participants' progress toward a final objective
Outcome Measure	Documents the condition of clients after a service has been provided
Performance Standard	Measurable target or benchmark that programs strive to meet
Program Impact	The degree to which outcomes contribute to broad policy objectives

Provision of Mental Health Services to Children in the Custody of The Secretary of SRS

In November, 1998 the Legislative Division of Post Audit issued a performance audit report entitled, "Assessing How Well the Foster Care Program in Kansas is Working, Part 1: Services and Placements." Based on case readings, LPA reported that on new cases (children who had been referred to a contractor since January, 1998) 92% of the initial case plans and 97% of the subsequent case plans were timely. Case plans are developed to identify needed services for a child. LPA goes on to report that, "[a]bout 90% of the time, the types of services these children appeared to need had been recommended for them." Additionally, the report notes that, "the types of services most often recommended were individual psychological therapy, family therapy, mental health assessments, and anger control therapy. **Overall, the children ... received 81% of the services recommended for them.**" In contrast, a previous foster care audit conducted in 1991 by LPA revealed 70% of the children received recommended services. Clearly the provision of services has improved privatization.

Due to continuing concerns about the provision of mental health services to children in the custody of the Secretary, the department made and implemented a policy to monitor the provision of mental health services.

Cases In Which Mental Health Services Did Not Follow the Case Plan
 Source: Monthly Reports Submitted by SRS Contract Monitors to Children and Family Services

Family preservation Number of cases by Contractor						
Kaw Valley	Wyandotte MHC	KCSL	St. Francis	DCCA	Total Not Followed	Total Cases Referred for Period
July, 1997 to June 1998						
6	0	0	0	1	7	2473 (0.2% of Total for Period)
July, 1998 to January, 1999						
0	0	0	0	0	0	1536

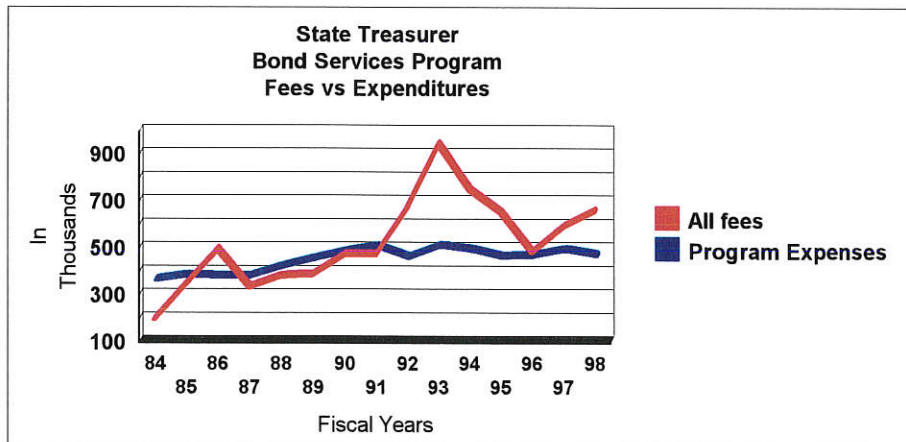
Foster Care and Reintegration Services Number of cases by contractor						
February, 1998 to January, 1999					November, 1998 to January, 1999	
Kaw Valley	United Methodist Youthville	KCSL	Total Not Followed	Total Cases Referred for Period	Total Not Followed	Total Cases Referred for Period
38	21	6	65 (2.5% of Total)	2635	10 (1.7% of Total for Period)	603

Adoption Services Number of Cases (Single Contractor)			
October 1997 to September, 1998		October, 1998 to February, 1999	
Total Not Followed*	Total Cases Referred for Period	Total Not Followed	Total Cases Referred for Period
8*	648	0	337

* Note: Data for service recommendations not followed are for the period February, 1998 to September, 1998.

Kansas State Treasurer's Bond Services Program

Fiscal Year	Fee (SGF)	Reg. Fee (fee fund)	Commission (SGF)	Total all (SGF & fee)	Expenditures (SGF & fee)	diff (SGF)
84	197,690	0	41,257	197,690	351,260	(153,570)
85	306,950	0	41,528	348,478	371,543	(23,065)
86	451,814	0	41,869	493,683	365,571	128,112
87	290,629	0	41,995	332,624	368,742	(36,118)
88	340,104	0	38,901	379,005	408,708	(29,703)
89	349,382	0	37,644	387,026	441,607	(54,581)
90	431,546	0	39,489	471,035	472,252	(1,217)
91	428,522	0	42,078	470,600	494,421	(23,821)
92	610,912	17,560	42,649	671,121	445,917	225,204
93	875,102	30,647	37,919	943,668	495,963	447,705
94	692,490	17,062	38,564	748,116	481,373	266,743
95	610,014	6,923	35,293	652,230	451,060	201,170
96	427,416	18,326	36,338	482,080	454,857	27,223
97	546,515	17,280	28,989	592,784	478,850	113,934
98	595,628	22,766	40,195	658,589	457,019	201,570
Total	<u>\$7,154,714</u>	<u>\$130,564</u>	<u>\$584,708</u>	<u>\$7,828,729</u>	<u>\$6,539,143</u>	<u>\$1,289,586</u>



The Fee is paid by issuers of bonds that use the Treasurer's office as Paying Agent.
 The Registrar Fee is paid by issuers of bonds that DO NOT use the Treasurer's office as Paying Agent.
 The Commission is paid at maturity at the rate of \$1.25 per maturing bond certificate.

Attachment 6-1
 House Appropriations Committee
 April 2, 1999

**MAINTENANCE REPORT
TOTALS FOR BONDS AND NOTES
FISCAL YEARS 1995 THROUGH 1999**

	<u>FY 1995</u>	<u>FY 1996</u>	<u>FY 1997</u>	<u>FY1998</u>	<u>YTD 1999</u> As of 2/28/99
<u>BONDS</u>					
New Issues					
Total Registered					
#	191	228	233	292	223
\$	\$779,058,172	\$648,915,709	\$767,064,165	\$1,512,169,586	\$1,190,971,168
State as Paying Agent					
#	176	207	208	247	195
\$	\$613,965,172	\$349,801,373	\$626,384,165	\$1,193,804,220	\$701,805,182
State as Paying Agent					
Registered and Bearer					
Outstanding					
# of Reg	1,822	1,842	1,865	1,886	1,901
# of Bearer	669	566	465	334	247
\$	\$4,976,967,038	\$4,817,997,193	4,772,013,309	5,682,215,615	5,826,242,562
# of Bond holders	27,854	28,723	29,400	29,894	30,090
Transfers					
Cancelled					
#	21,995	18,764	10,485	10,981	4,510
\$	\$594,597,748	\$642,104,445	\$368,211,670	\$426,949,592	\$201,025,230
Issued					
#	20,741	20,880	9,030	8,394	4,974
Calls					
# of Issues	81	96	105	129	110
\$	\$247,514,000	\$235,659,000	\$203,135,000	\$261,634,000	\$226,575,000
Registration fees					
Collected	\$6,923	\$18,326	\$17,280	\$22,766	\$13,057
Standard Fees					
Collected	\$610,014	\$427,416	\$546,515	\$595,628	\$401,420
<u>TEMPORARY NOTES</u>					
Recorded					
# of issues	259	251	231	179	113
\$	\$265,683,431	\$174,655,524	\$291,593,076	\$233,616,000	\$167,493,205
<u>WARRANTS</u>					
# Cleared	82,416	74,183	67,513	58,884	30,912
Total \$ Issued	\$849,260,304	\$820,344,895	\$780,627,297	\$869,199,544	\$707,013,879
<u>RECEIPTS</u>					
Cash & Wire	\$598,410,091	\$554,370,350	\$597,712,252	\$523,170,667	\$561,973,608
Inter-fund	<u>236,319,775</u>	<u>261,649,110</u>	<u>191,774,062</u>	<u>338,865,827</u>	<u>250,185,887</u>
	\$834,729,866	\$816,019,460	\$789,486,314	\$862,036,494	\$812,159,495

6-2

State of Kansas
Department of Social and Rehabilitation Services
Testimony: HB 2571
April 2, 1999

We have provided in your packet a copy of the bill with the changes we would suggest:

We suggest that you add a section of definitions at the beginning of the bill. For instance, in Section 2, we would ask the Committee to determine who defines quality and to set out a definition. When words and concepts are set into law, you need to be very clear of definitions and measurements. "I'll know it when I see it" is not good enough in a court of law. If I were a litigious lawyer, I would be licking my chops over this bill as it stands now. We are now in the 6th year of an ACLU lawsuit settlement in foster care and still have not settled the definition of concepts like quality of services and equal access.

In Section 3, we are not clear what is expected in regard to family preservation services for whom. Does this mean we should provide services under the Family Preservation contract at the same time as services are being provided under the Foster Care Contract? Does the Committee know that these services are currently part of the Foster Care Contract?

Section 4 requires that from the time a child is placed in the custody of the Secretary of SRS, the Secretary is responsible for "all aspects" of the child's life and to achieve permanency for the child in a safe and stable environment. What does this mean about the responsibility of the parents, the court, the guardian ad litem, the prosecutor, the schools? Neither this statute nor any other statute gives SRS the authority to control, and thus be responsible for, all aspects of a child's life.

The content of lines 37 to 43 are currently clearly understood responsibilities of the Secretary. Is inclusion in this proposal meant to be any different than what already exists?

Section 5—Does subsection (a) intend to modify K.S.A. 38-1507 which governs what information can be shared with whom and under what circumstances. 1507 is in compliance with federal statutes and non-compliance with the federal statute would make the state ineligible for federal funds, including federal financial participation in the foster care project. More information on confidentiality laws is available in your packet. It is also important to note that all information about a child does not originate with SRS. The completeness and accuracy of information is dependent upon honesty and accuracy of information provided by the parents and the availability of information from other agencies and persons who have provided services to the family or the child.

Sub section (b) is not possible to operationalize. It says that a child can only be moved when the relocation is "required for the health, safety and welfare of the child. Nowhere is the Secretary authorized to order foster parents to keep a child in their home when they are no longer willing to provide care for that child. This section also fails to recognize that the need to move a child can be related to safety of other children in the home or to community safety such

as when a child is or becomes a fire setter or is found to be a sexual molester. I remind you of the difficulties already encountered about the definition of a move and when is a move a move. Remember that the best way to keep a child in one placement is to place her/him in an institution—let's not go back to that.

Subsection (d) is broad and undefined. How is "necessary and appropriate" to be defined and by whom? Conferences is undefined. Does it mean any and all conferences that might occur or those established by state and federal statute as required. "All decisions" is very broad. Day to day decisions about a child cannot be made in a "conference" which include the SRS worker, natural parents (assuming parental rights are not terminated), foster parent, guardian ad litem. This section might well be interpreted as requiring such participation. This could lead to disagreements and litigation, all of which would delay permanency for a child. Subsection (e) is a laudable goal, but is not enforceable short of providing the Secretary with subpoena powers. Is it expected that physicians, attorneys, and behavioral health providers will appear without compensation?

Subsection (f) requires collaborative team meetings regularly. Who defines regularly? There are timelines set in state and federal statute regarding case review. Additionally this subsection appears to limit who can be a service provider only to contractors and subcontractors.

Are subsections (g) and (h) intended to provide open-ended funding authority to ensure that placements or services are available?

Subsection (i) needs additional definition. How is functional improvement to be defined and how is it to be measured? (Again, be mindful of litigation.) How does functional improvement relate to permanence in a safe and stable environment? This appears to be another area where responsibility is placed on SRS for life domains over which it has no control, such as educational achievement. Is it intended that the focus of services shift from safety and permanence to functional aspects? Compliance could reach the point of impossible for safety and permanence. Example:

A child cannot return home until his grade point average goes up?

A child cannot be placed for adoption until there is a reduction in symptomatology?

A relative cannot become a permanent guardian until the child reaches a developmental milestone such as learns to feed herself?

Subsection (j) requiring a portfolio, or what some call a passport, of comprehensive records on every child is a worthy goal but when it becomes a rule of law, compliance is not possible and overly broad. I would remind you that every child does have a case file which contains all of his/her records. The language of the bill does not limit the requirement for a portfolio to children in the custody of SRS so could be assumed to cover all children in foster care placements or adoptions which would include juvenile offenders, private adoptions, etc.

At a minimum the requirement should be those items 1 through 11 which are relevant to a particular child. Again, it is important to note that most of the documents required are not

under the control of SRS and often not readily released to SRS. Is it the intent to provide the Secretary with the power to subpoena records?

The information systems required in subsection (k) is certainly desirable. However, the costs, timelines and staff to support the development and implementation of such a system is, in our opinion, less of a priority than achieving safety and permanence for children. After several years of planning and development, the SRS information system is very nearly complete. A major change or addition at this point would disrupt our ability to meet compliance with the lawsuit settlement and federal reporting requirements that have significant fiscal impact. Also, in regard to encounter data, I would ask if you can recommend a particular system that will call immediate attention to supervising personnel of SRS when a contractor or subcontractor is not supplying encounter data for a child receiving services. I would love to know the name of such a system and the costs and a timeline for installation. Remember that it must be able to go back over a period of two years at any given time.

Subsection (l) regarding the falsifying of documents is addressed in K.S.A.. Chapter 21. However, it would require proof of criminal intent and to date we have not had a single case rise to that level. In the one case where we discovered what appeared to be intentionally altered documents, the worker was terminated.

Subsections (m) through (r) sets into legislation contract requirements and conflicts with the Secretary's responsibility and authority in K.S.A. 39-708©. We would ask the legislature to consider carefully the advisability of placing into law, the terms and conditions of contracts. To do so eliminates flexibility required to meet the changing needs of the population served and the flexibility to take advantage of new and improved knowledge. Why would we generate data if we cannot use it?

Additionally, it appears to assume (1) that agencies would be willing to contract under these conditions and (2) that all contracts be re-bid within a three-month time frame. Again, there is an unproved assumption that functional milestones will result in safety and permanency. I remind you that measuring process is not the same as measuring outcomes. We believe a wiser course of action would be to fund research to validate if and to what extent functionally-based performance impacts on safety and permanence, and the variables which impact on achievement such as schools, mental health services, the courts, etc. One of the challenges we have had is explaining to all our system partners the difference between process and outcomes and how to measure each. We have included a list of definitions in your packet which we hope will be helpful to you.

Subsection (p) also ignores two additional permanency options now available: permanent guardianship and independent living (and does it preclude the development of other permanencies in the future?) We are also concerned that subsection (p) identifies meeting federal requirements as a secondary goal. We urge that this language be stricken, since meeting federal requirements is necessary to fund child welfare services.

Subsections (t) (u) (v), and (w) are already established as the duties and responsibilities of the Secretary as found in Chapter 39. Is this section meant to replace or modify the existing law? If so and for what purpose? In regard to subsection (w), I would refer you back to the circle diagram showing the entire child welfare system. Does this mean you are requiring SRS to "maintain a timely, itemized and accurate accounting of the courts, schools, KDHE, mental health centers, guardian ad litem, prosecutors, and other community providers. Is subpoena power contemplated?

In subsection (x) regarding debt, what is the advantage of placing in statute, information that may be requested by the legislature without passing law?

I want to call particular attention to subsections (q) and (s) since there has been considerable discussion around the provision of mental health services for children in foster care. Subsection (s) places mental health services outside the contract—which precludes subsection (q) which requires specific components of mental health services be contracted with community mental health centers. Explain that to me again.

Mental Health services are currently defined in the contracts as including both behavioral health such as therapeutic foster homes, Level V and Level VI residential care and also community mental health center services. The current contracts require that community mental health center services, such as individual and group therapy, to be provided by Community Mental Health Centers or by Ph.d psychologists or physicians, in order to be Medicaid reimburseable. There are only eight services in the contract that can be provided by others than Community Mental Health Services. Mental Health services were included in the contracts in order to assure that those responsible for the outcomes of safety and permanence for children have the authority to make sure services were provided to meet those outcomes. Often this is best provided in the child's home, outside of regular business hours and not always in 50-minute sessions in an office.

Before the contracts, I was one of those people who testified before the legislature on behalf of foster children that mental health services were not available for those children. Waiting lists and caps on services for children in foster care were common at community mental health centers across the state. We have heard much about whether foster children are now receiving the mental health services called for in their case plans. In your packet is the latest information available from LPA and from monthly monitoring by Contract Specialists in our area offices who read every case to determine if mental health services are being provided. You will note that Legislative Post Audit reported last November/December that approximately 19% of the mental health services called for were not being provided. That compared to 30% of the services not being provided in 1991 before the contracts. SRS took that November/December LPA report very seriously, and began to monitor on a monthly basis whether mental health services are provided under the Contracts. You will note that for the period, February, 1998 through January, 1999 2.5% of the mental health services called for in a child's case plan were not provided and for the most recent quarter, 1.7% were not provided which means 98.3% of the mental health services in a child's case plan were provided.

Mr. Chairman and members of the committee, I want to emphasize that SRS is not opposed to a Child Welfare Reform Law, and we believe this draft of HB 2571 can be a useful tool to begin the study, dialogue and debate that could lead to meaningful revamping of the laws that govern the Child Welfare System in Kansas.

I thank you for hearing our concerns. The primary message I want to leave with you is that SRS does not equal the entire child welfare system. It is not possible to address the responsibilities of one part of a service delivery system without addressing the role and responsibilities of other parts of the system. As we have worked to improve the part of the child welfare system for which SRS is responsible, we set certain priorities, knowing that it would take a number of years to get where we want to be. Reasonable people may disagree on what those priorities should be. We set our priorities on achieving safety and permanency outcomes for children. For the first time in my memory both State and Federal Law AND the settlement of the ACLU lawsuit all agree on safety and permanency as our goals. Because we are still evolving, some of the information you desire is not yet as well developed as you may think it should be. We will continue to try to provide you with information you find useful as you go about your deliberations.