

# DCF LEGISLATIVE TESTIMONY



*3/23/2021*

**TESTIMONY OF**

Tanya Keys, Deputy Secretary  
Kansas Department for Children and Families

**TESTIMONY ON**

SB 301

**Chair**

Warren

**Vice Chair**

Wilborn

**Ranking Member**

Haley

**and**

**Members of the Committee**

## SUMMARY OF ISSUE & DCF POSITION

Senate Bill 301 would establish the Office of the Child Advocate as a division within the office of the Attorney General. The office would be responsible for receiving, investigating, and resolving complaints from legislators and the public related to child welfare and juvenile justice services provided by the Department for Children and Families, Department of Corrections, and their contractors/grantees. The bill would also establish the joint committee on child welfare system oversight.

DCF is neutral on SB 301. While the department supports the establishment of an Office of the Child Advocate and its oversight responsibilities, DCF has significant concerns about placing the office under the purview of the Attorney General's Office. The office would be more appropriately placed in the executive branch under the Department of Administration.

DCF fully supports the creation of a joint committee on child welfare system oversight.

## CONTEXT & HISTORY

### **Office of the Child Advocate:**

The primary function of the Office of the Child Advocate will be to support children and families that are recipients of child welfare or juvenile justice services from the state by receiving and responding to concerns from legislators and the public about those services. As proposed, the office will be responsible for investigating and advocating for case specific concerns as well as providing broader oversight and making recommendations for systems level improvements.

These are important functions that will strengthen existing oversight in the child welfare system and provide more accountability for Kansans that receive child welfare and juvenile justice services. It is essential that citizens receiving services from the state have an independent advocate they can go to for recourse in the event they feel those services were administered incorrectly or inappropriately. This is especially important for child welfare related services provided to the some of the most vulnerable Kansans.

However, there is little precedent for housing the Office of the Child Advocate under the Attorney General and DCF has concerns about doing so.

According to the National Conference of State Legislatures, 22 states currently administer a Children's Ombudsman Office, Office of the Child Advocate or similar ombudsman-like service. Of these 22 offices only one, Nevada's State Advocate for Missing and Exploited Children, is housed under an Attorney General's office.

Many of these offices in other states are created as independent executive branch agencies or are housed in the Governor's Office, the state's human services agency, or the state's administrative agency. DCF recommends Kansas' Office of the Child Advocate instead be an independent office placed under the Department of Administration, similar to the existing Office of the Long-Term Care Ombudsman.

The Kansas Long-Term Care Ombudsman fulfills a similar function to the proposed Office of the Child Advocate. Housed at the Department of Administration, the Long-Term Care Ombudsman is an independent office that receives, investigates, and responds to concerns at long-term care facilities received from the public.

Long-term care facilities are regulated by KDADS. Independent oversight of executive branch services can be accomplished by an office housed within the Department of Administration.

The legislature would still be involved in the selection and oversight of the Office of the Child Advocate even if it were housed under the Department of Administration as the office would still be required to report to the legislature annually and the advocate would be subject to Senate confirmation on an annual basis.

Additionally, the joint committee on child welfare oversight would still have a significant partnership with the Office, as the bill requires the Office to assist the legislature in oversight and assist the joint committee in reviewing statutes, rules, regulations, and policies. Per the bill, the joint committee would also consult with the Office of the Child Advocate to establish limits for the types and number of complaints the office can receive.

Many offices in other states are housed in the Governor's Office or state agencies because doing so eases the logistical burdens of the office's operations while still allowing for independent oversight. All of the agencies the proposed Office of the Child Advocate is charged with oversight of are executive branch agencies.

According to an NCSL brief, the focus of an Ombudsman or Office of Child Advocate is to support citizens and families in having a place for citizens and families to communicate concerns or complaints. DCF believes strongly that housing this office in a law enforcement agency may be a barrier to families coming forth with their concerns. An Office of the Child Advocate located in the executive branch could still have the same powers and would be able to make appropriate referrals to the Attorney General should that be merited in a specific case.

Finally, DCF would suggest that the definition of 'child' be narrowed to ensure it encompasses only child welfare services – as written, the bill could be interpreted to apply more broadly to a child receive any services from DCF, such as cash or food assistance. DCF would suggest narrowing the definition in a manner similar to the following:

*"Child" means any child who is or has been in the custody of the secretary for children and families in the last five years; or who has been, or whose siblings, parents or other caretakers have been the subject of a report of abuse or neglect to the Kansas department for children and families within the previous five years. or has been in the custody or alleged to be a child in need of care as provided in K.S.A. 2020 Supp. 38-2201 et seq., and amendments thereto within the last five years;"*

#### **Joint Committee:**

This past summer the legislature convened the 2020 Special Committee on Foster Care Oversight. DCF participated in every meeting of the committee, giving presentations and answering questions about the child welfare system. It was a valuable experience for DCF as an agency to receive feedback from the legislature and the diverse array of stakeholders that appeared before the committee. DCF is using the recommendations made by that committee to implement practice improvements.

We look forward to continuing to work closely with the legislature and the joint committee on child welfare oversight to continue to improve supports for Kansas families.

## **EFFECT OF LEGISLATION**

One of the duties of the Office of the Child Advocate would be to receive and respond to legislator and public complaints about child welfare services provided by DCF and DCF grantees. DCF staff would assist in these

efforts by tracking down requested information, sharing reports and records, and meeting with the office's staff as needed. Additionally, because the office will also be making recommendations for policy improvement in child welfare, DCF staff will be responsible for implementing changes to policy and procedure as per the advocate's recommendations.

The bill would also require DCF to post notices of the Office of the Child Advocate's contact information in department offices and facilities receiving funding for the care and placement of children.

DCF expects to participate regularly in joint committee on child welfare system oversight meetings. The committee's responsibilities will include reviewing the Office of the Child Advocate's annual report and budget, providing guidance to the Office as to what complaints it should respond to, reviewing data and demographic trends affecting child welfare, reviewing services provided to those involved in the child welfare system by executive branch agencies, and considering opportunities to strengthen the child welfare system, among others.

### FISCAL IMPACT OF LEGISLATION

DCF cannot estimate the cost of Senate Bill 301 on the Attorney General's Office.

DCF estimates that three Program Consultant positions would be required at DCF to coordinate responses, performance improvement efforts, and tracking for the Office of the Child Advocate. These 3 FTEs would cost \$187,178 All Funds in FY 2022, including \$143,712 in State General Funds.

The establishment of the joint committee on child welfare system oversight has no fiscal impact to DCF, as any duties to support the work of the joint committee can be absorbed within existing resources.

### DCF POSITION

The proposed Office of the Child Advocate will provide important oversight of child welfare related services and DCF looks forward to engaging in those efforts should such an office be created. Additionally, the department looks forward to and supports continuing our partnership with the legislature through the joint committee on child welfare system oversight. However, the department cannot support Senate Bill 301 in its current form.

In order for the office to effectively fulfill its responsibilities the Office of the Child Advocate should be housed in the executive branch alongside the other entities responsible for oversight of executive branch agencies. DCF asks the committee to consider making this change and would be in support of the bill were such a change made. The department stands ready to engage in further discussions on placement of the office if needed.