



Strong Families Make a Strong Kansas

House Children and Seniors Committee

January 30, 2014

Testimony on:

HB 2450

Presented by:

Brian Dempsey

Director of Prevention and Protection Services

Kansas Department for Children and Families

Testimony of:

Brian Dempsey, Director of Prevention and Protection Services
Kansas Department for Children and Families
Topeka, Kansas

Testimony on:

HB 2450, Change in terminology: “best interest of the child” to “least detrimental alternative for the child.”

Chair Connie O’Brien, Vice-Chair Kelly Meigs, Ranking Member John Wilson and Honored Members:

I am Brian Dempsey, Director of Prevention and Protection Services for the Kansas Department for Children and Families (DCF).

This bill provides for change in terminology in the statutes from the term “best interest of the child” to the term “least detrimental alternative” in Family Law Code and Child in Need of Care Code.

The term “best interest of the child” is a doctrine that has been in place for decades and there is case law available to assist in defining this standard. Another way of describing the standard is how the child’s interests and needs can best be served. It addresses the well-being of a child. Though subjective, the standard allows for discretion in decisions affecting children by allowing an examination of the unique facts and circumstances of each case. This entails consideration of many factors such as current and future physical, emotional and educational needs; age, gender, background and personality characteristics of each child; harm suffered by child or harm a child may be at risk of suffering; wishes and feelings of a child (based on age and level of understanding); and options for placement/custody. This allows for discretion even in family law cases where time/custody with both parents/caregivers would serve to meet the best interests of the child. The term “best interest of the child” is also used in federal statutes, regulations and cases which apply to the children served by our agency in connection with out of home placement and eligibility for funding.

DCF is neutral with respect to HB 2450 as drafted.

Thank you, Chairman O’Brien, for the opportunity to submit testimony about this piece of legislation.