



Senate Public Health and Welfare Committee

January 16, 2018

Testimony on:

SB 221

Presented By:

Kathy Armstrong

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Kansas Department for Children and Families

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Testimony of:

Kathy Armstrong, Assistant General Counsel for Prevention & Protection Services
Kansas Department for Children and Families (DCF)

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Chair Schmidt, Vice Chair Bollier, Ranking Member Kelly and Members of the Committee:

I am Kathy Armstrong, Assistant General Counsel for Prevention & Protection Services (PPS), division of Kansas Department for Children and Families (DCF).

SB 221 amends certain statutory provisions in K.S.A. 38-2201 et. seq.-the Kansas Code for Care of Children (CINC Code). Language proposed in SB 221 will provide clarification for some provisions in such Code to ensure an efficacious process for children and families who become involved with the legal system, related to child welfare issues.

K.S.A. 38-2202 is the definition section of the CINC Code. There has been some confusion historically regarding the terms “non-related kin” and “kinship care” and “relative”, in part tied to current language in the Code. By amending K.S.A. 38-2202(q) and 38-2202(bb), there will be more clear definitions and delineations. It is proposed (q) “Kinship care placement” definition be changed to “means the placement of a child in the home of an adult with whom the child or the child’s parent already has close emotional ties.” This requires striking the language “the child’s relative or in the home of another” and substituting “ties” for “attachment”. “Close emotional ties” is consistent with language in K.S.A. 38-2255(d) which relates to disposition. K.S.A. 38-2202(bb) would be amended to define “Relative” as meaning “a person related by blood, marriage or adoption.” The end phrase of the existing “Relative” definition “but, when referring to a relative of a child’s parent, does not include the child’s other parent” should be stricken as it adds confusion to the remainder of the definition which is otherwise clear, concise and fully adequate.

The bill proposes K.S.A. 38-2254(a) be amended to add “interested parties” as persons required to receive notice of the dispositional hearing. This has been assumed by some attorneys and courts, but the addition will clarify and ensure consistent practice.

K.S.A. 38-2255 sets forth factors the court can consider in determining “whether reintegration is a viable alternative. One of the factors in 38-2255(e)(4) is “whether the child has been in “extended out of home placement”. The attorneys appearing in a CINC matter need to know under the current Code to refer to the definition of “extended out of home placement” in definition provision K.S.A. 38-2202(i). The term refers to a child having been placed “in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date at which a child in the custody of the secretary was removed from the home”. Since this benchmark is related to key federal legislation, which potentially impacts federal funding for the child

welfare system in Kansas, it is imperative the language is plainly laid out in the applicable statutes, not just in the definition section. The proposed revision will increase clarity for judges, prosecutors and other attorneys in the CINC cases and alleviate the need to always consult the definition section. The same suggested revision should be made to the statutory provision regarding termination of parental rights, K.S.A. 38-2269(b)(9) where the term “extended out of home placement” is again used. The definition will remain in K.S.A. 38-2202(i) without revision.

The bill further proposes revision to K.S.A. 38-2268(a) by striking “consent” and inserting “approval” by the guardian ad litem and inserting “acceptance and approval of” the secretary when either or both parents relinquish their parental rights. “Consent” can be confused with the term “Consent to adoption” which is not what this specific statutory provision is referencing. It is also proposed the term “to the secretary” be added after “Relinquish parental rights to the child” to make clear that with respect to children in the custody of the state, the relinquishment would be to the secretary which directly relates to and ties in with (b) which sets out in detail the process for such relinquishment/s if the parents choose to relinquish prior to a hearing to consider termination of parental rights.

The bill proposes revisions to K.S.A. 38-2268(d) to clarify language related to the process for a child in custody to proceed to adoption, subsequent to termination of parental rights and/or relinquishment by both parents having occurred.

Section 6. of the bill addresses proposed revisions to K.S.A. 38-2282-the Newborn Infant Protection Act (also commonly referred to as the “Safe Haven Act”). The Act allows for an infant which is 45 days old or younger and has not “suffered bodily harm” to be surrendered to an employee at specified facilities. The bill proposes the time period be expanded to “60 days old or younger”. The Act is intended to provide a safe process and opportunity for parents (generally young) who are not willing or able to care for the infant to take the infant to a safe and specified location without being prosecuted or cited for abandonment of the child. Some form of “Safe Haven” acts have been enacted in all 50 states.

The “Safe Haven” Act is of great importance and meets a vital need, but the Act as currently written in Kansas has gaps and some additional issues need to be addressed therein. The proposed language will strengthen the present Act to ensure more clarity of process, especially for the courts, when such surrenders to which the Act apply will be adequately and fully supported. Language from other states which have more extensive “Safe Haven Act” provisions were researched and utilized to complete the proposed revisions.

Lastly, in Sections 7. and 8. of the bill, it is proposed certain language in K.S.A. 39-708c(r) and (t) and K.S.A. 39-713c be revised to include more appropriate current day language for children to which the provisions refer. The statutory terms used to describe the children for which the Secretary of DCF shall, for example, develop and research programs and find suitable homes, should be substituted with the term “children in need of care, as defined in K.S.A. 38-2202 and amendments thereto”. These statutory

provisions define the powers, obligations and duties of the DCF Secretary and there are no revisions requested related to such powers and duties, only to terms used for the children served by DCF.

DCF supports the continued improvement in processes to serve the children who are or have been victims of abuse and/or neglect and their families who are impacted.

DCF supports SB 221. Thank you for the opportunity to present this testimony to the Committee.