

Approved: 4-30-99
Date

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE.

The meeting was called to order by Chairperson Phill Kline at 10:30 a.m. on April 28, 1999 in Room 514-S of the Capitol.

All members were present except: Rep. Barbara Allen

Committee staff present: Legislative Research - Conroy, Waller, Little, Davis
Revisor of Statutes - Wilson, Jill Walters

Conferees appearing before the committee: none

Others attending: See attached list.

Chair reported on the current status of the school retirement bill, **SB 56** and **SB 102** and reviewed the various agenda items for this meeting.

Child Welfare Reform Act

Representative Neufeld called attention to the proposed **Substitute for House Bill 2571** to be known as the Child Welfare Reform Act which the Revisor of Statutes staff had compiled after many hours of subcommittee and staff work. Jill Walters of the Revisor's Staff reviewed new sections 1 through 10 and the amended sections 11,12 and 14. (Attachment 1)

Secretary Rochelle Chronister of the Social and Rehabilitation Services provided a brief written statement which endorsed and supported the concept of a Child Welfare Reform Act. (Attachment 2)

After considerable discussion on various aspects of **Substitute for House Bill 2571**, the chair opened for consideration of this bill.

Moved by Representative Neufeld, seconded by Representative Landwehr, introduction of Substitute for HB 2571 and pass out favorably for passage. Motion carried.

Chair acknowledged and thanked the members of the subcommittee who worked hard and diligently with the agency and also expressed appreciation for Secretary Chronister's efforts in meeting with that subcommittee and working through this process. Rep. Neufeld served as chair, with members Reardon, Landwehr, Henry, Powell, Weber, Nichols and McKechnie.

SB 213 - SRS transition oversight committee, duties and continuation

Moved by Representative Phill Kline, seconded by Representative Dean, to reconsider the Appropriations Committee action on SB 213. Motion carries.

Substitute motion by Representative Dean, seconded by Representative McKechnie, to amend SB 213 by adding a repealer of KSA 75-6801 and maintain the current contents of the bill as relates to the Capitol Security police. Motion carried.

Moved by Representative Dean, seconded by Representative Neufeld, to recommend SB 213 as amended for favorable passage. Motion carried.

Rep. Spangler called attention to information he had received on 13 special security officers under the auspices of the Department of Corrections who are currently not under the retirement system. The matter was tabled for later consideration.

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE, Room 514-S Statehouse, at 10:30 a.m.
on April 28, 1999.

SB 157 - Creation of Wildlife and parks nonrestricted fund.

Moved by Representative Schwartz, seconded by Representative Feuerborn, to amend **HB 2527**, state moneys, agricultural production loans, into **SB 157**. Motion carried.

Moved by Representative Schwartz, seconded by Representative Feuerborn, to pass **SB 157** out favorably for passage. Motion carried.

HB 2355 - Memorial for persons in Topeka State hospital cemetery, advisory committee, gift fund.

Moved by Representative Nichols, seconded by Representative Ballard, to pass out **HB 2355** favorably for passage. Motion carried.

HCR 5042 - Task force to study flood issues.

Moved by Representative Shriver, seconded by Representative Dean, to pass out **HCR 5042** favorably for passage. Motion carried.

Next meeting on call of chair.

Adjournment

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 2

**HOUSE APPROPRIATIONS COMMITTEE
GUEST LIST**

DATE: April 28, 1999

NAME	REPRESENTING
Bob Harder	LWV-KS
Stacey Soldan	Hein + Weir chhd.
Stacey Turner	KASB
SCOTT SCHNEIDER	MGA
Ron Seiber	Dept of Adm.
Paul Johnson	PACK
Bill Henry	Methodist Youthville

SUBSTITUTE HOUSE BILL NO. 2571

By Committee on Appropriations

AN ACT enacting the Kansas child welfare reform act; prescribing certain duties and responsibilities for the secretary of social and rehabilitation services, the department of social and rehabilitation services, courts, law enforcement agencies, guardians ad litem, county or district attorneys, physical or mental health providers and educators; providing for certain studies and reports; amending K.S.A. 38-1523a and K.S.A. 1998 Supp. 38-1502, 38-1507 and 38-1507b and repealing the existing sections; also repealing K.S.A. 1998 Supp. 38-1502c.

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

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

New Sec. 2. As used in sections 1 through 10 of this act, unless the context requires otherwise, "child welfare system" means the system of services to be provided in accordance with the Kansas child welfare reform act and other Kansas statutes and rules and regulations and policies adopted thereunder by the department of social and rehabilitation services, the juvenile justice authority, the department of health and environment, child service providers, courts, law enforcement agencies, guardians ad litem, county or district attorneys, physical and mental health providers and educators.

New Sec. 3. The purposes and goals of the child welfare system in Kansas are to achieve, for each child who is alleged or adjudicated to be a child in need of care, permanency in a safe and stable environment with quality programs, consistent with the provisions of K.S.A. 38-1501 and amendments thereto.

New Sec. 4. From the time that a child is placed in the custody of the secretary, the secretary is responsible to achieve permanency for the child in a safe and stable environment. The secretary may provide by contract for services to be provided for children placed in the custody of the secretary, but the responsibility remains with the secretary to comply with all provisions of state or federal statutes and rules and regulations. The secretary shall have the power and authority to adopt such rules and regulations as may be necessary to administer the responsibilities of the secretary under the

provisions of this act.

New Sec. 5. All entities providing services under the child welfare system, and all community agencies working with children or their families shall adopt a collaborative model for the provision of care and services and shall work to achieve the goal of supporting child safety, prevention of abuse and neglect, and family preservation services to reduce the risks that children will be removed from their homes. Services which might prevent the need for out-of-home placement, including but not limited to family preservation services, shall be used whenever possible by the entities providing services under the child welfare system in lieu of out-of-home placement.

New Sec. 6. For children placed in the custody of the secretary of social and rehabilitation services, the secretary shall:

(a) Provide complete and accurate information about each child as authorized by K.S.A 38-1507 and amendments thereto and to the extent the information is available or known, throughout the period of continuing custody of the child by the secretary;

(b) ensure that all children removed from their homes and placed in the custody of the secretary are placed in the least-restrictive, most home-like setting consistent with each child's needs and shall make every effort to ensure that each child placed in the custody of the secretary is not subjected to unnecessary moves;

(c) ensure that personnel responsible for the child's service case plan have and maintain knowledge of and information about the current placement of each child in the custody of the secretary;

(d) ensure that all necessary and appropriate parties, including, but not limited to, (1) the parents, unless parental rights have been terminated, (2) the child, if the child is of an age and condition to participate, (3) the person or persons with whom the child is placed, (4) the guardian ad litem of the child, (5) school personnel, (6) the social worker who is employed by

the department of social and rehabilitation services and who is assigned to the child, (7) representatives of service providers, including contract, mental health and placement service providers, and (8) one person who is not directly involved in services delivery such as an advocate for the special needs of the child, are invited and encouraged to be in attendance at each service case planning conference, which shall be held not less frequently than one during each six-month period and which shall include the reviewing and updating of the service case plan for each child to achieve safety and permanence;

(e) through the service case planning conference described in subsection (d), use a collaborative service model for the provision of care and services to each child in the custody of the secretary to (1) plan appropriate services for children and their families, (2) ascertain whether children and their families are receiving services in accordance with the service case plans, and, (3) if services are not being provided in accordance with service case plan, review and document the reasons that such services are not being provided;

(f) within the limits of appropriations therefor, assess the placement needs of foster children on a periodic basis and determine the availability of placement opportunities and facilities to achieve a sufficient number of needed placement providers throughout the state;

(g) within the limits of appropriations therefor, assess the service needs of children and their families on a periodic basis and assess the availability of needed services to determine actions required to make needed services available on a statewide basis;

(h) assess the service needs for each child and ensure the service needs identified as the department's responsibility are part of the child's service case plan and are provided to the child;

(i) within the limits of appropriations therefor, assess the extent to which communities, judicial districts, school

districts, service providers and the department of social and rehabilitation services are succeeding in ensuring that each child is (1) achieving safety and permanency and (2) making functional improvement in such areas as educational achievement, lack of involvement in the juvenile justice system, ability to remain in the community and achievement of developmental milestones;

(j) develop, to the extent the information is available to the secretary, a portfolio for each child in the custody of the secretary which contains a comprehensive health, social, educational and developmental record of the child which may include, but is not limited to, the following:

(1) Complete health history, including immunization and dental records;

(2) history of mental health treatment;

(3) early periodic, screening, diagnostic and treatment report;

(4) results of psychological and educational testing;

(5) development scales results;

(6) educational placement and achievement level;

(7) availability of health insurance or other health care coverage or resources;

(8) involvement with law enforcement;

(9) records of substance abuse;

(10) employment information for each of the parents of the child; and

(11) income resources available to provide support for the child;

(k) within the limits of appropriations therefor, maintain a centralized record system that includes (1) statewide tracking of the placement of children in the custody of the secretary, (2) the services identified in the service case plan described in subsections (d) and (e) and received by the child and the child's family, (3) the record of the child's functional indicators, which includes educational achievement, involvement with the

juvenile justice system, the ability to remain in the community and achievement of developmental milestones, (4) data provided for reimbursement purposes for services provided to children, and (5) a system that will call prompt attention to supervising personnel of the department of social and rehabilitation services when a contractor is not providing services for a child or is not supplying data for a child receiving services;

(l) within the limits of appropriations therefor, develop and implement, in conjunction with other public agencies, a comprehensive system for the investigation and prosecution of individuals, including but not limited to, state employees, employees of service providers, parents, attorneys and witnesses who falsify any records or testimony regarding any child or the care or other services provided for any child or the child's family;

(m) develop and incorporate into all service provider contracts regarding children in out-of-home placement performance-based outcomes related to safety and permanence for such children;

(n) assess the achievement of children's, families' and contractors' outcomes in the aggregate, on a periodic basis, and make available the results of those outcomes assessments to appropriate legislative committees, the governor, the judiciary, members of the press, families and the residents of Kansas;

(o) include in the contract bid process for out-of-home care (1) the required contractor accreditation and licensing, as appropriate, (2) reasonable and anticipated costs, (3) the number and types of children projected to be in the child welfare system, (4) the number and types of placements that such children will need, (5) the number and types of services such children will need, (6) the expected and acceptable caseloads of the social workers employed by contractors, and (7) other reasonably anticipated costs and other factors that must be considered and provided for to achieve safety and permanency for children;

(p) incorporate into contracts with service providers for

out-of-home care financial incentives and disincentives that are outcome and performance based and that are designed to attain safety and permanence;

(q) prepare and publish in the Kansas register a report of an evaluation of each contractor's adherence to the contractual requirements and to all applicable state or federal laws, rules and regulations and departmental policies and procedures and the performance the contractor achieved under the contract with the department of social and rehabilitation services;

(r) within the limits of appropriations therefor, identify and provide appropriate training to officers, employees and contractors of the department of social and rehabilitation services to ensure that the department of social and rehabilitation services is operated in a manner that is consistent with applicable state and federal laws, rules and regulations and departmental policies and procedures;

(s) communicate and work with the families, foster parents, service providers, including contract, mental health and placement providers, social workers, judges, school personnel, law enforcement officers, county or district attorneys, guardians ad litem, officers and employees of the juvenile justice authority and other stakeholders in the child welfare system as needed to identify (1) the strengths and weaknesses in the child welfare system, (2) barriers to achieving safety and permanence, (3) potential solutions for addressing any weaknesses or barriers identified, and (4) other appropriate matters to provide safety and permanence for each child in the custody of the secretary;

(t) within the limits of appropriations therefor, take appropriate actions to address and remedy identified weaknesses and to remove identified barriers to achieving safety and permanence, including proposing legislation to address such weaknesses and barriers and related issues that need legislative action; and

(u) maintain a timely, itemized and accurate accounting of the total costs, including, but not limited to, mental health

services and placement services, in accordance with subsections (f) and (m) of K.S.A. 39-708c and amendments thereto.

New Sec. 7. (a) For the purposes of developing a portfolio as described in subsection (j) of section 6 and amendments thereto for a child in the custody of the secretary of social and rehabilitation services, the secretary of social and rehabilitation services may request information from each agency or individual service provider that has possession of any information about the child in the custody of the secretary that may be placed in such portfolio in accordance with section 6 and amendments thereto and such agency or individual service provider shall furnish such information to the department of social of rehabilitation services, at no cost to the department, within seven days after receipt by such agency or individual service provider of a written request for such information submitted by the secretary of social and rehabilitation services.

(b) Failure to provide information in accordance with this section about a child in the custody of the secretary of social and rehabilitation services which has been requested by the secretary of social and rehabilitation services is a class B misdemeanor.

New Sec. 8. Each entity providing services under the child welfare system is responsible to ensure that the officers and employees of such entity and the personnel of each contractor and subcontractor of such entity providing such services receive appropriate training necessary to accomplish the purposes and goals of this act and to facilitate collaboration with other entities providing services under the child welfare system. The secretary of social and rehabilitation services shall develop and provide information to entities providing services under the child welfare system about the training necessary to accomplish the purposes and goals of this act and to facilitate collaboration with other entities providing services under the child welfare system. Subject to the limits of appropriations therefor, the secretary of social and rehabilitation services

shall convene an annual symposium on training and collaboration for representative entities providing services under the child welfare system.

New Sec. 9. Subject to the provisions of appropriation acts, the judicial administrator shall develop and implement a program for annual grants to provide for legal services in foster care cases on a statewide basis. Each annual foster care legal services grant shall be awarded to a qualified applicant to provide legal services for foster care cases, including, but not be limited to, the provision of guardians ad litem, legal representation for parents and assistance for county and district attorneys in appropriate foster care cases. Each such grant shall have a matching requirement prescribing that the grant recipient shall match state moneys provided under the grant with nonstate moneys. The matching requirement for the grant shall be prescribed by appropriation act. In addition, each grant agreement for a foster care legal services grant shall provide for regular reporting to the judicial administrator of the legal services provided under such grant. The provision of legal services under a foster care legal services grant under this section and the activities of the grant recipient under such grant shall be subject to audit under the legislative post audit act.

New Sec. 10. During the period from the effective date of this act until the first day of the regular session of the legislature commencing in 2003, the joint committee on children's issues shall monitor, review and make recommendations relating to child welfare programs and services of the department of social and rehabilitation services, specifically including, but not limited to, family preservation, foster care and adoption programs and shall prepare an annual report of findings and recommendations which shall be provided to the legislative coordinating council and to the legislature on or before the first day of the regular session of the legislature in 2000, 2001, 2002 and 2003 and may prepare such additional reports

during such period as may be deemed appropriate by the joint committee on children's issues to the committee on appropriations of the house of representatives and the committee on ways and means of the senate.

Sec. 11. K.S.A. 1998 Supp. 38-1502 is hereby amended to read as follows: 38-1502. As used in this code, unless the context otherwise indicates:

(a) "Child in need of care" means a person less than 18 years of age who:

(1) Is without adequate parental care, control or subsistence and the condition is not due solely to the lack of financial means of the child's parents or other custodian;

(2) is without the care or control necessary for the child's physical, mental or emotional health;

(3) has been physically, mentally or emotionally abused or neglected or sexually abused;

(4) has been placed for care or adoption in violation of law;

(5) has been abandoned or does not have a known living parent;

(6) is not attending school as required by K.S.A. 72-977 or 72-1111, and amendments thereto;

(7) except in the case of a violation of K.S.A. 41-727, subsection (j) of K.S.A. 74-8810 or subsection (m) or (n) of K.S.A. 79-3321, and amendments thereto, or, except as provided in subsection (a)(12) of K.S.A. 21-4204a and amendments thereto, does an act which, when committed by a person under 18 years of age, is prohibited by state law, city ordinance or county resolution but which is not prohibited when done by an adult;

(8) while less than 10 years of age, commits any act which if done by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105 and amendments thereto;

(9) is willfully and voluntarily absent from the child's home without the consent of the child's parent or other

custodian;

(10) is willfully and voluntarily absent at least a second time from a court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee;

(11) has been residing in the same residence with a sibling or another person under 18 years of age, who has been physically, mentally or emotionally abused or neglected, or sexually abused; or

(12) while less than 10 years of age commits the offense defined in K.S.A. 21-4204a and amendments thereto.

(b) "Physical, mental or emotional abuse or neglect" means the infliction of physical, mental or emotional injury or the causing of a deterioration of a child and may include, but shall not be limited to, failing to maintain reasonable care and treatment, negligent treatment or maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered. A parent legitimately practicing religious beliefs who does not provide specified medical treatment for a child because of religious beliefs shall not for that reason be considered a negligent parent; however, this exception shall not preclude a court from entering an order pursuant to subsection (a)(2) of K.S.A. 38-1513 and amendments thereto.

(c) "Sexual abuse" means any act committed with a child which is described in article 35, chapter 21 of the Kansas Statutes Annotated and those acts described in K.S.A. 21-3602 or 21-3603, and amendments thereto, regardless of the age of the child.

(d) "Parent," when used in relation to a child or children, includes a guardian, conservator and every person who is by law liable to maintain, care for or support the child.

(e) "Interested party" means the state, the petitioner, the

child, any parent and any person found to be an interested party pursuant to K.S.A. 38-1541 and amendments thereto.

(f) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(g) "Youth residential facility" means any home, foster home or structure which provides 24-hour-a-day care for children and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated.

(h) "Shelter facility" means any public or private facility or home other than a juvenile detention facility that may be used in accordance with this code for the purpose of providing either temporary placement for the care of children in need of care prior to the issuance of a dispositional order or longer term care under a dispositional order.

(i) "Juvenile detention facility" means any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders which must not be a jail.

(j) "Adult correction facility" means any public or private facility, secure or nonsecure, which is used for the lawful custody of accused or convicted adult criminal offenders.

(k) "Secure facility" means a facility which is operated or structured so as to ensure that all entrances and exits from the facility are under the exclusive control of the staff of the facility, whether or not the person being detained has freedom of movement within the perimeters of the facility, or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents. No secure facility shall be in a city or county jail.

(l) "Ward of the court" means a child over whom the court has acquired jurisdiction by the filing of a petition pursuant to this code and who continues subject to that jurisdiction until the petition is dismissed or the child is discharged as provided in K.S.A. 38-1503 and amendments thereto.

(m) "Custody," whether temporary, protective or legal, means the status created by court order or statute which vests in a custodian, whether an individual or an agency, the right to physical possession of the child and the right to determine placement of the child, subject to restrictions placed by the court.

(n) "Placement" means the designation by the individual or agency having custody of where and with whom the child will live.

(o) "Secretary" means the secretary of social and rehabilitation services.

(p) "Relative" means a person related by blood, marriage or adoption but, when referring to a relative of a child's parent, does not include the child's other parent.

(q) "Court-appointed special advocate" means a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of a child, as provided in K.S.A. 38-1505a and amendments thereto, in a proceeding pursuant to this code.

(r) "Multidisciplinary team" means a ~~group--of--persons~~ collaborative team, appointed by the court ~~or--by--the--state~~ department--of--social--and--rehabilitation-services under K.S.A. 38-1523a and amendments thereto, ~~which--has--knowledge--of--the~~ circumstances--of--a--child--in--need--of--care for the purpose of advising or assisting the department of social and rehabilitation services and law enforcement agencies in the investigation, assessment or safety planning for a child who is the subject of a report as a child in need of care by reason of physical, mental or emotional abuse or neglect or sexual abuse.

(s) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building or on the same grounds as an adult jail or lockup, unless the facility meets all applicable standards and licensure requirements under law and there is (A) total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental

contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

(t) "Kinship care" means the placement of a child in the home of the child's relative or in the home of another adult with whom the child or the child's parent already has a close emotional attachment.

(u) "Juvenile intake and assessment worker" means a responsible adult authorized to perform intake and assessment services as part of the intake and assessment system established pursuant to K.S.A. 75-7023, and amendments thereto.

(v) "Abandon" means to forsake, desert or cease providing care for the child without making appropriate provisions for substitute care.

(w) "Permanent guardianship" means a judicially created relationship between child and caretaker which is intended to be permanent and self-sustaining without ongoing state oversight or intervention. The permanent guardian stands in loco parentis and exercises all the rights and responsibilities of a parent.

(x) "Aggravated circumstances" means the abandonment, torture, chronic abuse, sexual abuse or chronic, life threatening neglect of a child.

(y) "Permanency hearing" means a notice and opportunity to be heard is provided to interested parties, foster parents, preadoptive parents or relatives providing care for the child. The court, after consideration of the evidence, shall determine whether progress toward the case plan goal is adequate or reintegration is a viable alternative, or if the case should be referred to the county or district attorney for filing of a petition to terminate parental rights or to appoint a permanent guardian.

(z) "Extended out of home placement" means a child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the home.

(aa) "Educational institution" means all schools at the elementary and secondary levels.

(bb) "Educator" means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in subsection (a)(1) through (5) of K.S.A. 1998 Supp. 72-89b03 and amendments thereto.

Sec. 12. K.S.A. 1998 Supp. 38-1507 is hereby amended to read as follows: 38-1507. (a) Except as otherwise provided, in order to protect the privacy of children who are the subject of a child in need of care record or report, all records and reports concerning children in need of care, including the juvenile intake and assessment report, received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker shall be kept confidential except: (1) To those persons or entities with a need for information that is directly related to achieving the purposes of this code, or (2) upon an order of a court of competent jurisdiction pursuant to a determination by the court that disclosure of the reports and records is in the best interests of the child or are necessary for the proceedings before the court, or both, and are otherwise admissible in evidence. Such access shall be limited to in camera inspection unless the court otherwise issues an order specifying the terms of disclosure.

(b) The provisions of subsection (a) shall not prevent disclosure of information to an educational institution or to individual educators about a pupil specified in subsection (a) (1) through (5) of K.S.A. 1998 Supp. 72-89b03 and amendments thereto.

(c) When a report is received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker which indicates a child may be in need of care, the following persons and entities shall have a free exchange of information between and among them:

- (1) The department of social and rehabilitation services;
- (2) the commissioner of juvenile justice;
- (3) the law enforcement agency receiving such report;
- (4) members of a court appointed multidisciplinary team;
- (5) an entity mandated by federal law or an agency of any state authorized to receive and investigate reports of a child known or suspected to be in need of care;
- (6) a military enclave or Indian tribal organization authorized to receive and investigate reports of a child known or suspected to be in need of care;
- (7) a county or district attorney;
- (8) a court services officer who has taken a child into custody pursuant to K.S.A. 38-1527, and amendments thereto;
- (9) a guardian ad litem appointed for a child alleged to be in need of care;
- (10) an intake and assessment worker; and
- (11) any community corrections program which has the child under court ordered supervision; and
- (12) the department of health and environment or person authorized by the department of health and environment pursuant to K.S.A. 59-512, and amendments thereto, for the purpose of carrying out responsibilities relating to licensure or registration of child care providers as required by article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(d) The following persons or entities are authorized to provide and shall have access to information, records or reports created, received by the department of social and rehabilitation services, a law enforcement agency or any juvenile intake and assessment worker. Access shall be limited to information or

maintained among such persons or entities but only to the extent reasonably necessary to carry out their lawful responsibilities to maintain their personal safety and the personal safety of individuals in their care or to diagnose, treat, care for or protect a child alleged to be in need of care.

(1) A child named in the report or records.

(2) A parent or other person responsible for the welfare of a child, or such person's legal representative.

(3) A court-appointed special advocate for a child, a citizen review board or other advocate which reports to the court.

(4) A person licensed or registered to practice the healing arts or mental health profession in order to diagnose, care for, treat or supervise: (A) A child whom such service provider reasonably suspects may be in need of care; (B) a member of the child's family; or (C) a person who allegedly abused or neglected the child.

(5) A person or entity licensed or registered by the secretary of health and environment or approved by the secretary of social and rehabilitation services to care for, treat or supervise a child in need of care. In order to assist a child placed for care by the secretary of social and rehabilitation services in a foster home or child care facility, the secretary shall provide relevant information to the foster parents or child care facility prior to placement and as such information becomes available to the secretary.

(6) A coroner or medical examiner when such person is determining the cause of death of a child.

(7) The state child death review board established under K.S.A. 22a-243, and amendments thereto.

(8) A prospective adoptive parent prior to placing a child in their care.

(9) The department of health and environment or person authorized by the department of health and environment pursuant to K.S.A. 59-512, and amendments thereto, for the purpose of

carrying out responsibilities relating to licensure or registration of child care providers as required by chapter 65 of article 5 of the Kansas Statutes Annotated, and amendments thereto.

(10) The state protection and advocacy agency as provided by subsection (a)(10) of K.S.A. 65-5603 or subsection (a)(2)(A) and (B) of K.S.A. 74-5515, and amendments thereto.

(11) Any educational institution to the extent necessary to enable the educational institution to provide the safest possible environment for its pupils and employees.

(12) Any educator to the extent necessary to enable the educator to protect the personal safety of the educator and the educator's pupils.

(13) The secretary of social and rehabilitation services.

(14) A law enforcement agency.

(15) A juvenile intake and assessment worker.

(e) Information from a record or report of a child in need of care shall be available to members of the standing house or senate committee on judiciary, house committee on appropriations, senate committee on ways and means, legislative post audit committee and joint committee on children and families, carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319 and amendments thereto, in a closed or executive meeting. Except in limited conditions established by 2/3 of the members of such committee, records and reports received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate.

(f) Nothing in this section shall be interpreted to prohibit the secretary of social and rehabilitation services from summarizing the outcome of department actions regarding a child alleged to be a child in need of care to a person having made such report.

(g) Disclosure of information from reports or records of a child in need of care to the public shall be limited to

confirmation of factual details with respect to how the case was handled that do not violate the privacy of the child, if living, or the child's siblings, parents or guardians. Further, confidential information may be released to the public only with the express written permission of the individuals involved or their representatives or upon order of the court having jurisdiction upon a finding by the court that public disclosure of information in the records or reports is necessary for the resolution of an issue before the court.

(h) Nothing in this section shall be interpreted to prohibit a court of competent jurisdiction from making an order disclosing the findings or information pursuant to a report of alleged or suspected child abuse or neglect which has resulted in a child fatality or near fatality if the court determines such disclosure is necessary to a legitimate state purpose. In making such order, the court shall give due consideration to the privacy of the child, if, living, or the child's siblings, parents or guardians.

(i) Information authorized to be disclosed in subsections (d) through (g) shall not contain information which identifies a reporter of a child in need of care.

(j) Records or reports authorized to be disclosed in this section shall not be further disclosed, except that the provisions of this subsection shall not prevent disclosure of information to an educational institution or to individual educators about a pupil specified in subsection (a)(1) through (5) of K.S.A. 1998 Supp. 72-89b03 and amendments thereto.

(k) Anyone who participates in providing or receiving information without malice under the provisions of this section shall have immunity from any civil liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceedings resulting from providing or receiving information.

(l) No individual, association, partnership, corporation or other entity shall willfully or knowingly disclose, permit or

encourage disclosure of the contents of records or reports concerning a child in need of care received by the department of social and rehabilitation services, a law enforcement agency or a juvenile intake and assessment worker except as provided by this code. Violation of this subsection is a class B misdemeanor.

Sec. 13. K.S.A. 1998 Supp. 38-1507b is hereby amended to read as follows: 38-1507b. Any person licensed or registered by the behavioral sciences regulatory board sharing information under the provisions of this code shall not be subject to review under any rules or regulations adopted by the behavioral sciences regulatory board. Anyone who participates in providing or receiving information without malice under the provisions of this section shall have immunity from any civil liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceedings resulting from providing or receiving information.

Sec. 14. K.S.A. 38-1523a is hereby amended to read as follows: 38-1523a. (a) Whenever possible, the investigation, assessment and safety planning for a child alleged to be a child in need of care by reason of physical, mental or emotional abuse or neglect or sexual abuse shall be conducted by a multidisciplinary team.

(b) Upon recommendation of the state department of social and rehabilitation services or the county or district attorney, the court may appoint a multidisciplinary team to advise or assist in--gathering--information the department of social and rehabilitation services and law enforcement agencies in the investigation, assessment or safety planning regarding a child alleged to be a child in need of care by reason of physical, mental or emotional abuse or neglect or sexual abuse. The team may be a standing multidisciplinary team or may be appointed for a specific child. Members comprising a multidisciplinary team shall include the department of social and rehabilitation services and appropriate law enforcement agencies and may include

other persons having specialized knowledge concerning investigation, assessment or safety planning concerning abused or neglected children.

(b) (c) Any person appointed as a member of a multidisciplinary team may decline to serve and shall incur no civil liability as the result of declining to serve.

(c) (d) This section shall be part of and supplemental to the Kansas code for care of children.

(d) (e) The multidisciplinary team may request disclosure of information in regard to a child alleged to be a child in need of care, or a child who has been adjudged to be a child in need of care, by making a written verified application to the district court. Upon a finding by the court there is probable cause to believe the information sought may assist in determining if a child is a child in need of care as defined in K.S.A. 38-1502 and amendments thereto, or in assisting a child who has been adjudicated a child in need of care, then the court may issue a subpoena, subpoena duces tecum or enter an order for the production of the requested documents, reports or information and directing the document, reports or information to be delivered to the applicant at a specified time, date and place. The time and date of delivery shall not be sooner than five days after the service of the subpoena or order, excluding Saturdays, Sundays or holidays. The court issuing the subpoena or order shall keep all applications filed pursuant to this subsection and a copy of the subpoena or order in a special file maintained for such purpose or in the official court file for the child. Upon receiving service of a subpoena, subpoena duces tecum or an order for production pursuant to this subsection, the party served shall give oral or written notice of service to any person known to have a right to assert a privilege or assert a right of confidentiality in regard to the documents, reports or information sought at least three days before the specified date of delivery.

(e) (f) The written verified application shall be in

substantially the following form:

Name of Court

In the Interest of _____ Case No. _____
Name(s)

Date of birth: _____
Each a child under 18 years of age.

WRITTEN APPLICATION FOR DISCLOSURE OF INFORMATION

County of _____

ss

State of Kansas

The undersigned applicant being first duly sworn alleges and states as follows:

1. The applicant is _____.
2. There is an investigation being made into the report of alleged neglect or abuse in regard to the above-named child or children.
A petition has been filed alleging the above-named child is a child in need of care or the child has been adjudicated to be a child in need of care.
3. The following documents, reports and/or information are requested. (List specifically.)
4. The reasons for the request are:

Further applicant saith not.

Applicant

Subscribed and sworn to before me
this _____ day of _____, 19____.

Notary Public

My commission expires:

{f} (g) Any parent, child, guardian ad litem, party subpoenaed or subject to an order of production or person who claims a privilege or right of confidentiality may request in writing that the court issuing the subpoena or order for production withdraw the subpoena, subpoena duces tecum or order for production issued pursuant to subsection (d). The request shall automatically stay the operation of the subpoena, subpoena duces tecum or order for production and the documents, reports or information requested shall not be delivered until the issuing court has held a hearing to determine if the documents, reports

or information are subject to the claimed privilege or right of confidentiality, and whether it is in the best interests of the child for the subpoena or order to produce to be honored. The request to withdraw shall be filed with the district court issuing the subpoena or order at least 24 hours prior to the specified time and date of delivery, excluding Saturdays, Sundays or holidays, and a copy of the written request must be given to the person subpoenaed or subject to the order for production at least 24 hours prior to the specified time and date of delivery.

Sec. 15. K.S.A. 38-1523a and K.S.A. 1998 Supp. 38-1502, 38-1502c, 38-1507 and 38-1507b are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the Kansas register.



KANSAS DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

915 SW HARRISON STREET, TOPEKA, KANSAS 66612

ROCHELLE CHRONISTER, SECRETARY

28 April 1999

**House Appropriations Subcommittee
H.B. 2571 - Child Welfare Reform Act**

Statement of Rochelle Chronister,
Secretary, Social and Rehabilitation Services

Mr. Chairman and members of the committee, as I indicated to you on the day H.B. 2571 was introduced, the Department of Social and Rehabilitation Services supports the concept of a Child Welfare Reform Act. We endorse and support the sections of this bill that define the child welfare system in Kansas and address systems issues.

We very much appreciate the opportunity we have been given to dialogue with the committee about this bill which has significant magnitude. We have worked very hard to accommodate the sponsors of H.B. 2571 in drafting a bill that will meet their needs and also allow us to remain focused on safety and permanence for children in the custody of the Secretary—our children.

We see your work on H.B. 2571 as a promising step in an evolving process of child welfare reform. We do believe there are many shareholders who have not yet been heard from, and have concerns including the Judiciary, which is a separate and equal branch of government impacted by this bill, and our contractors as well as some of the advocates were not at the table when major points in the bill were addressed.

We have worked with the Senate from the opening days of the session in January on changes to the system. We assumed we would work with the Legislative Oversight Committee or Judiciary committees on changes to the Child in Need of Care (CINC) Code this summer. You have moved that timetable forward, and we will do all we can to see that a bill is passed before the session ends.

We believe the positive aspects of the bill include:

1. Definition of child welfare system that includes all the partners
2. States purpose and goals
3. Focus on prevention of out-of-home placement
4. Assessing the system needs for placement and services
5. Performance based contracting
6. Training
7. Multi-disciplinary teams and collaborative efforts
8. Allows sharing of information to meet needs of the child

We look forward to working with the House and the Senate and with all the partners in the child welfare system to continue the reform of child welfare in Kansas.

Attachment 2-1
House Appropriations Committee
April 28, 1999