



Senate Corrections and Juvenile Justice Committee

February 5, 2016

Testimony on:

SB 367

Testimony By:

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Chairman Smith, Vice Chair Knox, Ranking Member Pettet and Members of the Committee:

I am Kathy Armstrong, Assistant Director for Legal Services at the Kansas Department for Children and Families (DCF). Thank you for the opportunity to be here today, to talk about Senate Bill 367.

DCF greatly appreciates the work of the Juvenile Justice Workgroup in reviewing the juvenile justice system in Kansas for needed improvements. DCF was represented on the workgroup by our Deputy Secretary of Family Services, Jaime Rogers.

We believe that the workgroup's in-depth look at the juvenile justice system in the state was a beneficial process that yielded a number of positive policy recommendations to help improve the system for children, families, communities and other stakeholders. We support the general reform concepts put forth as a result of this juvenile justice system review and applaud the workgroup for its tireless efforts.

The bill before you today, SB 367, was drafted to enact changes to the system discussed in the workgroup's report. Given the complexity of SB 367, a bill which establishes and modifies numerous statutes, we would like to call the committee's attention to a number of provisions that bear further study and discussion. Many of the provisions discussed here are revisions to the Kansas Child In Need of Care Code (CINC) found in SB 367.

New Section 2.(c) provides when a juvenile is placed on probation per K.S.A. 38-2361, the "community supervision officer," responsible for oversight of the juvenile, shall develop a case plan in consultation with the juvenile and the juvenile's family. It is indicated "the department for children and families... may participate in the development of the case plan when appropriate." In the event a juvenile on probation is not, nor has ever been, in the custody of DCF, DCF would likely have minimal, if any, knowledge about the juvenile. (c)(1) sets forth requirements for the case plan, but DCF could have limited information regarding the case plan of a juvenile with no prior connection to our agency.

New Section 3. mandates the appointment of a multidisciplinary team (MDT) to review cases in which a juvenile fails to substantially comply with the development of the "immediate intervention plan." MDTs can be a great resource to communities. It is important to note that, in the event a juvenile who fails to substantially comply with the intervention plan is in DCF custody, this MDT review may result in duplicative efforts. This duplication could occur if teams, case workers and the court presiding over the

CINC action are already involved with the child. DCF is not listed as a required member of such MDT, but could be allowable per (a)(5).

New Section 4 does require DCF to be a member of a newly-created juvenile justice oversight committee, which is appropriate, as some youth are “crossover” youth and move between the CINC system and juvenile justice system. New Section 4(c)(8)(E) lists as a topic subject for review by the juvenile justice oversight committee the “removal from the home of children in need of care for non-abuse or neglect, truancy, running away or additional child behavior problems when there is not court finding of parental abuse or neglect.” This is a welcome provision that DCF wholeheartedly supports. More discussion and review of CINC children removed for these reasons is warranted, as Kansas has historically casted a wide net on these types of removals compared with other states.

New Section 8. sets out requirements for a written reintegration plan to be submitted to the juvenile offender court if a juvenile is placed outside of his/her home and no reintegration plan is made part of the record at the dispositional hearing. This plan must be prepared by the “person who has custody,” and if there is disagreement among “persons necessary for the success of the plan,” (which would need to be defined), a court hearing must be set. If such a juvenile is placed in DCF custody, this process becomes potentially duplicative and cumbersome as there are existing CINC statutes and related regulations for case plans that are based on the best interests of children and consistent with applicable federal and State laws relating to child welfare. Though DCF is well aware that reintegration is generally the preferred case plan, the case plan in the best interest of the child may or may not be reintegration, depending upon the facts and circumstances of the case.

New Section 15 sets out in much detail requirements for law enforcement and the State Board of Education to promulgate rules and regulations creating a skills development training for responding “effectively to misconduct in school while minimizing student exposure to the juvenile justice system.” CINC children are also in the education system, and this section is relevant to considerations relating to these children. The training requires inclusion of the following: (b)(2) a risk and needs assessment (who will be required to administer the assessment?); (b)(3) mental health (generally only professionals licensed by the Kansas Behavioral Sciences Regulatory Board (BSRB) are trained to address mental health issues of students).

Section 22 removes “juvenile detention facility” as an option for placement under specified circumstances and leaves as the option “secure facility”. Conceptually, DCF supports not placing children in juvenile detention facilities in these circumstances. This is a needed reform to the system, but there are some considerations that must be made as the State moves forward on this provision. Currently there is only one secure care facility for girls in Kansas, and there are no secure care facilities for boys. If children in certain situations are not placed in safe placements temporarily (until other suitable placements can be identified), it places them at risk of becoming the victim of crimes including, but not limited to, human trafficking. Removing the option for the courts to place in a juvenile detention facility in K.S.A. 38-2232, 38-2242, 38-2255 and 38-2260, when there is such a limited number of licensed secure care facilities in Kansas, could

be problematic for law enforcement and courts to act in best interest of children in challenging scenarios.

K.S.A. 38-2255 prohibits courts from ordering supervision of a CINC child by court services officers (CSOs) when custody has been awarded to persons other than a parent. In Kansas, only a few counties situated in urban areas currently have court services officers, and the manner in which they are utilized by the courts varies. This provision would limit the ability of some jurisdictions to effectively use CSOs to supervise a CINC case, which may not be in the child's best interest. The CINC Code is designed to allow, depending on the facts and circumstances of the individual case, orders that serve to further the best interest of the child.

Currently, **38-2288** prohibits a child alleged or found to be a Child in Need of Care (CINC) from being placed in a juvenile detention facility "unless such placement is necessary to protect the safety" of the child and is authorized by 38-2232, 38-2242, 38-2243 or 38-2260. The proposed bill deletes the current statutory provisions and removes the option for placement in a juvenile detention facility, even when the placement may have been deemed necessary to protect the safety of the child alleged or found to be a CINC. While this placement prohibition would typically not be an issue, there may be some individual situations that warrant such a temporary placement.

K.S.A. 38-2301 is revised by adding provisions relating to a "Reintegration Plan." The terminology and requirements of such "reintegration plan" can relate to a child in "out-of-home placement." If such a child is in the foster care system, this provision could possibly overlap and duplicate the child's CINC case plan.

The bill deletes the definition of "Youth residential facility" from **38-2302**. Though this placement option certainly does not serve the needs of all youth, it has provided an option deemed beneficial for certain youth in the past.

Section 28 of the bill further revises 38-2302(g)(1) by providing a sentencing court may order "the continued placement of the juvenile offender as a child in need of care," but deletes the current language immediately following such option which states "unless the offender was adjudicated for a felony or a second or subsequent misdemeanor." The current language provides an appropriate limitation to juvenile offenders who can be ordered to continue placement as a CINC. The new language added to (g)(1) further requires that in such a case (ordered continued placement as CINC), the DCF Secretary "shall address issues of abuse and neglect by parents and prepare parents for the children's return home." As stated previously, there may be certain occasions when the CINC case plan is not currently reintegration, in which case, a requirement to prepare parents for children's return home is not applicable.

K.S.A. 38-2202(g)(3) is revised from language that currently indicates DCF shall not be responsible to furnish services ordered in CINC proceedings during the time of placement pursuant to the Juvenile Offender Code. The new provision states that DCF shall be responsible for collaborating with the Kansas Department of Corrections to furnish such services. DCF has limited resources, which could inhibit the agency's ability to meet this requirement.

K.S.A. 38-2330 relates to instances when law enforcement may take a juvenile into custody. (d)(1) is revised by deleting the existing requirement to take a juvenile taken into custody by law enforcement to certain enumerated entities and adds the requirement for the juvenile to be returned to the custody of his/her parent or custodian, unless there are “reasonable grounds to believe such action would not be in the best interest of the child.” If law enforcement staff, with limited time and resources, cannot determine “best interests,” the child may be returned to an unsafe home situation by eliminating entities as temporary placement options who currently further assess the child’s situations and needs.

Section 33 is revised by deleting provisions related to language necessary under federal law to draw down Title IV-E dollars. The unintended consequences of such a deletion need to be fully explored.

The bill adds to **K.S.A. 38-2231** a new provision (c) which prohibits placement in a juvenile detention center solely for specified reasons that include risk of self-harm or violation of valid court order. This may limit options to ensure the safety of youth in certain scenarios.

The new bill revises **38-2361** by adding (k) which allows short-term alternative placement of a juvenile to an emergency shelter, therapeutic foster home or community integration program if a juvenile has been adjudicated a juvenile offender for offenses which, if committed as an adult, would constitute commission of certain sex or trafficking offenses enumerated. The provision engages DCF, but is specific in nature and could limit when such placements would occur and the manner and timeframe for addressing issues. This provision creates overlap with the juvenile system and child welfare system. As discussed previously, the CINC Code is created to allow for multiple options as determined to be in the best interest of children.

Conclusion

DCF supports review and improvement of the juvenile justice system and services to meet the needs of children. We support the overall efforts to return children to their homes when it can be done safely and is in the best interest of the child. In fact, DCF places great emphasis on reintegrating children into their homes. We offer a broad range of services to help families address issues that prevent them from providing a healthy home for their children. It is our goal that these safety concerns are corrected and families can be reunited.

DCF is neutral with respect to SB 367, even as we support this effort to improve the juvenile justice system. Thank you for the opportunity to present testimony before this Committee.