Approved: 3/5/09
Date

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Lance Kinzer at 3:30 p.m. on February 10, 2009, in Room 143-N of the Capitol.

All members were present except:
Representative Pat Colloton- excused
Representative Jeff King- excused

Committee staff present:
Melissa Doeblin, Office of the Revisor of Statutes
Matt Sterling, Office of the Revisor of Statutes
Jill Wolters, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Sue VonFeldt, Committee Assistant

Conferees appearing before the committee:
Representative Anthony R. Brown
Janice DeBoer, SRS Child Support Enforcement
April Holman, Kansas Action for Children
Representative Jan Pauls
Don Jordon, Secretary of Social and Rehabilitation Services
Mark Gleeson, Office of Judicial Administration
Daniel Cahill, Judge of the District Court, 29th Judicial District, Wyandotte County
Christi Bright, Attorney, Guardian Ad Litem, Johnson County, Division 19
Jim Burgess, Judge, 18th District, Sedgewick County
Merlin G. Wheeler, W.L. Fowler, Jeffry L. Larson and Douglas P. Jones, Judges of the 5th Judicial District Court, Chase and Lyons County

Others attending:
See attached list.

The hearing on **HB 2201 - Conditions on licensee if delinquent in child support** was opened.

Representative Anthony R. Brown, being a strong proponent of the collection of back child support, spoke in favor of the bill. He explained this bill will assist in collecting child support from those with a professional license, and all they have to do to keep their license is make contact and make arrangements to pay. (Attachment 1)

Janice DeBoer, Director of the Kansas Department of Social and Rehabilitation Services (SRS) Child Support Enforcement program, spoke as a proponent to the bill. She explained the goal is not to deny or revoke the support debtor's license, but to encourage the parent to pay the support voluntarily, so that the sanction need never be imposed. This measure will increase their ability to persuade a self-employed professional to voluntarily pay child support, to the ultimate benefit of the child. (Attachment 2)

April Holman, Kansas Action for Children, appeared in support of this bill as a means to strengthen the current law as it relates to child support enforcement for parents holding professional licenses and ultimately improve child well-being for Kansas children. (Attachment 3)

The hearing on **HB 2201** was closed.

The hearing on **HB 2208 - Requiring social and rehabilitation services to furnish a copy of all child in need of care information to county or district attorney** was opened.

Representative Jan Pauls spoke as a proponent of this bill. This bill would require that SRS forward copies of all information received that a child appears to be a Child In Need of Care to the local county or district attorney. Currently the law only requires that SRS provide this information to the county or district attorney following an inquiry if SRS believes a petition should be filed. (Attachment 4)

Minutes of the House Judiciary Committee at 3:30 p.m. on February 10, 2009, in Room 143-N of the Capitol.

Don Jordon, Secretary of Social Services and Rehabilitation, appeared before the committee to offer an amendment to the bill that would read "by any reasonable methodology established by the secretary"that would allow the SRS the ability to determine the most cost effective method of delivering the information. He explained in the FY 2008, SRS received 53,888 reports of child in need of care information. Of those reports, 2,022 resulted in a substantiated finding. In FY 2008, Kansas courts ordered 3.551 children into the custody of the Secretary. The SRS has six regional protection locations; an 800 number routes the calls to the proper region Monday thru Friday from 8 to 5 and weekend calls are taken in Topeka. (Attachment 5)

The hearing on **HB 2208** was closed.

The hearing on **HB 2210 - Child in need of care; jurisdiction in CINC proceedings** was opened.

Proponent:
Don Jordon, Secretary of Department of Social Services and Rehabilitation Services appeared in support of the bill. Currently young adults may remain in the custody of SRS and the jurisdiction of the court until age 21. This bill would terminate jurisdiction when any child in need of care reached age 18 or, if still in school, on the following June 1. He stated this would result in a savings of $1,532,318 SGF ($1,687,876 All Funds. He explained this bill is the result of an original 3% budget reduction and now another 5% reduction requiring that they look at all programs and services to determine how to reduce expenses with the minimum negative impact on the most vulnerable populations. (Attachment 6)

Opponents:
Mark Gleeson, Family and Children Program Coordinator, Office of Judicial Administration, spoke in opposition of the bill. Current law gives every eighteen year old in custody the opportunity to require the court to terminate SRS custody and therefore this bill would have no impact on them, but it will effect those youths who want to remain in custody and are concerned about the absence of support provided by being in a family. If this bill goes forward it would be particularly threatening to a youth who will not graduate from high school by June 1, after his or her eighteenth birthday and he urges the committee to review this language. Understanding the need to reduce spending to meet a serious budget shortfall, he encourages you to weigh the risk of moving youth out of foster care and into county jails, away from foster parents who provide structure and guidance needed by a typical eighteen year old. (Attachment 7)

Daniel Cahill, Judge of the District Court, 29th Judicial District, Wyandotte County appeared in opposition of the bill stating that this bill would have the biggest effect on the most vulnerable people they serve. Along with those with disabilities, there are children who are diligently preparing for the transition to adulthood, along with assistance providers, who are not prepared, despite best efforts, to live independently immediately upon their eighteenth birthday. (Attachment 8)

Christi Bright, Attorney, Guardian Ad Litem, Johnson County, Division 19, spoke as an opponent stating that the vast majority of children in the care of the SRS are there because of a lack of support in the home and are not mentally or emotionally prepared to become independent by age eighteen. She expressed concern that passage of this bill would inadvertently impact other social systems such as the criminal justice system, the welfare system, the homelessness, and the mental health system and then more tax payers dollars will be needed for services in those areas. (Attachment 9)

Jim Burgess, Judge, 18th District, Sedgewick County, provided written testimony in opposition of the bill. (Attachment 10)

The hearing on **HB 2210** was closed.

The hearing on **HB 2211 - Child in need of care; placement of child in custody** was opened.

Don Jordon, Secretary of Social and Rehabilitation Services explained the current budget deficit required a thoughtful examination of programs and services to determine reductions with the minimum negative impact on the most vulnerable populations. This bill proposes that, unless determined to be abused or neglected, youth sixteen years old and over be served in their own homes and communities. Youth with circumstances such as truancy, out of control behavior, running away will be addressed thru in-home services and will not

be placed in the custody of the SRS. A total savings from this change would be $3,056,199, offset by an increase of $494,430 for in-home services of Family Services and Family Preservation. (Attachment 11)

Opponents:
Mark Gleeson, Family and Children Program Coordinator, Office of Judicial Administration, spoke in opposition of this bill. He stated that by eliminating SRS custody for CINC's alleged to be truant or runaway, this bill removes an alternative that might be the youth's last best hope for a productive future. (Attachment 12)

Dan Cahill, Judge, 29th District, Wyandotte County opposes this bill. He stated that family preservation, respite care, counseling and therapy are all tools used to avoid SRS custody of a child 16 or older. It is truly only the worst cases that end up with a request for state custody. It may involve a child, once a model student, who has fallen under the sway of drugs and the drug lifestyle whose parents have exhausted all effort and large sums on treatment and intervention to no avail. It may involve a family whose child is so violent and unpredictable in the home that they fear for their safety and the safety of their child and the child's siblings. (Attachment 13)

Christi Bright, Attorney, Guardian Ad Litem, Johnson County, Division 19, spoke as an opponent. See (Attachment 9) as testimony for **HB 2210** and **HB 2211** are together.

Jim Burgess, Judge, 18th District, Sedgewick County, provided written testimony in opposition of the bill. (Attachment 14)

Merlin G. Wheeler, W.L. Fowler, Jeffry L. Larson and Douglas P. Jones, Judges of the 5th Judicial District Court, Chase and Lyons County submitted written testimony in opposition of the bill. (Attachment 15)

The hearing on **HB 2211** was closed.

The next meeting is scheduled for February 11, 2009.

The meeting was adjourned at 5:13 p.m.

JUDICIARY COMMITTEE GUEST LIST

DATE: Tuesday Feb. 10, 2009

NAME	REPRESENTING
Mark Gleeson	Judicial Branch
Hon. Daniel Cahill	District Court
April Holman	Kansas Action for Children
Nancy Zogleman	Polsinelli
Robin Clements	Public Solutions, LLC
Sky Westerlund	KNASW
Jamie Rose	KCSL
Bruce Linder	Children's Alliance
Steve Solomon	TFI Family Services
Sean Miller	Capitol Strategy
Joe Molina	KS Bar Association

STATE OF KANSAS

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIRMAN: FINANCIAL INSTITUTIONS
MEMBER: FEDERAL AND STATE AFFAIRS
INSURANCE
TAXATION

HB 2201

Thank you Mr. Chairman, Vice-Chair, Ranking Minority member, and members of the Judiciary Committee for allowing me to present testimony in support of HB 2201. Many of you know that I have been and continue to be a strong proponent of the collection of back child support.

Introduction

I. Kansas only collects 54 cents of every dollar awarded
II. Ranks near the middle of collection by percentage
III. Improved efforts in recent years

Background

I. Passed Restrictions on hunting and fishing licenses
II. Passed Bill which allows SRS to cooperate with the Insurance Industry
    a. Estimated additional $700,000 annually
    b. Limited costs absorbed by agency
III. Professional license has been introduced before but refined this year

Content

I. Wages of workers that draw wages can be garnished
II. Professionals that own businesses may not draw wages but take other income
III. This other income is often hidden from any attempt to garnish
IV. Professionals apply for license or certification to practice in Kansas
V. Applicant will be notified by issuing authority of delinquent back child support
VI. Issuing authority grants 6 month temporary license with no restrictions
VII. Professional may apply for additional 30 day hardship
VIII. Full license will be granted when profession makes proper arrangements in court to eliminate back payments

Conclusion

I. No additional expenditure for SGF
II. Possibility of reducing SGF dollars to families not receiving child support
III. Keeps both parents financial involved in Child's life

KANSAS
DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

H.B. 2201- Professional license sanctions for nonpayment of child support

House Judiciary Committee
February 10, 2009

Mr. Chairman and members of the committee, my name is Janis DeBoer, and I am Director of the SRS Child Support Enforcement program. Thank you for the opportunity to appear in support of HB 2201, which I encourage you to recommend for passage.

Several years ago, the Legislature created a sanction against professional licenses that judges could apply when they found a parent in contempt of court for nonpayment of child support. HB 2201 will allow judges to use the same sanction in hearings that do not involve contempt of court, so long as the past due support totals more than $1,000. We believe this is a logical and moderate extension of the court's current authority.

Remedies like the professional license sanction differ fundamentally from typical support enforcement tools, such as income withholding. They are attention-getters – and quite effective in that role. It is important to note that the goal is not to deny or revoke the support debtor's license. It is to encourage the parent to pay support voluntarily, so that the sanction need never be imposed.

Self-employed parents pose special challenges for support enforcement. Sanctions against licenses, which do not depend upon the parent having an employer, are especially helpful in those cases. This measure will increase our ability to persuade a self-employed professional to voluntarily pay child support, to the ultimate benefit of the child.

This measure creates no new costs for the CSE program, but we believe it will produce a moderate increase of collections in a challenging segment of our caseload. Because the measure is not limited to our SRS cases, it may also help Kansas families avoid the need for our services or for public assistance. For these reasons, we encourage you to support House Bill 2201.

Thank you.

House Judiciary
Date 2-10-09
Attachment # 2

KANSAS

DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

Don Jordan, Secretary

House Judiciary Committee
February 10, 2009

H.B. 2201- Professional license sanctions for nonpayment of child support

Integrated Service Delivery
Janis DeBoer
Director, Child Support Enforcement

For Additional Information Contact:
Katy Belot, Director of Public Policy
Docking State Office Building, 6th Floor North
(785) 296-3271

FISCAL FOCUS

Budget and Tax Policy in Perspective

April Holman
Legislative Testimony - House Bill 2201
House Judiciary Committee
February 10, 2009

Kansas Action for Children is a not-for-profit child advocacy organization founded in 1979. For more than 30 years, KAC has worked with lawmakers on policy solutions that improve the lives of Kansas children and their families.

We support House Bill 2201, which would strengthen current law as it relates to child support enforcement for parents holding professional licenses.

The Importance of Child Support

Child support is a critical source of support for many Kansas children growing up in single-parent households. As we look at ways to assist vulnerable Kansans with limited state and federal dollars, it is clear that child support is an effective and efficient support.

At the child development level, children whose noncustodial parents pay child support have more contact with them, potentially providing the children with emotional as well as financial support. Research indicates that children with parental contact have better grades, better test scores, fewer behavior problems, and they remain in school longer. Children living in single-parent homes with only one parent involved the child's life are at risk of a host of negative outcomes including being more likely: to experience health and behavioral problems, to become a teenage parent, to live in poverty, and to run away from home.

The Cost to the State of Child Support Non-Compliance

When custodial parents don't receive child support, often the result is a need for state and federal assistance such as TANF, food stamps and Medicare. In addition to these immediate costs, the state may incur increased juvenile and criminal court costs, special education costs and mental health costs associated with the financial and developmental impact of living in a single-parent household with only one involved parent.

720 SW Jackson, Suite 201 | Topeka, KS 66603 | Telephone 785- 232-0550 | Fax 785-232-0699 |

An initiative of Kansas Action for Children

The Reason for Child Support Arrearages

Although there are numerous reasons for inconsistent or no child support payments, common themes emerge. There are certain child support debtors who are very difficult for the state to communicate with and even locate. These debtors included parents with a sporadic work history, who are self-employed, or receive their wages in cash.

House Bill 2201

House Bill 2201 will strengthen current law relating to compliance with child support orders by parents holding professional licenses, and make the use of professional license sanctions more effective as an incentive to pay child support. We urge your support of House Bill 2201 as a way to increase compliance with child support orders in Kansas and ultimately improve child well-being for Kansas children in single-parent households.

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STATE OF KANSAS

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

RANKING MINORITY MEMBER:
JUDICIARY

MEMBER:
HOUSE RULES AND JOURNAL
COMMERCE AND LABOR COMMITTEE
JOINT HOUSE AND SENATE COMMITTEE ON JUVENILE JUSTICE AND CORRECTIONS OVERSIGHT
JOINT HOUSE AND SENATE COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

MEMBER OF KANSAS SENTENCING COMMISSION

CHAIR:
NATIONAL CONFERENCE OF STATE LEGISLATORS COMMITTEE ON LAW AND CRIMINAL JUSTICE

Testimony on HB 2208
February 10, 2009
Before the House Judiciary Committee

Chairman Kinzer, Vice-Chair Withham, and committee members. I appreciate this opportunity to testify briefly about HB 2208. This bill was introduced as a committee bill after I was contacted by another representative who had in turn been contacted by a constituent with concerns about child abuse reporting. I ran this idea informally past members of the Judicial Council Juvenile Offender/Child in Need of Care Committee and they were in the main enthused about this idea.

The bill would require that SRS forward copies of all information received that a child appears to be a Child in Need of Care to the local county or district attorney. Currently the law requires only that SRS provide this information to the county or district attorney following an inquiry if SRS believes a petition should be filed.

SRS has proposed an amendment as to how this information should be furnished. I would support this amendment

I'm willing to stand for questions, now or later on this bill.

Respectfully Submitted,

Jan Pauls

Rep. Jan Pauls
JP/pd

House Judiciary
Date 2-10-09
Attachment # 4

KANSAS
DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

Forwarding CINC Reports to Prosecutors

House Judiciary Committee
February 10, 2009

Chairman Kinzer and members of the committee, I am Don Jordan, Secretary of Social and Rehabilitation Services. I thank you for the opportunity to appear before you today concerning HB 2208.

SRS and law enforcement officers have the duty to receive and investigate reports of alleged child abuse or neglect for the purposes of determining whether the report is valid and whether action is needed to protect a child. SRS also receives reports for assessment of circumstances related to truancy or youth who are in conflict with the community, have run away from their home or may be otherwise be in need of services.

House Bill 2208 requires SRS to furnish a copy of all child in need of care reports received by the agency to the county or district attorney. Currently, SRS policy requires prosecutors receive notice of every substantiated finding. In addition, prosecutors receive requests to file child in need of care petitions or assist in acquiring an ex parte order of custody. Many jurisdictions have multidisciplinary teams or Child Advocacy Centers that review and assess substantiated reports in order to collaborate on next steps. Statewide in FY 2008, SRS received 53,888 reports of child in need of care information. Of those reports, 2,022 resulted in a substantiated finding. In FY 2008, Kansas courts ordered 3,551 children into the custody of the Secretary.

While SRS appreciates the additional perspective of prosecutors reviewing reports received by the agency, we hope this review does not discourage some families from seeking assistance from social services when they know the request is automatically forwarded to the county or district attorney. The agency does not expect an increase in child in need of care petitions or investigations as a result of forwarding this information.

In order to establish a uniform method for communicating with all prosecutors, we ask that you consider the attached amendment giving the department the ability to determine the most cost effective method of delivering the information.

I thank you for the opportunity to comment on HB 2208 and would be happy to answer any questions.

House Judiciary
Date 2-10-09
Attachment # 5

KANSAS

DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

Don Jordan, Secretary

House Judiciary Committee
February 10, 2009

Forwarding CINC Reports to Prosecutors

For Additional Information Contact:
Katy Belot, Director of Public Policy
Docking State Office Building, 6th Floor North
(785) 296-3271

Session of 2009

HOUSE BILL No. 2208

By Committee on Corrections and Juvenile Justice

2-2

AN ACT concerning children in need of care; relating to the department of social and rehabilitation services; duties; amending K.S.A. 2008 Supp. 38-2230 and repealing the existing section.

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

Section 1. K.S.A. 2008 Supp. 38-2230 is hereby amended to read as follows: 38-2230. Whenever any person furnishes information to the secretary that a child appears to be a child in need of care, the department shall ~~*furnish a copy of such information to the county or district attorney*~~ *and* make a preliminary inquiry to determine whether the interests of the child require further action be taken. Whenever practicable, the inquiry shall include a preliminary investigation of the circumstances which were the subject of the information, including the home and environmental situation and the previous history of the child. If reasonable grounds to believe abuse or neglect exist, immediate steps shall be taken to protect the health and welfare of the abused or neglected child as well as that of any other child under the same care who may be harmed by abuse or neglect. After the inquiry, if the secretary determines it is not otherwise possible to provide those services necessary to protect the interests of the child, the secretary shall recommend to the county or district attorney that a petition be filed.

, by any reasonable methodology established by the secretary,

Sec. 2. K.S.A. 2008 Supp. 38-2230 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

KANSAS

DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

Don Jordan, Secretary

House Judiciary Committee
February 10, 2009

HB ~~2211~~ 2210

Young Adults Age 18 and Older in SRS Custody

For Additional Information Contact:
Katy Belot, Director of Public Policy
Docking State Office Building, 6th Floor North
(785) 296-3271

House Judiciary
Date 2-10-09
Attachment # 6

KANSAS
DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

Young Adults Age 18 and Older in SRS Custody

House Judiciary
February 10, 2009

Chairman Kinzer and members of the committee, I am Don Jordan, Secretary of the Kansas Department of Social and Rehabilitation Services. Thank you for the opportunity to appear in support of House Bill 2211.

The current budget deficit requires that we examine programs and services to determine how to reduce expenses with minimum negative impact on the most vulnerable populations. Currently young adults may remain in the custody of the Secretary and the jurisdiction of the court until age 21. This bill would terminate jurisdiction when any child in need of care reached 18 or, if still in school, on the following June 1. Ending jurisdiction over the young adults who remain in custody after 18 will result in a savings of $1,532,318 SGF ($1,687,876 All Funds). This change to the Kansas Code for the Care of Children will have minimal impact as there are extensive independent living services in place for youth and young adults. The budget includes funds to assure adequate plans and supports are in place for each young adult. Data regarding adults in the custody of the Secretary is available on the attached sheet.

Youth age 15 and older in the custody of the Secretary are supported in identifying goals to achieve self sufficiency, developing a plan to achieve those goals and in implementing that plan. Young adults who leave the custody of the Secretary are eligible for independent living services coordinated by an SRS staff person. If the 18 year old is not immediately interested in independent living services, they are free to say no and also free to contact the agency at any time prior to their 21st birthday. Based upon an approved plan for independent living, available services include:

- Basic supports for daily living skills training and career planning
- Kansas Regents tuition waiver program
- Medical Card eligibility to age 21
- Monthly Subsidy up to $300.00 per month until age 21.
- Financial Assistance up to $300.00 for one-time start up costs of rent or housing
- Financial Assistance up to $500.00 for one-time start up costs of utilities, furniture or housing supplies (non-rent related expenses)
- Financial Assistance up to $3,500 in the first year for education and training related expenses. Examples of covered expenses are tuition and fees for certification programs and non-Regents institutions, room and board for post-secondary education, technical equipment, tutoring, books and other materials.
- Assistance to assure safe and stable housing.

Thank you again for the opportunity to express my support and I stand for questions.

General Information on Adults Served in SRS Independent Living Self Sufficiency Program

- In SFY 08, 646 young adults received services through the Chafee program.
- Young adults receiving services through Chafee receive a majority of funding for mentoring services (24%), transportation (17%), and one-time start up expenses (12%).
- In SFY08, 249 young adults started receiving the tuition waiver via the Kansas Foster Care Education Act . This program waives tuition and required fees for eligible youth at Kansas educational institutions.
- 400 young adults received post-secondary educational services through Education and Training Vouchers (ETV) in SFY 08.
- 286 young adults received Independent Living Subsidy in SFY2008, with total subsidy payments totaling $287,331. Independent Living Subsidy is a time limited financial plan to support room and board expenses for youth between the ages of 18 and 21.
- 72% of young adults who received Chafee and/or ETV services in SFY 08 were emancipated at age 18 and were in care for an average of 41 months.
- Of all young adults served in SFY 08 through the Independent Living/Self-Sufficiency program, 60% were placed in out of home care for reason of non abuse/neglect issues.

Adults in the Custody of the Secretary on December 31, 2008

On December 31, 2008, there were 129 young adults age 18 or older into the custody of the Secretary.

- 53% (68) were female
- 115 of the 129 adults are age 18, 11 are age 19 and 3 are age 20.
- 62 (48%) of the adults have a disability – Figure 2.
- Of the 129 adults age 18 or older, 23 are in a waiver program: 11, MRDD Waiver; 5, Severe Emotional Disturbance Waiver; 7, Other Waiver)
- Of the 18 adults with a developmental disability, 11 are placed in a family foster home, 3 are living independently, 1 is placed at Parsons, 1 at Lakemary Center, and 2 in community group home settings.

Figure 1 -Placement Information:

Family Foster Home	77	59.7%
Independent Living Placement	15	11.6%
Residential/Institution	11	8.5%
Runaway	11	8.5%
Relative	7	5.4%
Group Home	6	4.7%
Maternity Home	1	0.8%
Pre-adoptive Home	1	0.8%
Total	129	100%

Figure 2- Disability Information*:

Emotionally Disturbed	49	53%
Developmental Disability	18	19%
Learning Disability	13	14%
Other Disability	7	8%
Physical Disability	4	4%
Hearing Impaired	1	1%
Speech Impairment	1	1%

*An individual may have more than 1 disability type

State of Kansas
Office of Judicial Administration
Kansas Judicial Center
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Topeka, Kansas 66612-1507 (785) 296-2256

House Judiciary Committee
Tuesday, February 10, 2009

Testimony in Opposition to House Bill 2210

Mark Gleeson, Family and Children Program Coordinator
Office of Judicial Administration

Thank you for the opportunity to testify on HB 2210, which would terminate SRS custody of a child at the age of 18. First, I appreciate the efforts of SRS to reduce foster care costs. Admittedly, parents are not legally obligated to support a young adult who is 18 years of age. A parent could, without consequence from the state, inform a child that the child is no longer welcome at home effective on the child's 18th birthday. At least one reason why this doesn't often happen is obvious. Few 18 year olds, even with the full benefits most of us provide to our children way past their 18th birthday, are prepared to meet the demands of housing, food, education, employment, and productive life styles.

SRS has outlined a number of support services designed to mitigate the potential harm inflicted by the passage of this bill. Current law gives every 18-year-old in custody the opportunity to require the court to terminate SRS custody. A simple letter or verbal request to the judge serves as a demand notice that SRS custody be terminated. For those youths, HB 2210 serves no purpose. They will ask for release from SRS custody and it will be granted. HB 2210 impacts only those youths who want to remain in custody and who are concerned about the absence of support provided by being in custody for just a short time longer.

Eliminating the option of releasing from SRS custody a youth who is 18 years old is particularly threatening to a youth who will not graduate from high school by June 1, after his or her 18th birthday. Many youths in custody are behind in credits and will not graduate with their peers. For those youths who desire a high school diploma, removing the supportive features of state custody seems to be a particular disservice. If this bill goes forward, I urge your review of this language.

In closing, I urge your very careful consideration of this bill. Understanding the need to reduce spending to meet the very serious budget shortfall, I encourage you to weigh the risk of moving youth out of foster care and into county jails, away from foster parents who provide structure and guidance and toward questionable friends and casual acquaintances who are more than happy to fulfill the wants and desires of the typical 18-year-old.

House Judiciary
Date 2-10-09
Attachment # 7

TESTIMONY BEFORE THE KANSAS HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE

ON

HOUSE BILLS 2210 AND 2211

FEBRUARY 10, 2009

BY

THE HONORABLE DANIEL CAHILL
JUDGE OF THE DISTRICT COURT
29TH JUDICIAL DISTRICT

Good afternoon and thank you Mr. Chairman and committee members for allowing me to join you today. I am Daniel Cahill and am the Judge in the Child In Need of Care court in Wyandotte County, Kansas. I have been in this Court since being appointed by Governor Sebelius in 2007 and prior to that practiced law in the same court for eight years. I am here today to speak in opposition to HB 2210 and 2211.

I will address my concerns with each of these bills separately. Taking first HB 2210, if I may summarize, this bill ends the jurisdiction of the Court once a child subject to the court reaches 18 years of age, or at the end of the school year in which the child turns 18, if the child is attending high school. I must say that a vast majority of the cases I hear will stand unaffected by this change. Many cases terminate when a child reaches permanency, either through returning to their parent's home, being adopted, or the court establishing a permanent custodianship. Of those that do not so end, the children are prepared by age 18 to enter society as an independent adult. In fact, I believe as I sit here today, there are only 141 people under the jurisdiction of a Child In Need of Care court who would have their cases terminated if this were the law of Kansas. That being said, many of these 141 wards of the State are some of the most vulnerable people we serve. Many receive services through CDDO or community developmental disability organizations. Without going into specifics of these individuals, I would tell the committee that I have experience with severely disabled children in the care of extraordinary foster parents who simply do not know if they can continue providing the care under an adult guardianship. Other children reach the age of 18 without the prospect of a guardian and risk a real possibility of falling through the cracks of the social services if they are forced out at 18. Along with those with disabilities, there are children who are diligently preparing for the transition to adulthood, along with the assistance of service providers, who are not prepared despite best efforts to live independently immediately upon their 18th birthday. Likewise, a teenage mother may find herself and her infant both under my court's jurisdiction. In a positive scenario she and the baby will be in the same foster home. She can model good parenting and continue bonding with her child. If she was discharged at 18, she would no longer be able to stay in that home. As you will

hopefully see from my comments on the next bill, my answer for the concerns addressed in each of these bills is the same, so bear with me.

As to HB 2211, it can be summarized as removing custody with the Secretary as an option when a child 16 or older comes into the system absent allegations of abuse or neglect. As I see this bill, it is aimed at keeping older teenagers who are either chronically truant, runaway, or out of control from being brought into the custody of the Secretary. As with the first bill, I believe this addresses a problem that does not actually exist. There may be a wide misconception that parents around the State are abandoning their parental responsibilities and that the Courts are more than happy to take them up for them gratis. Nothing could be further from the truth. The dedicated SRS personnel, and their service providers, go to extraordinary lengths to avid court involvement and state's custody in these matters. Family Preservation, respite care, counseling and therapy are all brought to bear to avoid these outcomes. It is truly only the worst of the worst cases that end up with a request for State's custody. They might involve a family whose child is so violent and unpredictable in the home that they fear for their safety, the safety of their child and that child's siblings. It may involve a child, once a model student, who has fallen under the sway of drugs and the drug lifestyle whose parents have exhausted all effort and large sums on treatment and intervention, to no avail. Finally runaways, bereft of any family reduced to crime, prostitution, and homelessness, would find confirmation of their belief that they are simply not wanted.

I have spoken or exchanged correspondence with many of the judges in juvenile courts across Kansas. The ones to whom I have spoken or written are in unanimous opposition to these measures. It is our opinion that yes, cases should end when a child reaches 18, and yes, families with older teenagers who are not subjected to abuse or neglect should be met with aggressive and creative services to maintain the home and avoid State's custody. However, if those measures are mandated as these bills would mandate, only the neediest children, and only the worst of cases, will be turned away. The Courts throughout the State work hard to assure that limited State's resources are not wasted on young children and adults who do not need to be in State's custody, but we, as judges, need the flexibility to maintain these cases when nothing else will do.

I respectfully request this committee not recommend these bills for passage. Thank you for your time and attention today and your work for the citizens of Kansas.

Oppositional Arguments Against:

House Bill 2210 and House Bill 2211

Presented to the House Judiciary Committee
On February 10, 2009

By:
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OPPOSITIONAL ARGUMENT TO HOUSE BILL 2210

The Secretary of Social and Rehabilitative Services is an agency with a mission to service families. A large part of that mission is focused on servicing the children in those families. House Bill 2210 proposes to release a child on his or her 18th birthday or if he is in high school then on June 1st of the school year when he became 18 years old will necessitate the feeling of abandonment for these children.

The vast majority of the children that are in the Secretary's custody and thus come under the Kansas Code for the Care of Children are there because of a lack of support in the home. These are the very children that need a strong, continued committed relationship. Presently, the Secretary has been able to provide this by way of case management either on staff or through contracted agencies such as DCCCA, Kaw Valley Center and others. This involvement with the child and family by case workers has often helped to strengthen and stabilize the family. These case workers provide assistance and oversight to the family including scheduling and obtaining necessary medical and psychological care, educational assistance and advocacy, life skills, and overall supervision and guidance. Most of these children come to know and appreciate the accountability as well as knowing that someone really cares about them and is therefore to watch out for their best interest.

What is the basis for House Bill 2210?

Where is the evidence, data and/or statistics demonstrating that children at the age of 18 or by June 1st of the school year that the child turns 18, if still attending high school are no longer in need of assistance. House Bill 2210 could have such a devastating impact on a group of "already abandoned and voiceless" children and no one has thought to look at that impact. Accurate records have not been kept by the Secretary to confirm the number of children that have received a high school diploma or GED and have aged out of the system, presently that is 21 years of age. Effective July 1, 2009, this will change so that the public will know what we, the professionals interacting daily with these children and families have known for years – it generally takes these children beyond the age of 18 to obtain either a high school diploma or a GED. So how does the proposal in House Bill 2210 of aging them out at an even earlier age benefit the child? Maybe it will save some money in services but will that cost be shifted to other agencies for other services? This is the type of information that the legislature must have in order to make an informed decision as to whether or not to decrease the jurisdictional age for a child pursuant to the Code.

What about children who are not yet ready to graduate due to their previous circumstances

Most of the children that come into Secretary's custody are not performing or proceeding on grade level to begin with. This is a major problem to consider in looking at House Bill 2210 because there are a lot of factors to consider as to why a child is not

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ready to graduate at 18 or by June 1st of the year he or she turns 18. Some of the reasons include:

- Grades are not properly transferred when child is transferred from school to school after living being in foster care placement
- Classes in one jurisdiction are not counted the equivalent number of credits or are not applicable for credits in a different jurisdiction.
- Parents or guardians were not involved in their academic progression or had no resources for assistance and therefore their child is behind.
- Lots of these children don't even have Individual Educational Plan's in place when they should have been.

The result of this is that children that may be 18 or soon to turn 18 but still academically lacking in credits to graduate under this Bill will be "let go" without a high school diploma, a GED or any other alternatives sufficient to equip them to become productive members of society, thus increasing crime, unemployment and homelessness. There must also be some consideration given to the percentage of children who after being placed in an environment that nourishes them and coupled with the necessary support, begin to improve their academic record. There will also still remain some children, due to their dire beginnings, even with this assistance, are still not able to graduate by their 18th birthday or June 1st of the school year when they became 18. These children may also still be in the process of achieving their GED or attending some other type of alternative or trade school that will aide them in becoming productive members of society. House Bill 2210 also sends a negative message to the child who may be close to completing his or her high school education but due to this legislation would be "let go" and therefore lose the services and support that he or she has come to depend on that has helped him turn things around. House Bill 2210 does not support a sustained community goal to reach the heights of employments, decrease crime, decrease homelessness, and an overall community satisfaction. House Bill 2210 does not promote a spirit of perseverance and completion but a sense of "give up because the clock ran out".

What about the child who wants to attend college or some other type of trade school? Or the child that will need assistance with transitioning to independent living services.

Presently the Secretary offers assistance, guidance and direction for children in foster placement who express an interest in a higher education. For children who are close to aging out of the foster care system, the Secretary also provide services that include assistance with housing, vehicles, utilities, furniture, etc…Under House Bill 2210, these children who have reached the age of 18 or have not completed high school by June 1st of their 18th birthday would not be able to receive any of these services.

What about the children who are not ready to be released?

House Bill 2210 also fails to address the very important factor of mentally and emotional readiness. The majority of children placed in the Secretary's custody are not mentally or emotionally prepared to become "independent" by age 18. The majority of these children are from unstable, un-nurturing, un-supportive, un-encouraging, and

9-3

dysfunctional homes. They will most likely exhibit emotional and/or intellectual learning disabilities in which they are not equipped with the tools to succeed in comparison to their counterpart

House Bill 2210 will inadvertently impact other social systems such as the criminal justice system, the welfare system, the homelessness, and the mental health system. In which, more ax payers dollars will be needed to provide services in these areas.

Even if the Secretary plans to continue to offer services to children impacted by this legislation, the question becomes for how long and who will determine to what extent. This could also cause verities and inconsistencies among the jurisdictions within the State.

OPPOSITIONAL ARGUMENT TO HOUSE BILL 2211

House Bill 2211 will eliminate the option of placing a child who is 16 or 17 years of age (that cannot be placed with his parent or custodian) into the custody of the Secretary by law enforcement unless the child shows signs of physical, mental, emotional or sexual abuse. Therefore, a child that does not show signs of physical, mental, emotional or sexual abuse must be taken to a shelter, court services personnel or Juvenile Intake and Assessment Centers.

Who will make the determination as to whether the child shows signs of physical, mental, emotional or sexual abuse?

One of the most important, if not the most important, and relevant question to the proposal of House Bill 2211 is to consider who will make the determination as to whether the child shows signs of physical, mental, emotional or sexual abuse? Would it be law enforcement personnel? If it is law enforcement personnel is this proposed legislation arbitrarily indicating that law enforcement officers are trained in social work and are competent to make a first impression decision while in the field? This will create the need for additional law enforcement officers in the field in that they will be spending much more time attempting to make decisions that they are not qualified to make.

The caseworkers employed by the Secretary are educated and trained to handle situations such as these. The Secretary also has records of any previous contacts with this family and/or child that could be utilized in making the determination of whether in fact a child shows signs of physical, mental, emotional or sexual abuse. These records include reports existing from people mandated to report by law to citizens in the community. All of this potential information, knowledge and experience are vital in making a "determination". The only records that law enforcement would have are those related to allegations of criminal activity.

What about the time delay in making the correct decision?

By placing the responsibility on law enforcement to decide whether a child should be placed with the Secretary or not could cost precious time in a child's life.

This places a heavy burden on law enforcement to get it right the first time or simply assume every child shows signs of physical, mental, emotional or sexual abuse. If not, a child could be placed in an environment that further exasperates the problems that already exist. Placing a child in a shelter, a court services officer or Juvenile Intake and Assessment Centers are punitive in nature and not designed to provide the child with the care, custody, guidance, control and discipline that will best serve the child's welfare. Part of what the KS Code for the Care of Children is designed to do is to make these decisions. Shelters, court services, and Juvenile Intake and Assessment Centers are historically places for "troubled" children who have not or will not follow the law. This is not the place where they will receive the appropriate services. House Bill 2211 could now place the child without outward signs of physical, mental, emotional or sexual abuse into a very confusing and deficiently designed court system.

The KS Code for the Care of Children is designed with a goal to acknowledge that the time perception of a child differs from that of an adult and to therefore dispose of all proceedings without unnecessary delay. This will also cause an increased burden on the juvenile court, which is already overloaded to make referrals to the Secretary for necessary services that should have been instituted long before it reached that level. An incorrect decision by law enforcement could cost a child a very significant amount of his life, although it may seem like a few months to an adult. I will demonstrate this result in my example at the conclusion of these statements.

What if the "signs of physical, mental, emotional or sexual abuse" are not visibly or immediately recognizable?

House Bill 2211 requires that law enforcement make a decision with regards to whether a 16 or 17 year old *displays* signs of physical, mental, emotional or sexual abuse. This language assumes that these signs are always outwardly displayed and recognizable by one of the five senses. If the wrong decision is made, then you could potentially have "in custody" by way of a shelter, or other court services institution such as Juvenile Intake and Assessment Centers, a child that isn't receiving the necessary services for behaviors that have not or are not diagnosed and previously identified, thus exasperating some underlying problems with the child.

This proposed legislation would also cause law enforcement to make assumptions about certain behaviors that are unfounded and not based upon training or experience.

Who determines that the age of 16 or 17 is the appropriate age for a child to not need the services of the Secretary if they do not show signs of physical, mental, emotional or sexual abuse?

Where did the age of 16 or 17 come from? Was it determined because at that age a child can legally obtain a driver's license? Where is the evidence to support maturity or the ability to rationally make decisions about their life? Many research studies have shown that teenagers in this category seem to display the same level of maturity as a toddler in their age. Normal development stages cease at the age the child is mentally, emotionally, and physically insulted according to research and Erikson's stages of development. Based on this evidence, why would we want to exclude them from a social system that could help guide them to become productive citizens in their community versus placing them in a judicial system that could and most likely would promote negative behavior and negative outcomes?

REAL EXAMPLES

In re A.

I would like to put a real example to the impact that both House Bill 2210 and House Bill 2211 will have on a "real" child. In one of my very own cases that I will refer to as In re A., a 16 year old child became involved in the juvenile justice system as a result of a referral on a truancy matter. Under the present KS Code for the Care of Children, there was no option for a referral to the Secretary in cases like these. This truancy matter was supposed to be addressed by a juvenile justice court that would oversee his attendance and academic progress. After approximately four months, and

failed services that were provided through the court system, the parties began to realize that this was a case where the Secretary needed to be involved so as to help this family in areas that the court was neither trained nor equipped to meet. It was finally understood, (by those of us do a lot of work on the Code side of the court), that the truancy was the result of many problem factors in the home. Once the court made a referral to the Secretary, and they began providing the necessary services to all of the members of the family, including the child, the entire family began to thrive as a unit. In re A. began to regularly attend school and progress well academically. This may seem like success to some but my question is that success did not need to take six to seven months and almost a year of this child's high school education. Now, we have a child that will become 18 without receiving his high school diploma but plans to continue so that he can accomplish this goal and make his mother proud.

How does In re A. apply or relate to House Bill 2210 and 2211. The present KS Code for Care of Children does not contemplate the inclusion of children that are alleged to be truant as we saw in my real example. These children are handled under the juvenile justice part of the law. With the passage of House Bill 2210, that group of already excluded children who fall under the jurisdiction of the juvenile justice system, will increase massively with the inclusion of yet another group of children who are initially determined by inexperienced law enforcement to be children without signs of physical, mental, emotional or sexual abuse. An incorrect determination, which would land them in the juvenile justice system, could cost these children six months or longer of their lives in a system that is not equipped or experienced to address the varied problems affecting their day to day life, demonstrated in my example. Furthermore, once services are received and implemented for these children and/or families, due to the proposed House Bill 2211, the services could be taken away at a time when the child(ren) and/or family is just beginning to thrive and prosper.

In re K.

In this case, the mother of a 16 year old girl called the police on her stating that she would not follow the rules of the home, and was not attending school and was doing drugs. The mother did not want her back in the home. To the natural eye, K does not appear to show any signs of physical, mental, emotional or sexual abuse. She is a sweet, calm and caring teenager. The police responded and under the present Code, they immediately involved the Secretary. The Secretary, having had previous information about this family, immediately knew what was going on and as a result, a temporary hearing was held and K was placed in the custody of the Secretary. A temporary placement was determined to be with the mother of K's best friend until further placement options were determined. Within four months, and after a home study and other social services offered, K's best friends' mother was allowed to become the permanent custodian of K. K is now receiving everything that she was not receiving at home. Once placed with this family, K. began to thrive and flourish and is on her way to graduating from high school and going on to cosmetology school as her career choice.

How would this case be different under the proposed legislation? At 16 and without any signs of physical, mental, emotional or sexual abuse, the police would not have had the option of contacting the Secretary. And sense K could not be placed at

home; she would have been taken to either a shelter or Juvenile Intake and Assessment Center and placed there with possible charges stemming from being a runaway, drug usage, etc… She would have become a juvenile offender as opposed to a well adjusted child.

Why I personally am concerned -

As an attorney who practices primarily in the juvenile area of the law, I see daily the effects of this proposed legislation. Not only am I a Guardian ad Litem, but I also represent juvenile offenders and parents pursuant to the Kansas Code for the Care of Children. Either way my business will not be affected. I will still see the same children and families but the services that I may be able to consider or extend will change drastically. I am concerned with the totality of services that I will be able to service my clients. A child that has runaway from home, and who hates living at home may seem rebellious to law enforcement and therefore deserving of the juvenile justice system. But the real problem is not the child running away from home but the child running away from dysfunctional parents who abuse alcohol, are lacking in parenting skills and failing to show any interest in the child. Why should this child suffer because the Secretary must make a decision because there isn't enough money to assist the child and therefore the child needs to be cut out of the system? Is this the message the legislation wants to provide to the citizens of this State? Is this the message the legislation wants to send to the communities to increase unemployment, increase crime, increase mental health services, and increase homelessness, and decrease overall community satisfaction levels?

I strongly urge the legislature to consider thoroughly the effect of both of these bills on children and families in this State.

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These arguments in opposition to House Bills 2210 and 2211 are supported by a significant number of attorneys practicing in the Johnson County area including a 30 year veteran who attaches his comments below:

> "This is horrible legislation which will only shift the financial burden to other law enforcement or social service agencies. You may list me in opposition. I have been in practice for over 30 years. I also agree that there are significant issues of further abandonment for children who have already been abandoned, abused, or neglected."
>
> Michael W. Laster #9996
> 8000 Foster
> Overland Park, KS 66204

I strongly urge the legislature to consider thoroughly the effect of both of these bills on children and families in this State. Thank you for your time and consideration.

House Judiciary Committee
Tuesday, February 10, 2009

Written Testimony in Opposition to Both HB 2210 and HB 2211

Judge Jim Burgess
18th Judicial District (Sedgwick County)

I am adamantly opposed to those provisions of the legislation proposed by SRS that would eliminate the option of placing a child who is 16 or 17 years old into SRS custody unless they show signs of physical, mental, emotional or sexual abuse, and also to the automatic release of juveniles from SRS custody upon their 18th birthday. This type of legislation slams the door on certain juveniles who need our help and it would be gross negligence to allow these juveniles to go unserved.

I have had juveniles this age be abandoned by their parents. Literally, the parents have left the state and not told the juvenile where they are going. Some just have nowhere to go.

I have other parents who have stated they would prefer to face criminal charges than to have a juvenile returned to their home. I've had instances where the juvenile is so mentally ill, so violent, so whatever, that the parents are terrified of their child. They lock up all sharp objects and lock their bedroom doors at night. I've had parents who have literally tried every service they could locate and have spent every penny they have only to produce no change in their child's behavior. One child of several is destroying the lives of the parents and the siblings. It is impossible to believe that many, if not most, of these kinds of situations will get better by leaving a child in a home and offering services. There are just some cases that dictate removal no matter what the age.

Runaways are another category. These juveniles put themselves in some of the most horrendous situations. They steal food to eat. They break into abandoned buildings for shelter. They become desperate and are taken advantage of by adults. They sell drugs to have a place to stay. Young girls work in prostitution rings just to survive. To say that we would not take action, including custody and secure care, to stop this self-destructive behavior just because of their age would be telling these children what they already believe: no one cares.

There is no problem in trying to avoid the removal of 16 and 17 year olds from their homes. Reality tells us that, in many cases, we just won't make many inroads in the life of a 16- or 17-year-old before they ask for release of custody at age 18. The fact of the matter is, there are some cases in which the best we can do is to limit their ability to do harm to themselves or others. In some cases, we get them thinking about change and in other cases, there is positive change. To predict which of those cases will result in change is impossible. This is not a large population of juveniles. However, to think that

even one child's life may be irreparably damaged because we excluded them, without trying, simply because of their age is the antithesis of what we should be about.

Eighteen year-olds being released from custody is also problematic. There are many juvenile who need to be transitioned to adult care. No matter how much effort and planning is done, sometimes this can not be accomplished prior to a juvenile turning 18. For example, we have many juveniles who are in need of a guardian as they transition to adult services. If this guardian does not exist as the juvenile turns 18, there is a risk of a gap in services if the juvenile is automatically released at 18.

Another example would be the young woman who has been is custody and who has her own child while in custody. It is common to have a child in need of care (CINC) case filed on the baby of the young woman who is already in custody. A common scenario would be placing the mother and baby in the same foster home. The young mother may be doing everything that is asked of her, but she might not be quite ready to be on her own and certainly not ready to be on her own with a baby. If the young woman were to be released automatically at age 18, would she be forced to leave the foster home and to leave her baby in the foster home? That could be the outcome if she were no longer eligible for foster care at 18. This type of situation could ultimately do more harm than good.

The CINC system faces an infinite variety of situations and needs some flexibility to address those situations. Placing arbitrary or fixed limits on the system's ability to meet the variety of situations it faces will inevitably lead to a child, or children, being unnecessarily harmed.

KANSAS

DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

Don Jordan, Secretary

House Judiciary Committee

February 10, 2009

HB ~~2210~~ 2211

Youth Age 16 and 17 in SRS Custody

For Additional Information Contact:
Katy Belot, Director of Public Policy
Docking State Office Building, 6th Floor North
(785) 296-3271

House Judiciary
Date 2-10-09
Attachment # 11

KANSAS
DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

Youth Age 16 and 17 in SRS Custody

House Judiciary
February 10, 2009

Chairman Kinzer and members of the committee, I am Don Jordan, Secretary of the Kansas Department of Social and Rehabilitation Services. Thank you for the opportunity to appear in support of House Bill 2210.

Foster care services are provided when the court finds a child to be in need of care and the parents are unable to meet the safety needs of the child. The current budget deficit required a thoughtful examination of programs and services to determine reductions with minimum negative impact on the most vulnerable populations. This bill proposes that, unless determined to be abused or neglected, youth 16 and over be served in their own homes and communities. Youth with circumstances such as truancy, out of control behavior or running away will be addressed through in-home services and will not be placed in the custody of the Secretary. Youth age 16 and older will still be placed in the custody of the Secretary for reasons of maltreatment. This change benefits youth and families by addressing youth's behavior and interactions while maintaining them at home.

Providing services to youth in their own home will net a savings in FY2010 of $2,280,052 SGF ($2,561,769 All Funds). Total savings in this program of $3,056,199 is offset by an increase of $494,430 in the GBR funding for in-home services of Family Services and Family Preservation. Data about youth age 16 and older removed into the custody of the Secretary for reasons other than maltreatment is available on the attached sheet.

Over the years, there has been a progression of effort and in home services to support families with older youth who are in conflict or present challenging behaviors. SRS proposed in 1992 that the Kansas Code for the Care of Children distinguish between children who are abused or neglected and those in conflict with adults in their home, school or community. We have long recognized that the needs of these two populations are not the same. We believe the response should not be the same. The renewed effort in 2000 again failed but progress was made with the creation of the family services and community intervention fund currently set out at K.S.A. 38-2281. Over time we've learned a great deal but remain convinced that out of home placement doesn't solve the conflict, Rather it diverts energy from solving the problem.

Today we have the opportunity to move beyond these past efforts and to create statutory distinction between youth who are out of control and those who are more vulnerable due to age or actual abuse or neglect.

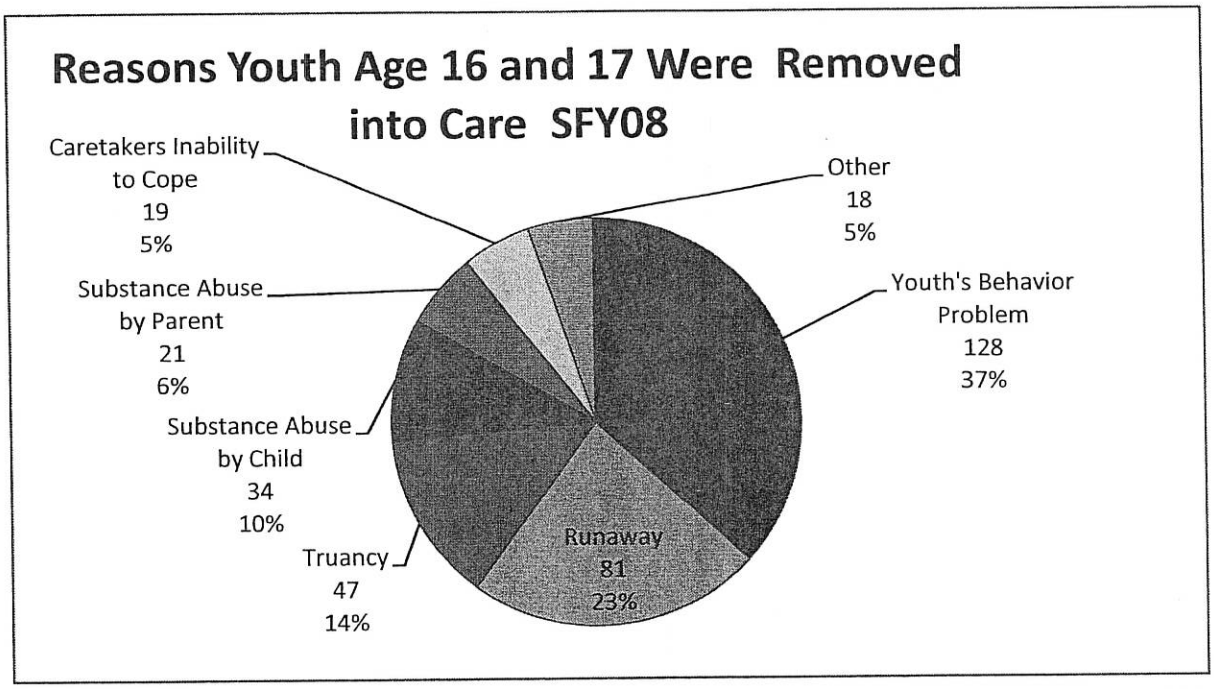
For issues that do not involve maltreatment or safety threats, behavioral and cognitive interventions with youth while they reside at home are effective. Alternate resources when the youth's safety is not an issue including engaging extended family, Family Preservation referrals, family services and the targeted use of community service funds for programs that support youth remaining in the family home. Family service dollars may be used for respite care or emergency shelters for youth and family in crisis and emergency flex fund granted to supplement Juvenile Intake and Assessment Center's short term case management service. Targeted community service dollars will foster proven service strategies designed by the community for the youth/family to access in the community. Family Preservation will be available for those families in need of intensive services in order to work through the adolescent/parent conflict that goes beyond the norm. We are asking that you close off only one option, custody to the Secretary, and provide the opportunity to create more effective community based solutions for this population.

Thank you again for the opportunity to express my support, and I will stand for questions.

Youth age 16 and 17 Removed for Reasons Other Than Maltreatment

In SFY 2008, there were 348 youth age 16 or 17 removed into the custody of the Secretary for reasons other than maltreatment. Of these 348 youth:

- 59% (204) were female.
- 87% (303) were not removed as part of a sibling group into the Secretary's custody.
- 28% (86) have a disability or special need. Of those youth with a disability, emotional disturbance is the majority disability type.



Other includes child's disability (4); death, incarceration, or relinquishment of a parent (11); or inadequate housing (3)

Placement Information

Family Foster Home	125	36%
Placed At Home	106	30%
Residential/ Institution	31	9%
Relative	30	9%
Runaway	26	7%
Independent Living	13	4%
Group Home	12	3%
Maternity Home	5	1%
Total	**348**	**100%**

Disability Information

Emotionally Disturbed	76.10%
Other Disability	6.50%
Developmental Disability	5.40%
Physical Disability	5.40%
Learning Disability	4.30%
Hearing Impaired	2.20%

State of Kansas
Office of Judicial Administration
Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507
(785) 296-2256

House Judiciary Committee
Tuesday, February 10, 2009

Testimony in Opposition to House Bill 2211

Mark Gleeson, Family and Children Program Coordinator
Office of Judicial Administration

Thank you for the opportunity to testify on HB 2211, restricting the placement of certain children in need of care. Before joining the Office of Judicial Administration nearly 15 years ago, I spent over 15 years as a Court Services Officer and working with law enforcement in the middle of the night conducting intakes and assessments with youths who would have met the definition of child in need of care non-abuse and neglect. I can tell you that, without question, these youths were our greatest challenge. Too often, they were our most frequent failure. In my opinion, HB 2211 is an official acknowledgment of this failure.

HB 2211 would eliminate SRS custody as an option for children alleged or adjudicated to be children in need of care if the child is 16 or 17 years old and has been adjudicated under any provision of the Kansas Code for the Care of Children (the CINC code), other than physical, sexual, or emotional abuse or neglect. Typically, these are truants, runaways, or children with significant drug or alcohol problems.

Admittedly, these are often the most challenging youths brought to the attention of the court. For these children, there is often the feeling that nothing anyone does makes any difference. For too many, if they are placed in the custody of the Secretary, placements disrupt and the youth is back on the street or, at best, moved to another placement.

Despite the difficulties these youths present to SRS, to the court, to schools, and to their parents and the community, eliminating one of the few options available to the court does not make sense. SRS has developed a plan and reports that they will provide services to these youths and their families in the home. The inability of youths to remain in the home is, however, precisely the reason retaining the safety net of SRS custody is so important. If SRS has tools that can keep a youth at home, these tools would be welcomed by judges and the community. SRS should provide those services even if this bill is not passed into law. When those services fail, and in my optimistic moments I would like to believe that they would not, we should not be surprised to find the youth in detention for an offense, in the hospital after having been abused by a violent boyfriend, or worse.

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These are often youths who have not been provided the structure and guidance necessary to feel safe in their own homes. They are sometimes youths who have been abused but for whom the abuse has not been reported. They are almost always youths who believe their families, their schools, the courts, and even their friends have washed their hands of them. By eliminating SRS custody for CINCs alleged to be truant or runaway, HB 2211 removes an alternative that might be a youth's last best hope for a productive future.

Thank you again for the opportunity to testify.

TESTIMONY BEFORE THE KANSAS HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE

ON

HOUSE BILLS 2210 AND 2211

FEBRUARY 10, 2009

BY

THE HONORABLE DANIEL CAHILL
JUDGE OF THE DISTRICT COURT
29TH JUDICIAL DISTRICT

Good afternoon and thank you Mr. Chairman and committee members for allowing me to join you today. I am Daniel Cahill and am the Judge in the Child In Need of Care court in Wyandotte County, Kansas. I have been in this Court since being appointed by Governor Sebelius in 2007 and prior to that practiced law in the same court for eight years. I am here today to speak in opposition to HB 2210 and 2211.

I will address my concerns with each of these bills separately. Taking first HB 2210, if I may summarize, this bill ends the jurisdiction of the Court once a child subject to the court reaches 18 years of age, or at the end of the school year in which the child turns 18, if the child is attending high school. I must say that a vast majority of the cases I hear will stand unaffected by this change. Many cases terminate when a child reaches permanency, either through returning to their parent's home, being adopted, or the court establishing a permanent custodianship. Of those that do not so end, the children are prepared by age 18 to enter society as an independent adult. In fact, I believe as I sit here today, there are only 141 people under the jurisdiction of a Child In Need of Care court who would have their cases terminated if this were the law of Kansas. That being said, many of these 141 wards of the State are some of the most vulnerable people we serve. Many receive services through CDDO or community developmental disability organizations. Without going into specifics of these individuals, I would tell the committee that I have experience with severely disabled children in the care of extraordinary foster parents who simply do not know if they can continue providing the care under an adult guardianship. Other children reach the age of 18 without the prospect of a guardian and risk a real possibility of falling through the cracks of the social services if they are forced out at 18. Along with those with disabilities, there are children who are diligently preparing for the transition to adulthood, along with the assistance of service providers, who are not prepared despite best efforts to live independently immediately upon their 18th birthday. Likewise, a teenage mother may find herself and her infant both under my court's jurisdiction. In a positive scenario she and the baby will be in the same foster home. She can model good parenting and continue bonding with her child. If she was discharged at 18, she would no longer be able to stay in that home. As you will

hopefully see from my comments on the next bill, my answer for the concerns addressed in each of these bills is the same, so bear with me.

As to HB 2211, it can be summarized as removing custody with the Secretary as an option when a child 16 or older comes into the system absent allegations of abuse or neglect. As I see this bill, it is aimed at keeping older teenagers who are either chronically truant, runaway, or out of control from being brought into the custody of the Secretary. As with the first bill, I believe this addresses a problem that does not actually exist. There may be a wide misconception that parents around the State are abandoning their parental responsibilities and that the Courts are more than happy to take them up for them gratis. Nothing could be further from the truth. The dedicated SRS personnel, and their service providers, go to extraordinary lengths to avid court involvement and state's custody in these matters. Family Preservation, respite care, counseling and therapy are all brought to bear to avoid these outcomes. It is truly only the worst of the worst cases that end up with a request for State's custody. They might involve a family whose child is so violent and unpredictable in the home that they fear for their safety, the safety of their child and that child's siblings. It may involve a child, once a model student, who has fallen under the sway of drugs and the drug lifestyle whose parents have exhausted all effort and large sums on treatment and intervention, to no avail. Finally runaways, bereft of any family reduced to crime, prostitution, and homelessness, would find confirmation of their belief that they are simply not wanted.

I have spoken or exchanged correspondence with many of the judges in juvenile courts across Kansas. The ones to whom I have spoken or written are in unanimous opposition to these measures. It is our opinion that yes, cases should end when a child reaches 18, and yes, families with older teenagers who are not subjected to abuse or neglect should be met with aggressive and creative services to maintain the home and avoid State's custody. However, if those measures are mandated as these bills would mandate, only the neediest children, and only the worst of cases, will be turned away. The Courts throughout the State work hard to assure that limited State's resources are not wasted on young children and adults who do not need to be in State's custody, but we, as judges, need the flexibility to maintain these cases when nothing else will do.

I respectfully request this committee not recommend these bills for passage. Thank you for your time and attention today and your work for the citizens of Kansas.

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Tuesday, February 10, 2009

Written Testimony in Opposition to Both HB 2210 and HB 2211

Judge Jim Burgess
18th Judicial District (Sedgwick County)

I am adamantly opposed to those provisions of the legislation proposed by SRS that would eliminate the option of placing a child who is 16 or 17 years old into SRS custody unless they show signs of physical, mental, emotional or sexual abuse, and also to the automatic release of juveniles from SRS custody upon their 18th birthday. This type of legislation slams the door on certain juveniles who need our help and it would be gross negligence to allow these juveniles to go unserved.

I have had juveniles this age be abandoned by their parents. Literally, the parents have left the state and not told the juvenile where they are going. Some just have nowhere to go.

I have other parents who have stated they would prefer to face criminal charges than to have a juvenile returned to their home. I've had instances where the juvenile is so mentally ill, so violent, so whatever, that the parents are terrified of their child. They lock up all sharp objects and lock their bedroom doors at night. I've had parents who have literally tried every service they could locate and have spent every penny they have only to produce no change in their child's behavior. One child of several is destroying the lives of the parents and the siblings. It is impossible to believe that many, if not most, of these kinds of situations will get better by leaving a child in a home and offering services. There are just some cases that dictate removal no matter what the age.

Runaways are another category. These juveniles put themselves in some of the most horrendous situations. They steal food to eat. They break into abandoned buildings for shelter. They become desperate and are taken advantage of by adults. They sell drugs to have a place to stay. Young girls work in prostitution rings just to survive. To say that we would not take action, including custody and secure care, to stop this self-destructive behavior just because of their age would be telling these children what they already believe: no one cares.

There is no problem in trying to avoid the removal of 16 and 17 year olds from their homes. Reality tells us that, in many cases, we just won't make many inroads in the life of a 16- or 17-year-old before they ask for release of custody at age 18. The fact of the matter is, there are some cases in which the best we can do is to limit their ability to do harm to themselves or others. In some cases, we get them thinking about change and in other cases, there is positive change. To predict which of those cases will result in change is impossible. This is not a large population of juveniles. However, to think that

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even one child's life may be irreparably damaged because we excluded them, without trying, simply because of their age is the antithesis of what we should be about.

Eighteen year-olds being released from custody is also problematic. There are many juvenile who need to be transitioned to adult care. No matter how much effort and planning is done, sometimes this can not be accomplished prior to a juvenile turning 18. For example, we have many juveniles who are in need of a guardian as they transition to adult services. If this guardian does not exist as the juvenile turns 18, there is a risk of a gap in services if the juvenile is automatically released at 18.

Another example would be the young woman who has been is custody and who has her own child while in custody. It is common to have a child in need of care (CINC) case filed on the baby of the young woman who is already in custody. A common scenario would be placing the mother and baby in the same foster home. The young mother may be doing everything that is asked of her, but she might not be quite ready to be on her own and certainly not ready to be on her own with a baby. If the young woman were to be released automatically at age 18, would she be forced to leave the foster home and to leave her baby in the foster home? That could be the outcome if she were no longer eligible for foster care at 18. This type of situation could ultimately do more harm than good.

The CINC system faces an infinite variety of situations and needs some flexibility to address those situations. Placing arbitrary or fixed limits on the system's ability to meet the variety of situations it faces will inevitably lead to a child, or children, being unnecessarily harmed.

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Tuesday, February 10, 2009

Written Testimony in Opposition to HB 2211

Judges of the 5th Judicial district
(Chase and Lyon Counties)
Judge Merlin G. Wheeler, Chief Judge
Judge W. Lee Fowler, District Judge
Judge Jeffry J. Larson, District Judge
Judge Douglas P. Jones, Magistrate Judge

Mr. Chairman and Members of the Committee:

Please accept this testimony in opposition to House Bill 2211. The idea of not placing children under the age of sixteen in the custody of the Secretary of Social and Rehabilitation Services as set forth in House bill 2211 is not inherently a bad one. However, the reality of the bill would force children who have, in most instances, created the necessity for services or removal from the home to be forced to return to the home. Children who have not been abused and who would require removal from the home are the ones who are typically the source of the problem.

Frequently, these children represent the most difficult cases for judges to resolve. In our district, the Child in Need of Care Cases that take the most court time and the most community resources are cases in which the child has taken control of the family and refuses to follow any structure provided by the parents. They have learned how to control the home by manipulation. Often, the most effective way to deal with these children is to remove them from the home and provide a highly structured living environment for them. When children are placed back into their parent's home, they often re-engage in disruptive and sometimes dangerous behavior. This bill takes away one of the most effective tools the court has in dealing with the situation, removal from the home.

Additionally, if House Bill 2211 were enacted, placement of these children would be shifted in many situations to the Juvenile Justice Authority as many children put back into their home situation will continue to cause problems. The Department of Social and Rehabilitation Services is attempting to shift cost to other agencies. The difficulty with this passing of the buck is that, by returning children to the home, the state is simply allowing the juvenile offender system to solve the problem. The practical effect of the bill is problematic. For the foregoing reasons, we respectfully request that House Bill 2211 not be enacted.