

Foster Care and Adoption in Kansas: Reviewing Various Issues Related to the State's Foster Care and Adoption System

Kansas' foster care program is administered by the Department for Children and Families (DCF) and has been privatized since 1997. The department currently contracts with two service providers—KVC Kansas and St. Francis—to provide foster care services across the state. The foster care program is charged with protecting children who may be physically or mentally abused or neglected. The department may provide preventive services to a family when child abuse is suspected with the goal of keeping the child in the home. However, if preventive services are not successful or if the danger to the child appears to warrant action, the department may ask the county or district attorney to petition the court to place the child in its custody.

After a court order puts a child in the custody of the department, the child may be placed back with the family with the written permission of the court, with relatives or friends of the family, with a foster family, in a group home, or in an appropriate state-operated facility. Child Welfare Case Management Providers, who are private contractors with the state, work with the child and family to resolve issues so the child can return home. If it is not possible for a child to go back to the family, parental rights may be taken away by the court or voluntarily surrendered. At that point the child is available for adoption.

The questions included in this scope statement were selected by the Foster Care Scope Statement Subcommittee for consideration by all members of the Legislative Post Audit Committee. At its December 2015 meeting, the Legislative Post Audit Committee considered an audit request by Representative Jim Ward intended to evaluate whether DCF had discriminated against same-sex couples through its child placement process. Although the committee did not approve that request, it established the subcommittee to develop a comprehensive audit request of DCF and the foster care system.

A performance audit in this area would address the following questions:

- 1. Is DCF following adequate policies and procedures to ensure the safety of children during the removal and placement process?** To answer this question, we would identify which types of factors and best practices should be considered and implemented as part of the removal and placement process to ensure children's safety (according to professional associations such as the National Association of Social Workers). Interview department officials and review documents as necessary to understand the department's policies and procedures for child removals and child placements (with either the child's original family, with foster parents, or with adoptive parents). As part of that work, we would also determine whether the department allows CINC children to be placed in homes that also house juvenile offenders. We would review the department's policies and procedures to determine whether appropriate factors were included and whether best practices had been sufficiently implemented. Moreover, based on sample of cases, we would review department files and interview staff to determine whether department staff and foster care contractors followed the department's removal and placement policies and procedures as designed.

2. **Does DCF's child placement process help ensure that children are placed in foster care or adoptive homes with a sufficient living space and sufficient financial resources?** To answer this question, we would interview DCF officials and review department policies and procedures to determine whether factors such as household size, living space, or household income considered by DCF and others when making child placements in foster care or adoptive homes. We would also review foster care licensing requirements and professional literature to determine whether there were any suggested limits on family size, home square footage, or minimum family income that should be considered when making placement decisions. Moreover, we would review DCF files for children placed in very large foster care or adoptive families to determine whether those homes provide sufficient space for the children and to determine whether the financial resources of the families appeared sufficient. In performing that work, we would also interview DCF staff and others involved in the placement decision to identify whether there were ever any concerns raised about these types of home situations and if so, how they were addressed.
3. **Are DCF's criteria for recommendations regarding the removal and placement of children designed to help keep families together as much as possible?** To answer this question, we would interview DCF to understand their specific role in the removal and placement processes as well as the private contractors they oversee. We would also determine which criteria DCF and contractor staff use when removing children from their homes and which criteria they use to make recommendations of a child's placement in either a foster care or an adoptive home. We would compare that to professional literature and best practices in this area developed by organizations such as the U.S. Department of Health and Human Services. We would conduct a DCF and contractor staff survey and would interview other foster care professionals and stakeholders as necessary to collect their opinions on whether the criteria used by DCF and its contractors helps keep families together as much as possible. Based on that collective information, we would determine if DCF's placement and removal criteria are sufficient to help ensure that children are not removed from their families too quickly and that children from the same home are placed together whenever possible.
4. **Does DCF ensure that all applicable state and federal laws governing the foster care system in Kansas are followed?** To answer this question, we would interview DCF officials and would work with the Office of Revisors staff to identify all state and federal laws related to the foster care system in Kansas, including any financial requirements. Further, we would work with DCF staff to determine how they ensure compliance with those laws and requirements through their established policies, procedures, and contractual agreements with private contractors. For a sample of cases, we would determine whether DCF staff and contracted staff appear to adhere to those policies and procedures as designed and would determine the primary causes for any non-compliance we identified including any sanctions DCF imposed on staff for any violations. In addition, we would work with DCF and federal state agency officials as necessary to determine the consequences, if any, of any violations of state or federal law we identified.

5. **Do foster care contractors have sufficient capacity to provide necessary foster care services?** To answer this question, we would collect and analyze historic information to determine contractors' staffing and caseloads before and after being awarded their contracts with the state and interview officials regarding any trends we identified. Collect information from each contractor to determine and compare their average staff caseloads and the specialized services they provide for children in their care (e.g. mental health services) to best practices, other contractors, and over time. Work with DCF and contractor officials to identify trends in the number of children in foster care and receiving specialized services in recent years. Review any information the DCF maintains related to contractor performance and complaints. For any problems we identified, we would interview contractor and department officials as necessary to better understand those issues and to determine what has been done to resolve them.
6. **Has the privatization of foster care and adoption significantly affected outcomes for children and families?** To answer this question, we would interview DCF officials and would review DCF records to determine what types of outcomes they have consistently tracked (in areas such as assessments, removals, reunifications, and placements) before and after the privatization of foster care and adoption. We would also interview DCF officials to determine how the foster care and adoption system has changed over time and how that might affect the outcomes they measure. We would compile readily available outcome data for all phases of the foster care and adoption process and compare those outcomes before and after privatization, and would follow up with DCF and Contractor officials about any trends noted in the comparison.
7. **Has the privatization of state foster care and adoption significantly affected the cost of those services to the state?** To answer this question, we would interview DCF staff and review available data to determine how much foster care and adoption cases cost Kansas before and after privatization on a per child basis. We would also interview DCF officials to determine how the foster care and adoption system has changed over time and how that might affect system costs. We would compare current privatized costs for foster care and adoption services to costs prior to privatization after accounting for relevant factors such as inflation and wage increases over time. Similarly, we would identify other states with foster care and adoption systems similar to Kansas and with similar outcomes, and would work with officials from those states to collect cost information that could be compared to our own. In doing all of this work, we would determine the state's share of funding for these costs both before and after privatization.

Estimated Resources: 5 LPA staff

Estimated Time: 11 months (a)

- (a) *From the audit start date to our best estimate of when it would be ready for the committee; LPA would intend to release several reports during this 11-month period. Note: Our ability to answer questions 6 and 7 on privatization will be subject to how much and what type of records have been maintained since privatization of the foster care and adoption system.*

SCOPE STATEMENT

Seized and Forfeited Property: Evaluating Compliance with State Law and How Proceeds Are Tracked, Used, and Reported

The Kansas Standard Asset Seizure and Forfeiture Act (K.S.A. 60-4101 et seq.) gives law enforcement agencies in Kansas authority to seize money or property acquired in connection with certain illegal activities. Most seizures result from drug offenses, but the act also applies to crimes such as cattle rustling, money laundering, and illegal gambling. Property may be seized under the act during drug or gambling raids or other searches, and often occurs during traffic stops, when law enforcement officers observe behaviors or situations that cause them to suspect illegal drugs may be involved.

Whereas a seizure occurs when law enforcement officers take property into their custody, a forfeiture occurs if a judge subsequently awards ownership of the property to the law enforcement agency. Once property is seized for forfeiture, the law enforcement agency must file a forfeiture claim in a Kansas district court. This proceeding is filed in civil court; a criminal conviction isn't required to file the forfeiture case. Once property is forfeited under the act, law enforcement agencies may:

- keep the property for official use or transfer the property to any local, state, or federal agency
- destroy any illegal or controlled substances and contraband or use it for investigative or training purposes (except when needed as evidence)
- sell property which is not required to be destroyed and which is not harmful to the public

State law specifies that moneys generated from the sale of seized property cannot be considered a source of revenue for normal operating expenses. Instead, those moneys are to be used for such special or additional law enforcement purposes as deemed appropriate by the head of law enforcement agencies. Each year, state law enforcement agencies are supposed to report to the Legislature the revenues, expenditures, and current balances in their special asset forfeiture funds. Local law enforcement agencies are required to file the same report with the authority that oversees their budgets.

Legislators have expressed an interest in knowing whether law enforcement agencies are following all requirements related to the sale of seized and forfeited property and how they track, use, and report on money generated from the sales.

A performance audit of this topic would answer the following questions:

1. **Are law enforcement agencies following state law related to the disposal and sale of seized and forfeited property?** To answer this question, we would review applicable statutes related to the disposal and sale of seized and forfeited property. For a sample of property sales, we would evaluate whether all required documents from the court were obtained and whether required notices of sale were posted or provided to the appropriate parties. We would also evaluate the adequacy of the agencies' policies on the storage and disposal of illegal substances and whether those policies were being followed. We would perform additional work in this area as necessary.

2. **How is the money generated from property seizures and forfeitures being tracked, used, and reported?** To answer this question, we would review annual reports submitted by state law enforcement agencies to the Legislature and would interview officials at those agencies to determine how those reports were compiled. We would also review records to determine how proceeds from the sale of seized and forfeited property were tracked and how those moneys were used. We would conduct similar testwork for a small sample of local law enforcement agencies. We would perform additional work in this area as necessary.
3. **How does Kansas property seizure and forfeiture process compare to other states?** To answer this question, we would contact officials from a number of states to better understand their laws regarding property seizures and forfeitures. Specifically, we would evaluate what type of property can be seized and under what conditions. We would also determine how the courts are involved in making forfeiture decisions in those states, and whether a criminal conviction is necessary to file a forfeiture case. Finally, we would determine how proceeds from forfeited property can be used by law enforcement agencies. We would perform additional work in this area as necessary.

Estimated Resources: 3 LPA staff

Estimated Time: 5 months (a)

(a) *From the audit start date to our best estimate of when it would be ready for the committee.*