

April 2, 2014

The Honorable Lance Kinzer, Chairperson
House Committee on Judiciary
Statehouse, Room 165-W
Topeka, Kansas 66612

Dear Representative Kinzer:

SUBJECT: Fiscal Note for HB 2665 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2665 is respectfully submitted to your committee.

HB 2665 would create provisions allowing for a minor to be considered of majority age as relates to contracts, property rights, liabilities, and capacity to sue and be sued in certain situations. The bill would give a minor parent the right to consent to certain medical or surgical procedures for the minor's child. The bill would also allow minors 16 years of age or older under specified circumstances to donate blood voluntarily or to consent to performance of certain medical or surgical procedures. HB 2665 would provide a protocol for a parent to delegate the authority to immunize a minor.

HB 2665 would create a Kansas Children's Cabinet and define the membership, duties, and functions of the Cabinet. The Cabinet would not include representation from the Judicial Branch and the duties are different from duties of the existing Kansas Children's Cabinet and Trust Fund.

HB 2665 would make numerous amendments to the Kansas Code for Care of Children.

1. Delete human trafficking elements of ex-parte order of protective custody and temporary custody orders and omit the definitions of "selling sexual relations" and "staff secure facility" contained in the current child in need of care (CINC) Code.
2. Add the term "destitute and friendless children" as a new term in Kansas law.
3. Enact the Interstate Compact for Placement of Children and the Interstate Compact for Juveniles in statutes separate from the laws governing child welfare.
4. Retain certain provisions of the existing CINC Code in this proposed legislation. However, HB 2665 would emphasize the rights of parents, provide for investigations of alleged child abuse and/or neglect by law enforcement officers and the Secretary of the Department for Children and Families, and would expand the requirements for investigations including, but not limited to, recording all interviews.

5. Change the time requirement for temporary custody hearings from 72 hours from the child's removal from the home, excluding Saturdays, Sundays and holidays, to 72 hours including Saturdays, Sundays and holidays. It would create a requirement for notice of temporary custody hearings 72 hours in advance of the hearing and would authorize a jury trial at the request of a party.
6. Continue to list court services officers as mandated reporters, but they would no longer have immunity. Immunity for Guardians ad litem and possibly Court Appointed Special Advocates (CASA) would be removed in cases of reporting alleged abuse or neglect.
7. Change the standards for permanency hearings. Permanency hearings, under current law, are required to be held within 12 months of first removal of a child and every 12 months thereafter. The bill would require a permanency hearing within one month following first removal and every month thereafter.
8. If requested by the child, allow the child to address the court, if he or she is ten years of age or older.
9. Require Guardians ad litem (GAL) to be "a qualified lay person." The GAL would be required to submit a report to the court and be subject to cross examination. District courts would be required to recruit and provide training. If a child's position is inconsistent with the GAL regarding the "least detrimental alternative" standard, the court would be required to appoint another GAL.
10. Exchange the terminology "best interest of the child" with "least detrimental alternative" for the child in the CINC Code and the Kansas Parentage Act. These terms would also be exchanged in various statutes regarding establishing, modifying, and enforcing child support orders, child custody, residency, and parenting plans, third party visitation rights, enforcing visitation and parenting time, alternative dispute resolution, termination of parental rights, and investigations of identity when children first enroll for school.
11. Require the appointment of attorneys to represent any interested party who fails to appear at a hearing after being properly served with process or any interested party who desires to be represented by an attorney, but who cannot financially afford to employ one.
12. Provide for jury trials if requested in numerous different fact scenarios as set forth throughout the bill. The current CINC Code does not contain provisions for jury trials in such scenarios, but matters are tried by the presiding judge of the applicable court.
13. Require adherence to certain standards of evidence by courts, DCF staff and court services officers. The most common standard would be "clear and convincing evidence," however, in some situations the standard would be "beyond a reasonable doubt." The current CINC Code requires a "probable cause" degree of proof for most findings by the court and this bill, therefore, requires a higher standard of proof than the current CINC Code for most scenarios.
14. Transfer the authority to appoint members of Citizen Review Boards (CRB) to the county commissioners and the Office of the Attorney General would be responsible for

administration of such Boards. Currently, the CRBs are made up of volunteers who hear CINC or juvenile offender cases and make recommendations to the courts. Only eight judicial districts have approved CRBs. Board members are appointed by judges and subject to Supreme Court Rule.

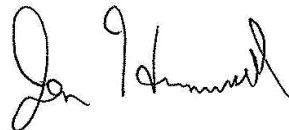
15. Direct the Secretary of the Department for Children and Families to adopt rules and regulations to assist in the administration of the new Adoption Support Program which would be authorized under the proposed code.
16. Enact the Interstate Compact on Adoption and Medical Assistance.
17. Remove the 50 year age threshold in the Grandparents as Caregivers Act.

The Department for Children and Families indicates that HB 2665 would require a change in philosophy from acting in the best interests of the child to providing the least detrimental alternative for the child while safeguarding the rights of parents. The agency assumes that the actions by the courts and social workers would continue to be guided by the goal to keep children in their homes whenever the child's safety is not compromised. Therefore, the effect of the bill on the number of children and families receiving child welfare services is not estimated to change significantly. The agency does estimate that more litigation on child support orders affecting divorce and paternity would result from the new statutory terms. The extent of the litigation cannot be estimated.

HB 2665 could impact federal funding. Federal child welfare laws require states to consider the "best interest of the child" in several circumstances, including adoptions, placement and custody decisions. This fiscal note makes no assumptions on the federal response to the change to the least detrimental alternative for the child language.

The Department of Corrections and the Judiciary have been contacted regarding the fiscal effect of the bill, however, neither has replied. If further information is received, a revised fiscal note will be written. Any fiscal effect associated with HB 2665 is not reflected in *The FY 2015 Governor's Budget Report*.

Sincerely,



Jon Hummell,
Interim Director of the Budget

cc: Mary Rinehart, Judiciary
Jeremy Barclay, Corrections
Jackie Aubert, Children & Families