

STATE OF KANSAS

SENATE

14TH DISTRICT
STATE CAPITOL
TOPEKA, KS 66612
(785) 296-7678
forrest.knox@senate.ks.gov



17120 UDALL RD.
ALTOONA, KS 66710
(785) 783-5564
senatorforrestknox@gmail.com

FORREST J. KNOX

Senate Standing Committee on Judiciary

Testimony Supporting SB 160

February 17, 2015

Chairman King,

Currently, when a child has been adjudicated to be a child in need of care and a court finds by clear and convincing evidence that the parent is unfit, the court may terminate parental rights or may appoint a permanent custodian. In making a determination of unfitness the court must consider a long list of circumstances, which are found in statute. Only one circumstance on the list is sufficient for a finding but a finding is not required even if multiple circumstances on the list exist.

If the court makes a finding of unfitness, the court must consider whether termination of parental rights, as requested in the petition or motion, is in the best interest of the child. If the physical, mental or emotional needs of the child would best be served by termination of parental rights, the court shall so order.

If parental rights are terminated, the court may:

- (a) Authorize adoption,
- (b) Authorize appointment of a permanent custodian, or
- (c) Authorize continued permanency planning.

If parental rights are not terminated, the court may:

- (a) Authorize appointment of a permanent custodian, or
- (b) Authorize continued permanency planning.

When the court authorizes any of these three options, the person or agency awarded custody of the child shall within 30 days submit a written plan for permanent placement that shall include measurable objectives and time schedules. The agency is asked to suggest for itself "time schedules." But the court has none.

You see in statute many "may's" and only one time restriction, which is one of the few "shall's." The truth is that a court may not do any of this, and certainly may not do it quickly, and often does not do it quickly.

Parental rights are held so highly in some judges' minds that children are routinely being hurt by years in the system, without certainty, without security - in limbo. SB 160 makes few changes, but it sets some time goals.

With the passage of SB 160, when a child is adjudicated as a CINC, the court still has no time limit set to determine whether a parent is unfit, except in one circumstance. SB 160 does three things:

- (a) Directs that the court shall find a parent unfit if, after a reasonable plan approved by the court directed toward the integration of the child into a parental home has been in place for six months, the court finds that a parent has failed to carry out such plan on two occasions after such plan has been in place for six months.
- (b) Once unfitness is determined, the court must, within six months, consider whether it is in the best interest of the child to terminate parental rights.
- (c) Once the court has authorized permanence and a written plan for permanent placement has been submitted by the agency, the plan shall include a permanency goal that will be accomplished within one year and the court shall insure that such permanency goal is met.

Legislative intent is communicated to the courts in SB 160, legislative intent that children who stay in the system for too long are injured by the system.

Thank you for your consideration of SB 160.