

# Report of the Joint Committee on Child Welfare System Oversight to the 2022 Kansas Legislature

**CHAIRPERSON:** Senator Richard Hilderbrand

**VICE-CHAIRPERSON:** Representative Susan Concannon

**OTHER MEMBERS:** Senators Molly Baumgardner, Oletha Faust-Goudeau, Beverly Gossage, Cindy Holscher, and Kristen O'Shea; and Representatives Suzi Carlson, Charlotte Esau, Susan Humphries, Timothy Johnson, Jarrod Ousley, and Susan Ruiz

## **CHARGE**

### *Review the Child Welfare System*

Pursuant to provisions in 2021 Session Law, Chapter 11, New Section 1 [HB 2158], the Committee is directed to review:

- Data on child maltreatment and demographic trends impacting the child welfare system;
- The duties, responsibilities, and contributions of the Department for Children and Families (DCF), the Kansas Department for Aging and Disability Services (KDADS), the Kansas Department of Health and Environment (KDHE), the Department of Corrections, law enforcement, and the Judicial Branch that comprise and impact the child welfare system;
- The programs, services, and benefits offered directly or through grants or contracts by DCF, KDADS, KDHE, and the Judicial Branch that impact children and families who are involved, or at risk of becoming involved, in the child welfare system, including: child maltreatment prevention, investigations of child maltreatment, in-home family services including services offered through federal prevention and family preservation funding and foster care, reintegration, and adoption services;

- Trends, performance outcomes, activities, and improvement plans related to the federal Child and Family Services Reviews;
- Reports from child welfare-related groups, including citizen review panels, the Kansas Supreme Court Permanency Planning Task Force, the Kansas Children's Cabinet, and any interim study committees or work groups authorized by the Kansas Legislature;
- Implementation of the 2019 Child Welfare System Task Force report recommendations, including top-tier recommendations related to the child welfare workforce, data, technology, access to behavioral health care for high-risk youth, and implementation of the federal Family First Prevention Services Act;
- Reports on concerns received from the DCF Child Welfare Ombudsman or customer service department or similar office;
- Opportunities for Kansas to strengthen the child welfare system through evidence-based interventions and services for children and families;
- Data and trends on family foster home licenses pursuant to KSA 65-516(b) and amendments;
- The exception of State Child Death Review Board confidentiality for city or county entities with the express purpose of providing local review of child deaths (KSA 2020 Supp 22a-243 and amendments); and
- Any other topic the Committee deems appropriate.

# Joint Committee on Child Welfare System Oversight

## ANNUAL REPORT

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### Conclusions and Recommendations

The Joint Committee on Child Welfare System Oversight (Committee) makes the following recommendations:

- Each court should provide biological parents, and other family members or kin who attend court for the first time, with a document outlining requirements to accomplish reintegration or regain custody of their children;
- The Department for Children and Families (DCF) should place more emphasis during mental and physical (MAP) training on the foster program, as opposed to the foster to adopt program, and the differences in roles for each type of foster parent;
- The court-appointed special advocate (CASA) program should maintain the \$225,000 funding for FY 2023 and following years;
- DCF should expand activities for foster children of all ages that encourage bonding with their foster parents, as well as activities that encourage bonding with other children of a similar age;
- DCF should include input from the perspective of the child in custody in child placement books, often referred to as red, blue, or orange books;
- The Governor and Legislature should return the \$21 million transferred out of the Juvenile Justice Improvement Fund in FY 2021, which was originally intended for evidence-based intervention programs addressed in 2016 SB 367 to aid community programs serving the needs of juveniles in the justice system;
- The Legislature should explore codifying caseworker accredited standard caseloads in statute and add a statutory cap on the number of cases that caseworkers may have while maintaining accreditation standards;
- DCF should transform the request for proposal (RFP) federal grant awarding process into a performance-based federal grant awarding process when contracting with foster care agencies, which requires outcome-based assessments;
- The Legislature should prioritize increasing support to kinship-placed children and affording them the same services as children placed in a licensed foster home;
- The Legislature should strengthen the consideration of attachment for permanency placement of children in the Best Interest Staffing (BIS) process by adjusting statutes to consider attachment science, regarding the child's attachment, in the BIS process;

- The Governor should rescind Executive Order 21-28 and issue an Executive Reorganization Order to avoid future legal issues between the Executive and Legislative branches;
- Further, the Governor and Legislature should collaborate to reach a consensus on a bill during the 2022 Legislative Session that would establish a true, independent, and transparent Office of the Child Advocate;
- DCF should work to improve the communication and relationship with legislators to address child welfare system-related matters involving constituents;
- The Child Death Review Board should establish rules and regulations by January 31, 2022, concerning local death review boards; and
- When possible, the Child Death Review Board should include information in its report regarding sexual orientation, gender identity, and race and ethnicity.

Additionally, the Committee requests that DCF provide an update to the Committee at its next meeting regarding the legislation passed in 2019 regarding child-on-child sexual assault.

***Proposed Legislation:*** Three bills.

- The Legislature should pass legislation, effective July 1, 2022, to amend Adrian’s Law and expand it to require visual pediatric physician examination from a pediatrician with specialized training for examining alleged abused and neglected children. The legislation should also include the two-pronged program approach proposed by the Kansas Chapter American Academy of Pediatrics (KAAP). In phase one, the State would implement a triage system pilot program for pediatricians with specialized training for examining alleged abused and neglected children, and in phase two, the State would develop a statewide network of “Safe Care Providers” who would participate in an educational training program on child maltreatment.
- DCF should work with the representative of the Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association, and other law enforcement agencies as needed, and seek the assistance of the Office of Revisor of Statutes to draft statute clarifying the interpretation of statutory language for sharing information with local law enforcement. If a resolution is not achieved by the start of the 2022 Legislative Session, it is recommended the Judicial Council be consulted to assist in coming to a resolution.
- Legislation should be introduced to amend the language in KSA 22a-243 to address the issue raised by the Child Death Review Board regarding extending confidentiality rules and regulations to local child fatality review organizations.

*(Note: For the purpose of this report, “Proposed Legislation” means items recommended with legislative action.)*

## BACKGROUND

The 2021 Legislature passed HB 2158, which established the Joint Committee on Child Welfare System Oversight (Committee), composed of 13 members, and outlined the topics for the Committee to review.

The bill charged the Committee to review:

- Data on child maltreatment and demographic trends impacting the child welfare system;
- Duties, responsibilities, and contributions of the Department for Children and Families (DCF), the Kansas Department for Aging and Disability Services (KDADS), the Kansas Department of Health and Environment (KDHE), the Kansas Department of Corrections (KDOC), law enforcement, and the Judicial Branch to the child welfare system;
- Programs, services, and benefits offered by DCF, KDADS, KDHE, and the Judicial Branch that impact children and families who are involved, or at risk of being involved, in the child welfare system;
- Trends, performance outcomes, activities, and improvement plans related to the federal Child and Family Services Reviews;
- Reports from child welfare-related groups;
- Implementation of 2019 Child Welfare System Task Force report top-tier recommendations;
- Reports on concerns received from the DCF Child Welfare Ombudsman or customer service department;
- Opportunities for Kansas to

strengthen the child welfare system through evidence-based interventions and services for children and families;

- Data and trends on family foster home licenses issued pursuant to the exception created in 2021 HB 2158;
- The exception added by 2021 HB 2158 to the confidentiality of Child Death Review Board records for city or county entities reviewing child deaths; and
- Any other topic the Committee deems necessary or appropriate.

## COMMITTEE ACTIVITIES

The Legislative Coordinating Council approved four meeting days for the Committee in 2021. The Committee met four times: October 5 and 6 and November 3 and 4. All meetings were held via in-person and virtual formats. The Committee's work focused on the specific topics described in the following sections.

### OCTOBER 5, 2021, MEETING

#### *Review of Executive Order No. 21-27 and Executive Order No. 21-28*

At the October 5, 2021, meeting, during opening remarks, the Chairperson and Committee members made comments regarding the timing of the executive orders (EOs), EO No. 21-27, establishing the Office of Public Advocates, and EO No. 21-28, establishing the Division of the Child Advocate, in light of positions held by the House and Senate on how best to establish these offices. The Chairperson asked staff to research whether the EOs should have been Executive Reorganization Orders (EROs), which would have required legislative approval, and asked members of the Committee not to allow the timing of the EOs to influence their thoughts or opinions.

The Vice-chairperson noted the existence of pending bills in the House and Senate that would establish an Office of the Child Advocate and asked Office of the Revisor of Statutes staff what

might happen if the bills are passed. Office of the Revisor of Statutes staff stated that if a bill was passed out of either chamber regarding an Office of the Child Advocate, the language of the bill could impact the current EO, but there would be questions regarding how the current EO and the bill would interact.

The Senate passed Senate Sub. for HB 2153, which would have established the Child Advocate Act and Office of the Child Advocate within the Office of the Attorney General and the Committee, but with the absence of a House bill or agreement by both chambers, this does not constitute final action and would not impact the EO.

### ***Overview of Duties, Responsibilities, and Contributions and Implementation of Top-tier Recommendations***

#### **Department for Children and Families.**

Regarding data and trends of foster family home licenses issued, the Director of Permanency, DCF, presented current data regarding the exception created in HB 2158, which allows DCF to license a foster home if a juvenile offender over 18 years of age lives in the same home, as long as certain conditions are met. During the 2021 Session, HB 2149 was introduced to address gaps in current law but did not pass.

The Director of Permanency said DCF seeks to change the statutory language in KSA 65-516 to allow DCF to grant limited exceptions to prohibited offenses on a case-by-case basis and provide for a case-by-case ability to help foster families make decisions regarding their foster children. DCF licenses foster family homes, while KDHE licenses child and day care facilities. A Committee member stated that when the Committee made this exception, members did not realize the language only covered adults eligible for expungement, but did not cover children under 18 years of age.

Regarding individuals aging out of the foster care system, a DCF representative noted that being 18 to 21 years of age is the most common indicator of a person who has “aged out” of the foster care system, but individuals in foster care may stay in the system beyond this age range or leave the system before reaching it. There is no

clear age indicating that an individual has “aged out” of foster care.

Regarding missing foster children and children staying overnight in contractors’ offices, A Deputy Secretary of DCF provided information on DCF’s trained special response team network, which seeks to help find missing foster children and prevent foster children from running away. According to the *McIntyre v. Howard, et al.* case, the practice of keeping children in offices overnight was required to cease by the end of October 2021. DCF has a policy to immediately notify law enforcement, the National Center for Missing and Exploited Children, family, caregivers, courts, and others, within 24 hours of notice that a child is missing. DCF makes daily contact and inquiries with the child’s caregivers, school, family, social media, and other mediums associated with the child between days one through five after the child is reported missing.

After day five, DCF makes weekly contact. If the child is recovered, DCF does a complete assessment of the child. DCF keeps a daily report of the number of missing children on its website and has had 434 recoveries from January 1, 2021, to September 24, 2021. The Deputy Secretary said this number includes multiple recoveries of the same children, and it does not represent the total number of distinct individuals recovered.

The Senior Director of Public and Governmental Affairs, DCF, provided an overview of reports made to the DCF Customer Service Office, which handles protection and prevention calls related to foster care and adoption, as well as reports of suspected abuse or neglect. DCF has a three-person customer service team that works with customer service teams in the six regions of the state to route specific questions to the appropriate person. The representative noted if an inquiry cannot be answered at a given time, DCF creates a ticket, and the inquiry is routed to the appropriate local office. DCF also added a statewide helpline phone number at the beginning of the COVID-19 pandemic to accommodate the transition to remote work.

The Secretary for Children and Families provided an overview of DCF’s duties, responsibilities, and contributions to the child welfare system. The Secretary outlined protection

and prevention services DCF provides and shared an update on the status of the 2018 Child Welfare Task Force recommendations and 2020 Special Committee on Foster Care Oversight recommendations. DCF partners with other agencies and organizations, including schools, courts, and local law enforcement, to develop strategies for protecting children.

The Secretary noted DCF receives reports of alleged child abuse or neglect through the Kansas Protection Report Center. Reports of alleged child abuse or neglect are evaluated by intake specialists who make an initial assessment. After a complete assessment, reports may be assigned for investigation, which includes interviews with the reporter and witnesses, the child victim, family members, and the alleged perpetrator, after which DCF makes a determination regarding the allegations. DCF updated its policies to assure the visual observation of each victim of child abuse or neglect in compliance with the enactment of Adrian's Law (KSA 38-2226).

Regarding Family First Prevention Services, the Secretary said the federal Title IV-E Prevention Program is provided for in the Family First Prevention Services Act, a federal law passed in 2020, and it includes prevention services for mental health, substance abuse, and in-home parent skill-based programs for youth who are candidates for foster care, pregnant or parenting youth in foster care, and parents or kin caregivers of those youth. The Secretary stated Kansas prevention services include Family Preservation Prevention and Protection Services, which provide voluntary services in partnership with families to build on family strengths and reduce the risk of children being placed in foster care. This service has 4 contractors and consists of 18 grants for evidence-based programs and provides for a 50-50 federal-state match.

The Secretary noted only law enforcement and a court can remove children from their families. DCF recommends the county or district attorney file a child in need of care (CINC) petition, which may result in the child entering into DCF custody, *i.e.* state custody. Once children are in state care, they are placed in a setting appropriate for their individual needs, case plans are established, and one of DCF's four contractors manages the case plans. DCF is also responsible for licensing and

regulation of all child care facilities in the state pertaining to children in DCF custody.

The Secretary stated DCF supports "crossover youth," youth involved in both the child welfare system and also likely to be involved in the juvenile corrections system. DCF supports youth transitioning into adulthood and leaving foster care without achieving permanency with its Independent Living program, which seeks to aid the youth in achieving self-sufficiency. The Kansas Youth Advisory Council provides feedback on the needs of youth who are or were receiving child welfare services. Some services available include tuition waivers for postsecondary education, medical coverage through KanCare, independent living subsidies, basic Chafee funds, and the Education and Training Voucher program.

**Judicial Branch.** The Honorable Kellie Hogan, 18th Judicial District Judge, provided an overview of the judiciary's involvement in the child welfare system. The Judiciary Branch follows the Kansas Code for the Care of Children and ensures that federal law is followed (*e.g.* the Indian Child Welfare Act, the Interstate Compact for the Placement of Children, and the Uniform Child Custody Jurisdiction and Enforcement Act). The Judicial Branch collaborates with service providers by hearing evidence presented by parties in CINC cases before the court and makes legal decisions about the best interest of the child based on evidence, while upholding parents' fundamental rights to parent their child. The Judicial Branch formally collaborates, through the Supreme Court Task Force on Permanency Planning, with other child welfare system stakeholders charged with implementing legislative recommendations. Federal law requires a permanency hearing to be conducted once every 12 months, during which the judge must decide whether DCF, through its subcontractors, is making reasonable efforts to reintegrate children back into parental custody. The judge also reviews the parents' progress and decides whether reintegration into a parental home is viable.

On the subject of KSA 38-2241(c), specifically regarding grandparents as interested parties making statements to the court, Judge Hogan stated when she presided over CINC cases, she acknowledged the child's grandparents' presence in the courtroom and, prior to deciding

on the evidence, would ask grandparents who were *pro se*, or self-representing, if they had anything to add. In situations where grandparents voiced frustration, Judge Hogan said she would consider appointing an attorney to represent the grandparents as to better understand the grandparents' frustration. A Committee member stated they received information that some judges deny grandparents' requests to speak in court, and Judge Hogan responded that although the law gives grandparents the opportunity to speak in court, the judge presiding over the case always has an obligation to maintain order in court and may, at times, have a congested docket.

Regarding crossover youth, Judge Hogan also noted that juvenile detention facilities were removed as a placement option for children under the CINC Code, unless the child is also an alleged juvenile offender and the placement is authorized under the Juvenile Code.

**Kansas Department for Aging and Disability Services.** The Commissioner of Behavioral Health Services, KDADS, provided an overview of behavioral health services the agency offers for youth, including efforts in providing continuity of mental health services for youth in foster care, and current statistics on psychiatric residential treatment facilities. The Behavioral Health Services Commission has a Youth Services division that oversees programming for children in the state's system of behavioral health care, including outpatient and inpatient services for foster care children. The Behavioral Health Services Commissioner stated KDADS works closely with DCF on foster care and treatment related issues and with KDHE to develop public health and Medicaid policies for KanCare that impact children in foster care. KDADS works with the KanCare managed care organizations (MCOs), DCF's contractors, and DCF staff regarding children in foster care with serious emotional disturbances (SED), children who qualify for the SED Home and Community Based Services (HCBS) waiver under KanCare, and other issues including crossover youth who are justice involved or have developmental disabilities.

The Behavioral Health Services Commissioner stated that based on recommendations from the 2018 Child Welfare

System Task Force and 2020 Special Committee on Foster Care Oversight, KDADS and DCF drafted amendments to the community mental health center (CMHC) agreements to help prevent delays and provide continuity of mental health services for youth in foster care through telemedicine. KDADS worked with KDHE and DCF in developing the mobile crisis KanCare policy and State Plan Amendment for the Kansas Family Response, launched October 1, 2021.

The Commissioner of HCBS, KDADS, briefed the Committee on HCBS waiver programs that routinely serve youth: the Autism waiver, Intellectual and Developmental Disability waiver, SED waiver, Technology Assisted waiver, and Brain Injury waiver.

**Kansas Department of Health and Environment.** The Deputy Medicaid Director, KDHE, discussed KDHE's involvement in activities to support delivery of health care services to children in foster care, such as eligibility for medical assistance, access to medical services, and collaboration with stakeholders.

KDHE facilitates the Foster Care in KanCare workgroup consisting of representatives from the KanCare MCOs and foster care contractors and KDHE, DCF, KDADS, and KDOC staff. KDHE also facilitates the state agency-only Foster Care in KanCare workgroup consisting of staff from KDHE, DCF, KDADS, and KDOC for internal discussions related to Foster Care in KanCare.

**Law enforcement.** A representative of the Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association provided testimony on law enforcement interaction in the child welfare system. He noted difficulty with information sharing between DCF and law enforcement due to DCF's legal interpretation of statutes pertaining to disclosure of information. The law enforcement representative stated there is an absence of statutory direction regarding exchange of information to assist law enforcement in making decisions in cases of alleged child abuse or neglect.

The Committee requested DCF and law enforcement representatives meet to address the



information sharing issue and report back to the Committee. The law enforcement representative presented data collected from a survey he conducted of members of the organizations he represents to determine issues being experienced relating to child welfare. The survey results indicated a need for a stronger after-case review process of child welfare cases that law enforcement is involved in to address issues of information sharing and other barriers encountered during an investigation. The survey also indicated the need for a third-party review of statute interpretation that restricts the flow of information between agencies and creates barriers to a child welfare investigation.

He noted law enforcement basic training should include child welfare investigative actions by police officers, advanced training should be made available to officers doing intensive follow-up child welfare investigations on a regular basis, and technology should be updated for instant electronic sharing of important information in abuse and neglect cases.

**Kansas Department of Corrections.** KDOC provided written testimony stating the agency is committed to supporting communication and information sharing at all levels to measure and analyze data on crossover youth in Kansas.

#### **OCTOBER 6, 2021, MEETING**

##### ***Federal Child and Family Services Reviews; Trends, Performance, and Improvement Plans***

A Deputy Secretary of DCF provided an overview of the State's federal Child and Family Services Reviews (CFSR), performance trends, and performance improvement plans. Federal reviews assess state performance on seven outcomes and systemic factors and occur every four to six years. Results of the 2015 CFSR reflect Kansas was strong in safety outcome 1, children first and foremost protected from abuse and neglect. The Deputy Secretary said Kansas needs improvement in every other safety area, including safety outcome 2, children safely maintained in their homes whenever possible and appropriate, and in all permanency and well-being outcomes. The last Kansas federal CFSR was performed in 2015, with nine items requiring performance improvement plans (PIPs). Kansas met eight of the nine required PIP items. PIP items call for

continuous improvement through monthly data management reports and quarterly case reviews. The Deputy Secretary noted that DCF needs to improve regarding placement stability.

##### ***Strengthening the Child Welfare System in Kansas***

The Secretary for Children and Families presented new approaches for strengthening Kansas families to avoid involvement in the child welfare system. DCF has implemented mental health supports, including launching the Family Crisis Response and Support program, establishing a Director of Children's Mental Health and Medicaid position within DCF, and moving forward with Family First Prevention Services. The Secretary stated the Kansas Practice Model places evidence-based practices and tools in DCF workers' hands and involves families and youth in the process. The Secretary noted the model has been effective in reducing the number of children entering the child welfare system. The Secretary also discussed the agency's focus on placement stability innovations.

**Kansas Family First Prevention Plan.** The Secretary discussed the Family First Prevention Plan, which is a federal program creating reimbursement pathways for federal funds to provide services to keep children who are at imminent risk of removal safely with their families. The Secretary noted that 89 percent of youth referred to this program had, after a year, stayed with their families.

##### ***Evidence-based Programs for Children and Families***

Presenters from Casey Family Programs provided an overview of evidence-based programs and interventions other states are using in the federal Family First Prevention Services Act plan. Some program examples noted were Brief Strategic Family Therapy, Family Check-up, Multisystemic therapy, Nurse-Family Partnership, Parents Anonymous, and Multidimensional Family Therapy. The presenters also highlighted programs well-supported by evidence-based ratings, those programs that are promising, and those that affect people of color. The presenters also provided an article relating to the role of spirituality among youth in foster care.

## ***HB 2158 Exception Regarding the Confidentiality of Child Death Review Board Records***

The Chairperson of the Child Death Review Board (CDRB) provided an overview of the CDRB's function, which is to review all deaths of Kansas children from birth to 18 years of age. She noted Kansas is one of seven states and the District of Columbia that review all childhood deaths. The CDRB Chairperson stated the mortality rate for Kansas children is trending downward. She shared the CDRB would like to see a statutory modification to resolve confidentiality issues created by HB 2158, since disclosing information regarding child deaths to local entities where the death occurred or where the child resided would likely violate statutory provisions that require the CDRB maintain confidentiality.

The Director of the Unified Government Public Health Department, Wyandotte County, provided an overview of the Wyandotte County Youth Fatality Review Board. She provided data and trends in youth deaths in Wyandotte County and noted the homicide rate in the county is higher than state and national rates, so this board's recommendations would not apply across the state. Wyandotte County officials have taken steps to evaluate needs, look nationally at other successful local review boards, create bylaws, and ensure confidentiality within the board. The Director recommended the statutory language in HB 2158 be amended to extend confidentiality protections to local review boards and the five-year sunset provision be removed, as it takes several years to organize a review board, and the sunset provision is a disincentive to other counties.

### ***Reports from Child Welfare-related Groups***

**Supreme Court Task Force on Permanency Planning.** Judge Hogan provided an overview of the function and recommendations of the Supreme Court Task Force on Permanency Planning (Task Force). She stated the Task Force consists of 20 members representing district court judges, district magistrate judges, Indian tribal courts, counsel of parents with children involved in the state child welfare system, guardians *ad litem*, prosecutors, Court Appointed Special Advocates (CASAs), citizen review boards, mental and behavioral health community treatment providers, substance

abuse community treatment providers, the Kansas State Department of Education, domestic violence programs, and former foster care alumni. The Chief Justice of the Supreme Court also appoints one justice to serve as liaison to the Task Force.

The purpose of the Task Force is to demonstrate meaningful, continuous collaboration among district courts, DCF, and Indian tribes in Kansas. The Task Force identifies the needs of the child welfare system and meets approximately ten times per year to approve, monitor, and assist in implementation of projects in the strategic plan it created to improve the system. Judge Hogan noted there is a need for attorneys and judges to receive formal training in legal education on areas such as drug addiction, mental illness, domestic violence, child development, and understanding the impact of childhood trauma. The Task Force addresses the need by providing continuing legal education (CLE) to attorneys in the above-mentioned areas. There is a demand in CLE training modules for guardians *ad litem* and child welfare stakeholders who address training requirements needed for attorney training compliance with Kansas Supreme Court Rule 110a.

### ***Douglas County Citizen's Review Board.***

The Director of the Douglas County Citizen's Review Board stated six needs should be met to improve the child welfare system: reasonable expectations for and additional investment in the child welfare workforce; continued investment in promoting protective and promotive factors for families; continuity of and collaboration on education for children; additional investments in kinship, non-related kin, and foster families; robust, consistent curriculum that all placements can use to teach life skills and independent living skills; and a more secure care option available for children who do not qualify for psychiatric residential treatment facilities treatment, but are still at risk of running away.

**Cornerstones of Care.** The President of Cornerstones of Care provided an overview of the organization and noted the children it serves have experienced trauma. She noted the organization has seen improvements in placement stability, placement in family settings, and relative or kin placement. She stated some youth have complex behaviors that make it difficult to find a safe place

for them, but DCF has significantly reduced the number of youth staying overnight in offices.

**DCCCA, Inc.** A DCCCA representative stated the organization is focused on family preservation, child placement services, behavioral health, prevention, and women and children services. The representative stated the child welfare system needs solutions regarding workforce issues, rates and capacity, kinship, data infrastructure, extended Medicaid postpartum coverage, and prevention.

**TFI Family Services, Inc.** The Senior Vice President of Permanency Services, TFI Family Services, stated TFI Family Services is licensed by DCF as a child placement agency and works to recruit, train, supervise, support, and retain foster families. The organization is also a recipient of DCF grants for delivering Family First services, Family Preservation services, and Case Management Provider services.

**KVC Kansas.** The President of KVC Kansas provided a brief history of the child welfare system in Kansas. KVC's goal is to reduce the number of children in foster care by 50 percent through prevention services that will help children stay with their families. She noted the number of children in foster care has declined over the past several years, but the COVID-19 pandemic led to a national decrease in child abuse and neglect reports.

**Saint Francis Ministries.** The Vice President of Programs at Saint Francis Ministries stated the organization provides case management services, services coordination, parent support, placement stability coordination, and education. She provided recommendations to improve the child welfare and foster care system, including addressing the need of high-risk youth in and out of foster care through supporting and expanding available services.

**CASA.** The CASA State Director explained CASA is staffed by trained volunteers who work with courts, child welfare agencies, and families who enter into the child welfare system. The State Director stated CASA volunteers speak on behalf of children in custody of the State and the child's best interest. She expressed concern regarding a \$200,000 funding reduction to the CASA program.

**Kansas Children's Cabinet.** The Executive Director of the Kansas Children's Cabinet stated the Cabinet administers a federal grant to support community-based primary and secondary prevention. She said the Cabinet recommended increasing investments in three prevention strategies: access to basic needs, preventative legal services, and differentiating poverty and neglect. She also disputed the statement by the CASA State Director regarding a \$200,000 funding reduction.

#### NOVEMBER 3, 2021, MEETING

#### *Kansas Legislative Research Department Overviews*

A Kansas Legislative Research Department (KLRD) research analyst reviewed proposed preliminary recommendations from the October 5-6, 2021, meeting. A KLRD fiscal analyst presented an overview of foster care funding and noted states need to meet certain requirements to receive federal funds, such as maintenance of effort and matching funds. The amount of funds required for matching is set in statute or by the federal agency. Foster care receives funding from the State General Fund, Social Welfare Fee Fund, Title IV-E, Title IV-B, Supplemental Security Income-Social Security Administration Foster Care Maintenance Recovery, Social Services Block Grant (SSBG), Temporary Assistance for Needy Families (TANF), and TANF-SSBG.

In the question-and-answer portion of her presentation, the fiscal analyst informed the Committee the amount of money provided to each contractor depends on the number of children and their acuity level. The fiscal analyst stated the Social Welfare Fee Fund includes reconciled federal money, unused money from foster care caseloads in previous years, and money from the St. Francis settlement.

#### *Overview of Legislative Post Audit Child Welfare System Audits*

The Post Auditor, Legislative Division of Post Audit (LPA), provided an overview of conclusions drawn from audits of DCF over the last ten years. He noted DCF established good monitoring processes but did not act to correct problems because it took a "hands-off approach" with its contractors. The audits identified that DCF did not ensure frequent and thorough background checks;

did not always ensure monthly in-person visits were conducted; did not address the exclusion of documentation identified during audits, which created issues for LPA when conducting its audits; and did not address the frequent turnover and high caseloads of DCF staff.

Additionally, agency data issues were found to exist, including a lack of integrated information about foster homes.

### ***Overview of Data Organization for Child Welfare***

**Binti.** The Chief Executive Office (CEO) and Founder of Binti, a foster care software company, presented an option for Kansas to modernize its foster care data system. Binti has a placement module that allows for matching and mapping placement that assists with keeping sibling children together and in their school of origin. Binti uses a Software as a Service (SaaS) approach, and its software allows social workers to quickly approve families and data for case managers to make decisions.

**Data transmission for child welfare information between law enforcement and DCF.** As requested by the Committee during the October 5, 2021, meeting, a representative of three law enforcement associations and a Deputy Secretary of DCF submitted written testimony stating they agreed to propose a new statute to directly address an information sharing issue. Both stated that very little information should be withheld between the DCF and law enforcement agencies when resolving child welfare information.

The Deputy Secretary noted that in August 2021, DCF announced a new pilot collaboration with Wichita and Sedgwick County law enforcement to fund community support specialist case manager positions. Law enforcement in Wichita and Sedgwick County now have access to the DCF child abuse and neglect information system known as KIPS.

The Committee requested a Revisor to be assigned to work with DCF and law enforcement agencies to draft a new statute pertaining to data transmission for child welfare information between the two entities.

### ***Entry into Foster Care***

The Deputy Secretary stated there are two categories for reasons children are removed from parental custody: abuse/neglect or family in need of assessment (FINA), and more than one category can apply to a case at any time. She noted neglect is the most common reason for entry into the foster care system. The Deputy Secretary stated DCF anticipates amendments to the federal Child Abuse Prevention Treatment Re-authorization Act (CAPTA) of 2021.

When asked what actions DCF takes before a case comes to the judge, the Deputy Secretary stated DCF staff try to make every reasonable effort to prevent families from entering foster care. When asked to give an update on the 2020 pilot project between DCF and law enforcement to support Kansas families, the Deputy Secretary responded DCF is working on mandated reporters for non-abuse issues. The Deputy Secretary said after one year with the 2020 pilot program, DCF made a lot of progress and has opened a position with the Wichita police and the Sedgwick County Sheriff's Office. She noted DCF gave law enforcement access to the KIPS system, which includes the history of child abuse and neglect reports that DCF has for families.

**DCF Update on SB 77.** The Deputy Secretary presented an update on 2019 SB 77 (KSA 38-2290), which requires DCF to offer mental health and other services to children with sexual behavior issues and to their families. She shared that in FY 2020 to FY 2021, there were over 1,400 assigned reports of sexual abuse by children under age 18 and of those reports, 202 were substantiated and some of children were already receiving mental health services.

### ***Presentations on the Foster Care System from the Perspective of Individuals, Providers, and Organizations***

**Part I.** Several private citizens gave testimony about their experiences with the child welfare system in Kansas: three parents; an investigator hired by one parent; the President of Kansas Justice Advocate, Inc.; the Director of the Women's Activity Learning Center at Topeka Correctional Facility; and an inmate who was a foster child and is the parent of children in foster care. One parent stated poverty is not neglect.

Another parent and his investigator noted DCF has a monetary incentive to place children for adoption. The President of Kansas Justice Advocate, Inc. stated she believes DCF does not understand cultural differences between white and Black Americans, which contributes to higher representation of Black Kansans in the foster care system. An inmate of the Topeka Correctional Facility described her experiences with the foster care system as traumatic due to attachment loss. She noted trauma caused by the foster care system gives rise to a cyclical effect, evidenced by the fact her children are now in foster care system.

**Part II.** In the second part of private citizen testimony, one parent, a former foster youth; the Douglas County CASA Director; and a representative of CarePortal shared their experiences with the child welfare system.

The founder of the Kansas Family Advisory Network testified regarding her experience as a foster and adoptive parent and stated racial equity is important in Kansas and in families who adopt Black children, who have biologically and culturally unique hair and skin. She stated non-Black foster parents should be trained on how to care for Black children from a cultural perspective, including proper hair and skin care. A former foster youth shared their experience in foster care. They stated they were often overlooked, and there was not much bonding between foster children and their foster families. They recommended more bonding activities be sponsored and added to the foster care process. They also suggested the child placement books, known as red, blue, and orange books, include information about the foster child from the child's perspective. They also urged the Committee members to become CASA volunteers.

Following the former foster youth, the Douglas County CASA Director noted he would like to see the child welfare system make more investments in children before they become involved in the system. He also noted case managers are overwhelmed and usually have 30 children on their caseload. The case managers end up dealing mostly with the most urgent issues, which leaves little time to focus on reintegration of children and families. As a result, some states have lowered the maximum number of cases assigned to a case manager to 25 or below.

A parent with disabilities who has children with disabilities stated that the child welfare system is unfair to her and her children. She stated her child was harmed at school, and the incident was reported as parental neglect and turned into a CINC case. The parent stated her belief that the child welfare system, schools, and communities, were not intended to protect children with disabilities. She recommended the Committee and everyone involved in the child welfare system put an end to abuse, increase transparency, and add services to protect children with special needs.

A representative of CarePortal provided information on the organization's technology platform, which works with DCF to help connect children and families with church and community supports in adjacent areas.

### ***Becoming a Foster Parent***

**The foster parent application process.** The Chief Child Welfare Officer for DCCCA noted the organization is responsible for foster parent recruitment, training, and support. She noted there are three complete examinations of homes before foster parents are licensed by DCF. She also stated it would simplify the process if DCF could provide a comprehensive list of eligibility requirements for individuals going through the foster parent application process.

Two private citizens, who underwent the foster parent application process, provided testimony. One noted the foster parent application process includes many small obstacles that prevent eligible people from fostering. Another private citizen, who has fostered over 75 children, shared the following recommendations with the Committee: focus on children's rights instead of parent's rights; limit bureaucracy; create effective third-party advocacy other than the guardian *ad litem* system; and eliminate hard time limits to avoid children being removed from their foster homes once a bond is formed.

Additionally, the Director of Permanency, DCF, submitted written-only testimony regarding licensing foster parents and foster homes.

### ***Best Interest Staffing***

**Department for Children and Families.** The Deputy Secretary for Children and Families

provided an overview of the Best Interest Staffing (BIS) process used to determine placement of children once DCF determines they are available for adoption. The representative stated 50 percent of cases involve a waiver. A BIS process may be waived if there is one potential identified adoptive family or relative, non-related kin or foster family; if the child is not placed with a relative, and efforts to identify, locate, and evaluate parental relatives as adoptive families have been documented and ruled out; and the child was placed with an identified family or individual for a minimum six-month period with no interruptions.

If these conditions are not met and the BIS process is not waived, DCF arranges and initiates the BIS process and includes potential adoptive families and members of the child's planning team in the BIS process, which may also include those who are part of the child's support system (e.g. youth age 14 or older, the child's current and former case manager or support worker, the child's planning team, a guardian *ad litem*, therapist or service provider, CASA, Court Services Officer, and other support members such as teachers or coaches.) A DCF representative provided a flowchart displaying how they conduct the BIS process.

**KVC.** The Vice President of KVC provided information regarding its process for hosting BIS meetings. The Vice President stated KVC staff try to gather as many people as possible, including the child's neighbors and friends, for a meeting to make the best decision. A KVC adoption supervisor explained the process and timelines for preparation of all involved parties during the BIS process. KVC added it has matched over 5,000 children with adoptive families, and November is National Adoption Month.

**Adoptive parent view.** An adoptive parent discussed her personal experience with the BIS process through which she adopted seven children. The adoptive parent also noted the following recommendations for improvement: judicial institutions could improve record keeping; case workers and adoptive family workers could be relieved by minimizing case loads; families should be positive advocates for their children by making and keeping important records and giving them to best interest staff to make informed determinations about where to best place the child; and families

should educate themselves on available resources to advocate for their children.

### ***Comparing 2021 HB 2345, 2021 SB 301, and the Governor's Executive Order 21-28 Establishing the Division of the Child Advocate***

An Assistant Revisor with the Office of Revisor of Statutes provided an overview comparing Executive Order (EO) 21-28 with the House and Senate bills that would establish the Office of the Child Advocate. She noted the following key differences and similarities between the legislation and the EO.

**Naming.** EO 21-28 named the office the Division of the Child Advocate, while HB 2345 would name an "Office of the Child Advocate for the Children's Protection and Services," and SB 2153 would name an "Office of the Child Advocate."

**Defining "child."** While both pieces of legislation include a definition of "child," the EO does not expressly include a definition of "child" but references "a child in custody of the Secretary for the Department for Children and Families or alleged to be a Child in Need of Care," among other differences.

**Funding.** The main difference discussed was that of funding. The Committee expressed interest in whether fiscal needs for the EO that established the Division of the Child Advocate would be similar to that of SB 301, requiring DCF to add three full-time equivalent positions and KDADS to add one full-time equivalent position.

DCF and KDADS responded the Division of the Child Advocate will employ other staff, and DCF and KDADS will require similar staffing increases to what was described in fiscal notes for HB 2345 and SB 301, but provisions of EO 21-28 are not fully identical to those in either bill, and a fiscal note has not been created relating to the EO.

### **NOVEMBER 4, 2021, MEETING**

At the November 4 meeting, a fiscal analyst from KLRD provided the Committee with requested information about a decrease in the Social Welfare Fee Fund from FY 2020 and FY 2021.

*Juvenile Justice Reform Legislation: 2016 SB 367 Circumstances and Impact*

**Office of Revisor of Statutes.** An Assistant Revisor who drafted 2016 SB 367 provided an overview of amendments to the juvenile justice reform legislation and its impact. She stated SB 367 made significant changes to the juvenile justice system and set case length and probation length limits; created a rebuttable presumption that juvenile offenders between age 10 and age 14 in the serious offender II, III, and IV categories, and those in the chronic offender category, be placed in youth residential facilities instead of juvenile correctional facilities; and determined that juveniles should return to their parents unless they present a danger to life or property, or their return would not be in the child's best interest.

The Assistant Revisor noted 2018 SB 179 created juvenile crisis intervention centers for juveniles experiencing mental health crises. She noted, among other things, 2017 SB 42 was passed to modify changes made by 2015 SB 367 and removed the requirement for DCF to prepare parents for a juvenile's return if they were in out-of-home placement at the time of sentencing. To maintain eligibility for federal Title IV-E funding, judges must consider and make a certain finding when removing a juvenile from the home for the first time.

**Office of Judicial Council.** The Director of Trial Court Programs for the Office of Judicial Administration (OJA) noted there have been positive changes since SB 367 became law, including increased focus on juvenile justice evidence-based practices and implementation of the Georgetown Crossover Youth Practice Model, which she noted is currently operational in Sedgwick County. She said OJA's goal is to work the model statewide. She stated implementation was complex, but KDOC and OJA have developed a strong working relationship. She also urged the Committee to review the Juvenile Justice Oversight Committee Annual Report, which became available on November 30, 2021. It was asked whether OJA followed up on an increase in violence against social workers after SB 367 passed, the Director of Trial Court Programs stated she did not recall conversations about actions against social workers.

**DCF.** The Deputy Secretary for Children and Families offered written-only testimony explaining that 2019 House Sub. for SB 25 included a budget proviso for DCF to develop two working groups to study the impact of SB 367 on crossover youth, called the 2019 Crossover Youth Services Working Group and the 2019 the Crossover Youth Working Group. The testimony noted DCF's working group reports and current data trends regarding crossover youth.

*Standards and Requirements of Faith-based Child Welfare-related Organizations*

**DCF.** The Director of Permanency, DCF, provided an overview of standards and requirements of faith-based child welfare organizations and explained such organizations can be grouped into three categories: those licensed and regulated by DCF; providers under contract with and monitored for compliance by DCF; and community-based organizations for whom DCF does not provide oversight. He stated there is no difference between requirements or monitoring practices for faith-based organizations and the requirements for other organizations. There are laws and regulations regarding licensed facilities and agencies such as changes made by the Host Families Act and the Adoption Protection Act. He noted the existing direct agreements between DCF and faith-based organizations and the working relationships between DCF contractors and faith-based organizations. He also added DCF does not have direct oversight of programs by community-based organizations or providers that give services to children and families; however, some organizations may be licensed by other agencies or boards.

**Faith-based child welfare-related organizations.** The Committee received presentations from FaithBuilders, which has volunteer staff who work with children and families in crisis; Joy Meadows, which provides housing and therapy on their large property for foster families and services large sibling sets of foster children so siblings are not separated in foster care; and Kansas Family Advisory Network and EmberHope Youthville, which recruit and train foster parents. The conferees noted the organizations operate to fill gaps in the system and connect the community with available support for children involved in the child welfare system.

### ***DCF Benefit Programs***

The Director of the Temporary Assistance to Needy Families (TANF) program, DCF, provided an overview of benefits and programs offered by DCF. She noted the four purposes for TANF: provide assistance to needy families, allowing children to receive care in their own homes or homes of relatives; end the dependence of needy parents on government benefits by promoting job preparation, work and marriage; prevent and reduce out-of-wedlock pregnancies; and encourage the formation and maintenance of two-parent families. In response to a question regarding transportation needs in Wichita, the TANF Director stated DCF is working to meet the needs of parents, increase their capacity, and decrease their dependence on public support. The Director also noted, if TANF benefits end for a recipient due to earned income, DCF continues to support the recipient for an additional 12 months to help ease the transition from support to financial self-sufficiency. She noted around seven to eight percent of TANF recipients have had case closures. As of September 2021, 6,632 Kansas are in the TANF program, and DCF is expecting an increase in 2022.

### ***Pediatrician's Perspective of Proposed Adrian's Law Recommendation***

**Kansas Chapter American Academy of Pediatrics.** Four doctors appeared to testify on behalf of the Kansas Chapter of the American Academy of Pediatrics (KAAP) regarding their perspective on the proposed requirement to require physical evaluation of potential child abuse victims by pediatric physicians trained to identify child abuse. One presenter noted pediatric physicians trained to identify child abuse currently only exist in the Kansas City and Wichita areas and recommended a two-pronged program approach. First, the state should implement a triage system pilot program tested in Johnson and Wyandotte counties where a short form is filled out by DCF staff, who send the form to a centralized email account where it is reviewed by a board-certified child abuse pediatrician.

The first prong would take coordinated effort to rely on primary care physicians and hospital personnel consultation with a child abuse pediatrician, as needed. The second prong would involve developing a coordinated network of "Safe

Care Providers" throughout the state that would participate in training on child maltreatment and bill the State for each exam performed, regardless of the finding of abuse or neglect.

According to KAAP representatives, based on Missouri's numbers, this two-prong program could cost \$500,000 annually. The KAAP representatives also recommended a working group be formed to determine the statutory system and changes needed to develop this approach. When asked how long the triage system pilot program took to develop in Wyandotte and Johnson counties, a KAAP representative answered they were given permission in July 2021, and the pilot program went live in October 2021. A KAAP representative also stated this program would allow doctors to request examination outside of the initial referred subjects.

### **CONCLUSIONS AND RECOMMENDATIONS**

At its meetings on November 3 and November 4, 2021, the Committee adopted the following recommendations to the 2022 Legislature:

#### ***Proposed Legislation:***

- The Legislature should pass legislation, effective July 1, 2022, to amend Adrian's Law and expand it to require pediatric physician examination from a pediatrician with specialized training in examining abused children. The legislation should also include the two-pronged program approach proposed by the KAAP. In phase one, the State would implement a triage system pilot program for pediatricians with specialized training for examining alleged abused and neglected children, and in phase two, the State would develop a statewide network of "Safe Care Providers" that would participate in an educational training program on child maltreatment.
- DCF should work with the representative of the Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association, and other law enforcement agencies as needed, and seek the assistance of the Office of



Revisor of Statutes to draft statute clarifying the interpretation of statutory language for sharing information with local law enforcement. If a resolution is not achieved by the start of the 2022 Legislative Session, it is recommended the Judicial Council be consulted to assist in coming to a resolution.

- Legislation should be introduced to amend the language in KSA 22a-243 to address the issue raised by the Child Death Review Board regarding extending confidentiality rules and regulations to local child fatality review organizations.

***Other Recommendations:***

- Each court should provide biological parents, and other family members or kin who attend court for the first time, with a document outlining requirements to accomplish reintegration or regain custody of their children;
- DCF should place more emphasis during mental and physical (MAP) training on the foster program, as opposed to the foster to adopt program, and the differences in roles for each type of foster parent;
- The CASA program should maintain the \$225,000 funding for FY 2023 and following years;
- DCF should expand activities for foster children of all ages that encourage bonding with their foster parents, as well as activities that encourage bonding with other children of a similar age;
- DCF should include input from the perspective of the child in custody in child placement books, often referred to as red, blue, and orange books;
- The Governor and Legislature should return the \$21 million transferred out of the Juvenile Justice Improvement Fund originally intended for evidence-based intervention programs addressed in 2016

SB 367 to aid community programs serving the needs of juveniles in the justice system;

- The Legislature should explore codifying caseworker accredited standard caseloads in statute and add a statutory cap on the number of cases caseworkers may have while maintaining accreditation standards;
- DCF should transform the request for proposal (RFP) federal grant awarding process into a performance-based federal grant awarding process when contracting with foster care agencies, which requires outcome-based assessments;
- The Legislature should prioritize increasing support to kinship-placed children and affording them the same services as children placed in a licensed foster home;
- The Legislature should strengthen the consideration of attachment for permanency placement of children in the Best Interest Staffing (BIS) process by adjusting statutes to consider attachment science, regarding the child's attachment, in the BIS process;
- The Governor should rescind EO 21-28 and issue an Executive Reorganization Order to avoid future legal issues between the Executive and Legislative branches;
- The Governor and Legislature should collaborate to reach a consensus on a bill during the 2022 Legislative Session that would establish a true, independent, and transparent Office of the Child Advocate;
- DCF should work to improve the communication and relationship with legislators to address child welfare system-related matters involving constituents;
- DCF should provide an update to the Committee at the next meeting regarding

the legislation passed in 2019 regarding child-on-child sexual assault;

- The Child Death Review Board should establish rules and regulations by January 31, 2022, concerning local death review boards; and

- When possible, the Child Death Review Board should include information in its report regarding sexual orientation, gender identity, and race and ethnicity.