

SESSION OF 2025

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2311

As Amended by House Committee of the Whole

Brief*

HB 2311, as amended, would create law in the Kansas Revised Code for the Care of Children prohibiting the Secretary for Children and Families (Secretary) from adopting, implementing, or enforcing certain policies with respect to who can be considered for selection as out-of-home or adoptive placement, custody, or appointment as permanent or SOUL custodian for a child in need of care.

Policies that the Secretary would be prohibited from adopting, implementing, or enforcing would include any that:

- Require a person to affirm, accept, or support any governmental policy regarding sexual orientation or gender identity that may conflict with the person's sincerely held religious or moral beliefs; or
- Prohibit selection, appointment, or licensure, if otherwise eligible, of a person because of such person's sincerely held religious or moral beliefs regarding sexual orientation or gender identity or intent to guide or instruct a child consistent with such beliefs.

The bill would specify that nothing could be construed to prohibit the Secretary from considering the religious or moral beliefs of a child or the child's biological family or community, including beliefs regarding sexual orientation and gender identity, in relation to those persons who are being considered for out-of-home or adoptive placement, custody,

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

or appointment when determining what placement is in the best interests of the child.

The bill would allow a person aggrieved by a violation of the proscribed conduct in the bill to recover actual damages, injunctive relief, costs, and reasonable attorney fees from the Department for Children and Families (DCF), but would prohibit actions from being brought against an entity that contracts with DCF.

Background

The bill was introduced by the House Committee on Child Welfare and Foster Care at the request of Representative Humphries.

House Committee on Child Welfare and Foster Care

In the House Committee hearing, **proponent** testimony was provided by representatives of First Amendment Partnership, Kansas Family Voice, Lifeline Children's Services, and three private citizens. The proponents generally stated that the bill would allow more families to adopt and foster children within the child welfare system, reducing the volume of children in the State's custody. Proponents also expressed concerns regarding potential violations of religious freedom and freedom of speech of prospective foster and adoptive families if the bill is not enacted.

Written-only proponent testimony was provided by a representative of the Kansas Catholic Conference.

Opponent testimony was provided by representatives of Equality Kansas, Kansas Interfaith Action, Mainstream Coalition, and six private citizens who voiced their concerns for harm to members of the LGBTQ+ community in the child welfare system. Additional concerns were expressed

regarding the possibility that provisions of this bill could overrule the best interests of the child standard.

Written-only opponent testimony was presented by representatives of Kansas Appleseed Center for Law and Justice, Loud Light Civic Action, Planned Parenthood Great Plains Votes, and 48 private citizens.

No other testimony was provided.

House Committee of the Whole

The House Committee of the Whole adopted an amendment that would exclude DCF contractors from liability under the bill and remove punitive damages as a possible form of relief if the provisions of the bill were violated.

Fiscal Information

According to the fiscal note prepared by the Division of Budget on the bill, as introduced, the Office of Judicial Administration indicates that enactment of the bill could increase the number of cases filed in district courts because it would create a civil cause of action for a perceived violation. This, in turn, would increase the time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. Nevertheless, until the courts have had an opportunity to operate under the provisions of the bill, an accurate estimate of the fiscal effect on expenditures by the Judicial Branch cannot be given. The bill would not have a fiscal effect on revenues to the Judicial Branch. However, the bill could result in the collection of docket fees in those cases filed under the provisions of the bill, which would be deposited in the State General Fund.

According to the DCF, enactment of the bill would not have a fiscal effect on the agency.

The Office of the Attorney General (OAG) indicates that enactment of the bill would not have a fiscal effect on the OAG, but states that this bill would have an elevated risk of facing litigation. The OAG has recent experience defending laws with similar subject matters and may be able to keep the cost of litigation down to a lower amount.

Any fiscal effect associated with the bill is not reflected in *The FY 2026 Governor's Budget Report*.

Children and minors; Department for Children and Families; Revised Kansas Code for Care of Children; custody; adoption; out-of-home placement; religious freedom; sexual orientation; gender identity