

Host Families Act; Family Law Code—Domestic Violence Offender Assessment and Certified Batterer Intervention Program; Medicating of a Child; Access to Child in Need of Care Files; Human Trafficking; Sexual Exploitation of a Child; Children in Need of Care; Juvenile Offenders; SB 418

SB 418 establishes the Host Families Act, amends the Family Law Code with regard to use of a domestic violence offender assessment and certified batterer intervention program; amends law related to the medicating of a child and access to files in child in need of care proceedings; and creates and amends law related to human trafficking, sexual exploitation of a child, children in need of care, and juvenile offenders.

Host Families Act

The bill establishes the “Host Families Act” (Act). The Act allows a child placement agency or other Kansas charitable organization working under an agreement with an agency to establish a program in which it coordinates with private organizations to provide temporary care of children by placing a child with a host family. Such programs must include screening and background checks for potential host families that are the same as those required by the Secretary for Children and Families for family foster home licensing, and a host family will not receive payment other than reimbursement for actual expenses of providing the temporary care. The bill requires the placement of a child into such a program be voluntary and establishes that such placement shall not be considered an out-of-home placement by the State, shall not supersede any order under the Code for Care of Children (CINC Code) or any other court order, and shall not preclude any investigation of suspected abuse or neglect.

A parent may place a child into a program established under the Act by executing a power of attorney delegating to a host family any powers regarding the care and custody of the child, except the power to consent to marriage or adoption, the performance or inducement of an abortion, or the termination of parental rights to the child. The power of attorney may not be executed without the consent of all individuals with legal custody of the child. The power of attorney may not exceed one year in duration but may be renewed for one additional year.

A “serving parent,” defined by the Act to include a parent under one of several specified military or other governmental service obligations, may delegate powers for a period longer than one year if on active duty service, but the term of delegation may not exceed the term of active duty service plus 30 days.

The delegation of powers shall not deprive any parent of any parental or legal authority regarding the care and custody of the child; deprive any non-delegating parent of any parental or legal authority, if such parent’s rights have not otherwise been terminated or relinquished; or affect any parental or legal authority otherwise limited by a court order. A parent executing a power of attorney under the Act shall have the authority to revoke or withdraw the power of attorney at any time. Upon such withdrawal or revocation, the child must be returned to the parent as soon as reasonably possible. The execution of a power of attorney under the Act shall not be evidence of abandonment, abuse, or neglect as defined in the CINC Code.

The Kansas Judicial Council is directed to create a power of attorney form consistent with the Act, and a power of attorney shall be legally sufficient if the wording complies substantially with the Judicial Council form.

During any child protective investigation by the Department for Children and Families (DCF) that does not result in an out-of-home placement due to abuse of a child, DCF is authorized and encouraged to provide information to the parent or custodian about respite care, voluntary guardianship, or other support services for families in crisis, including organizations operating programs under the Act. DCF shall have discretion in recommending programs, organizations, and resources to the parent or custodian.

Additionally, DCF is authorized to work with families with financial distress, unemployment, or homelessness or experiencing other family crises by detailing available community resources, including respite care, voluntary guardianship under the Act, and information regarding agencies and organizations operating programs under the Act.

Domestic Violence Offender Assessment and Certified Batterer Intervention Program

The bill amends the Family Law Code statute governing factors considered in determination of child custody, residency, and parenting time to allow the court to order a parent to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and to order the parent to follow all recommendations made by such program.

The bill makes technical amendments to this statute to ensure consistency with other statutes.

Medicating of a Child

The bill amends the CINC Code to specify that nothing in the Code shall be construed to compel a parent to medicate a child if the parent is acting in accordance with a physician's medical advice. A parent's actions in these circumstances shall not constitute a basis for determination that a child is a child in need of care, for the removal of custody of a child, or for the termination of parental rights without a specific showing of a causal relation between the actions and harm to the child. "Physician" is defined as a person licensed to practice medicine and surgery by the State Board of Healing Arts or by an equivalent licensing board or entity in any state.

Access to Files in Child in Need of Care Proceedings

The bill amends the list of persons and entities with access to the official file and social file in a child in need of care proceeding, to add to the list any county or district attorney from another jurisdiction with a pending child in need of care matter regarding any of the same parties or interested parties.

Human Trafficking, Sexual Exploitation of a Child, Children in Need of Care, and Juvenile Offenders

The bill enacts new law in the CINC Code requiring the Secretary for Children and Families to report to law enforcement agencies of jurisdiction information that a child has been identified as a victim of human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child, immediately after receiving such information and in no case later than 24 hours after receiving such information. Similarly, immediately after receiving information that a child in the custody of the Secretary is missing, and in no case later than 24 hours after receiving such information, the Secretary must report such information to the National Center for Missing and Exploited Children and the law enforcement agency in the jurisdiction from where the child is missing. The law enforcement agency must enter such information into the National Crime Information Center and Kansas Bureau of Investigation missing person systems in accordance with other statutory provisions.

The bill amends the definition of “child in need of care” in the CINC Code to include a person less than 18 years of age at the time of filing of the petition or issuance of an *ex parte* protective custody order who has been subjected to an act that would constitute human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child, or who has committed an act that, if committed by an adult, would constitute selling sexual relations. The bill also adds definitions for “reasonable and prudent parenting standard” and “runaway.” The definition of “sexual abuse” is amended to clarify the list of crimes included is not exclusive, and the list of crimes is expanded.

For the purpose of carrying out the responsibilities related to the Interstate Compact for Juveniles, the Interstate Compact for Juveniles compact administrator is added to the following provisions:

- The list of persons and entities required to freely exchange information related to children alleged or adjudicated to be in need of care;
- The list of persons and entities to whom records of law enforcement officers and agencies and municipal courts concerning juvenile offenses may be disclosed; and
- The list of persons and entities to whom the head of any juvenile intake and assessment program may authorize disclosure of records, reports, and other information obtained as a part of the juvenile intake and assessment process.

A provision in the CINC Code requiring a law enforcement officer to take a child under 18 years of age into custody under certain circumstances is amended to add probable cause that the child is a runaway as a permissible circumstance. A circumstance listed in continuing law where there is probable cause the child is a missing person and a verified missing person entry for the child can be found in the National Crime Information Center missing person system is amended to allow either circumstance to justify taking the child into custody.

The CINC Code statute governing permanency planning is amended to include consultation with the child, if the child is 14 years of age or older and is able, in preparing the permanency plan.

The CINC Code statute governing permanency hearings is amended to limit other planned permanent arrangements to children 16 years of age or older. The permanency hearing requirements are amended to apply to every permanency hearing and to require the court to enter a finding as to whether the reasonable and prudent parenting standard has been met and whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities. The Secretary for Children and Families must report the steps being taken to ensure the foster home or child care institution is following the standard and the child has the required opportunities. If the child is 14 years of age or older, the Secretary must document efforts to help the child prepare for transition from custody to successful adulthood, including programs and services being provided to help accomplish this.

If the permanency goal at the time of the hearing is another planned permanent arrangement, the court must ask the child about the desired permanency outcome and document the intensive, ongoing, and unsuccessful (as of the hearing date) efforts by the Secretary to return the child home or secure a placement with a fit and willing relative, legal guardian, or adoptive parent. The Secretary must report on these efforts, including utilization of search technology (including social media) to find biological family members. Finally, the court must make a judicial determination explaining why (as of the hearing date) another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to return home, be placed for adoption, or be placed with a legal guardian or a fit and willing relative.

The CINC Code statute governing notice of the permanency hearing is amended to require notice of the time and place be given to the child if 14 years of age or older. The notice is required to request the child's participation by attendance or by report to the court.

The CINC Code statute containing provisions for children in custody who are victims of human trafficking-related crimes is amended to broaden its application to include situations where there is reason to believe a child has been subjected to an act that would constitute the crimes. The bill clarifies the assessment tool to be used to assess the child's needs, and it specifies that only a summary of the results of the assessment tool will be provided to the court. The bill clarifies a required DCF assessment is to determine "appropriate and timely" placement and "appropriate services to meet the immediate needs of the child." A requirement for use of a rapid response team is removed.

The Juvenile Justice Code (Juvenile Code) definitions section is amended to add definitions for "reasonable and prudent parenting standard" and "secretary."

The Juvenile Code statute governing permanency planning for juveniles in the custody of the Commissioner of Juvenile Justice and other statutes throughout the bill are amended to replace references to the Commissioner of Juvenile Justice and the Juvenile Justice Authority with references to the Secretary of Corrections and the Department of Corrections to reflect the provisions of 2013 Executive Reorganization Order No. 42.

This statute also is amended to include provisions nearly identical to those added to the CINC Code requiring permanency planning consultation with a juvenile 14 years of age or older, requiring certain information be provided and certain findings be made at the permanency hearing, and requiring notice of the hearing be given to a juvenile 14 years of age or older. A provision also is added requiring the court to determine whether and, if applicable, when the juvenile will be reintegrated with the juvenile's parents; placed for adoption; placed with a

permanent custodian; or, if the juvenile is 16 years of age or older and the Secretary of Corrections has documented compelling reasons why it would not be in the juvenile's best interests for one of the above placements, placed in another planned permanent arrangement.

The statute governing staff secure facilities is amended to replace a requirement for 24-hour-a-day staff observation of facility entrances and exits with a requirement for staff monitoring of such entrances and exits. The bill clarifies the services to be provided to children in the facility are to be as appropriate and for the duration of the placement. A provision is added to allow a staff secure facility to be on the same premises as another licensed facility. The Secretary for Children and Families is required to promulgate rules and regulations to implement the section by January 1, 2017.

The statute governing the juvenile intake and assessment system is amended to prohibit records, reports, and information obtained as a part of the juvenile intake and assessment process from being used in a juvenile offender proceeding, except in regard to the possible trafficking of a runaway. Such records, reports, and information shall be made available to the appropriate county or district attorney and the court, to be used only for diagnostic and referral purposes.