

Chairperson Concannon and Respected Members of the Committee:

My name is Grant Brazill and I currently serve as a parent's attorney and guardian ad litem in the Eighteenth Judicial District (Sedgwick County, Kansas). I am writing to express a desire that the Committee consider future legislation to create a Kansas Office of Respondent Parent's Counsel, similar to offices which have been created elsewhere in the country in states like neighboring Colorado.

As the Committee is aware, many of the judicial districts in the state handle child in need of care cases differently. As a result, there are also many different models for parent representation that are utilized in the state. In the Eighteenth Judicial District, individual attorneys ask to be appointed by the court and serve on a "panel." There is no centralized oversight or resource pool available for parent's counsel. Rather than continuing with this disparate model, by enacting a central Office of Respondent Parent's Counsel, the legislature can improve permanency outcomes for children and families and address resource disparities across the state. Fortunately, there are many states across the country who have already adopted such an approach, and there is federal funding available to assist in offsetting cost.

The Office of Respondent Parent's Counsel would improve outcomes for children and parents by utilizing an interdisciplinary model.

In recent years, a new model for parent representation has emerged, called a "multidisciplinary" or "interdisciplinary" approach. Under this model, legal professionals providing representation to parents can team up with social workers, parent advocates, investigators, and other resources to improve services for parents. Under the current, disparate model of appointing representation for parents, the interdisciplinary approach is logistically challenging, if not impossible. In order to implement such a model, Kansas would need to enact a centralized body for parent representation.

The effects of this model for representation are exemplified by a 2019 study in the Children and Youth Sciences Review.¹ The study, conducted by New York University School of Law and Action Research, investigated whether interdisciplinary legal representation for parents in child welfare cases would impact the length of foster care stays for children and termination of parental rights. In the New York study, families were represented by an interdisciplinary team consisting of a lawyer, a social worker, and often a parent advocate who had personal experience with the system. The study found that this approach significantly reduced the time children spent in foster care without compromising safety. Importantly, child safety outcomes remained unchanged.

Much like in Kansas, before the multidisciplinary model, parents were exclusively represented by experienced solo practitioners who applied to an assigned counsel panel. Since 2007, New York City Family Courts assigned parents in child welfare cases either to a panel lawyer or a staff lawyer employed by one of the family defender offices. The family defense offices

¹ Gerber et al., "Effects of an interdisciplinary approach to parental representation in child welfare," Children and Youth Services Review, Vol. 102, July 2019, P. 42-55, available at <https://www.sciencedirect.com/science/article/pii/S019074091930088X#section-cited-by>

achieved better outcomes, securing the safe return of children to their families 43% more often in the first year and 25% more often in the second year compared to solo practitioners.

The Office of Respondent Parent’s Counsel would help balance resource disparities.

Across the State of Kansas, there are approximately 6,200 children in out of home placements after Fiscal Year 2023.² Sedgwick County has the highest number of children out of home, with 1,270.³ In Sedgwick County, there are around twenty (20) attorneys who work in child welfare, including both parent’s attorneys and guardians ad litem (though most practitioners are either one or the other). This imbalance means that attorneys in Sedgwick County are often handling caseloads of over 100, whereas the recommended “full time” caseload for a child welfare attorney is 60, with appropriate compensation to match.⁴

There are also problems in rural jurisdictions. The Office of Judicial Administration reports that there are 7,980 active practicing attorneys in Kansas. Eighty-percent (80%) of Kansas attorneys live in 6 counties⁵. Conversely, as of December 2022, Wichita and Hodgeman Counties had no attorneys, and the situation is little better in other rural jurisdictions.⁶ Although these jurisdictions have smaller child in need of care caseloads, they suffer from the same problem – a relatively small percentage of their already small pool of legal practitioners work in child welfare.

A centralized Office of Respondent Parent’s Counsel would enable the courts to assign cases specifically to the Office, and the office could equitably staff matters in an effort to prevent massive caseloads in urban districts, while also providing a larger pool of legal professionals for rural jurisdictions. A centralized Office would also be able to engage with area law schools for recruiting, and could help to attract practitioners not only to the area of child welfare, but to rural jurisdictions as well.

There are models to follow in other jurisdictions, and federal funds are available.

Many jurisdictions are either utilizing a multidisciplinary model for representation, or are committed to utilizing this model and lowering caseloads for practitioners. While New York City and Washington state have some of the longest standing offices, work is also being done in California, New Mexico, Michigan, Louisiana, Oregon, Texas, Delaware, Utah, North Carolina, and Mississippi.⁷⁸

²Kansas Department for Children and Families, *FY2023 Removals, Exits, and Out of Home Summary (FACTS)*, available at: https://www.dcf.ks.gov/services/PPS/Documents/FY2023DataReports/FCAD_Summary/FACTSRemovalsExitsOOHSFY23.pdf

³ Kansas Department for Children and Families, *FY2023 Removals, Exits, and Out of Home Summary (FACTS)*, available at: https://www.dcf.ks.gov/services/PPS/Documents/FY2023DataReports/FCAD_Summary/FACTSRemovalsExitsOOHSFY23.pdf

⁴ Family Justice Initiative, *Attributes of High-Quality Legal Representation for Children and Parents in Child Welfare Proceedings*, available at <https://familyjusticeinitiative.org/wp-content/uploads/sites/48/2020/03/fji-attributes-2019.pdf>

⁵ Office of Judicial Administration, *Kansas Rural Justice Initiative*, <https://www.kscourts.org/KSCourts/media/KsCourts/court%20administration/Rural-Justice-Initiative/Rural-Justice-Initiative-Fact-Sheet.pdf>

⁶ Nosker, Toby, *Senator Elaine Bowers to Serve on Committee Examining Unmet Legal Needs in Rural Kansas*, December 12, 2022, available at <https://www.krsl.com/local/senator-elaine-bowers-serve-committee-examining-unmet-legal-needs-rural-kansas>

⁷ Casey Family Programs, *How does high-quality legal representation for parents support better outcomes?* July 2019, available at https://www.casey.org/media/SF_Quality-parent-representation_fnl.pdf

⁸ Laver, Mimi and Cathy Krebs, *The Case for a Centralized Office for Legal Representation in Child Welfare Cases*, December 1, 2020, available at https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2020/the-case-for-a-centralized-office-for-legal-representation-in-ch/

Recent changes in federal policy have enabled states to request additional funding to support representation for parents in child welfare proceedings. States may now request reimbursement for up to 50% of the costs for representation for children and parents at all stages of the proceedings.⁹ These funds must be requested by the IV-E agency of a state, which is DCF in Kansas. At this time, Kansas has *not* requested these additional funds, and there is no clear timeline of when this request might actually be made. In many ways, utilizing a centralized office for parent's representation would be more efficient in utilizing these funds, since "the agency must claim the funds from the federal government through an agreement with the court or public entity providing legal representation then pass through the funds under that agreement."¹⁰ Rather than contracting with individual attorneys or judicial districts, DCF could enter into an agreement with the Office of Respondent's Parent Counsel.

Now is a critical time for child welfare in Kansas. The current system is strained and is delivering poor outcomes for Kansas families. Given the rural attorney crisis, this situation is likely to get worse in the coming years. I believe that adopting a centralized model would help improve outcomes for children in the foster care system by ensuring quality representation for parents statewide. I sincerely hope this Committee would be open to considering this for an upcoming legislative session, and welcome future conversations.

Thank you for your time and consideration.



Grant Brazill

⁹ Hardin, Mark, *Claiming Title IV-E funds to Pay for Parents' and Children's Attorneys: A Brief Technical Overview*, February 25, 2019, available at: https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2019/claiming-title-iv-e-funds-to-pay-for-parents-and-childrens-attor/

¹⁰ Hardin, Mark, *Claiming Title IV-E funds to Pay for Parents' and Children's Attorneys: A Brief Technical Overview*, February 25, 2019, available at: https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january---december-2019/claiming-title-iv-e-funds-to-pay-for-parents-and-childrens-attor/