



# House Children and Seniors Committee

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## **Foster Care Licensing**

Presented by:

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**Testimony of:**

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**Testimony on:**

Foster Care Licensing

**Chairman Alford, Vice Chair Gallagher, Ranking Member Ousley and Members of the Committee:**

Thank you for the opportunity to present today. As Deputy General Counsel of the Kansas Department for Children and Families (DCF), I supervise the Foster Care and Residential Facility Licensing Division. With regard to foster care, the core mission of the Licensing Division is to ensure that foster parents and foster homes are safe for children in foster care.

**OVERVIEW OF LICENSING**

Regulations governing family foster homes can be summarized in three broad categories, including qualifications of foster families, selection of foster families, and duties of foster families.

**Qualifications of Foster Families**

One of the ways we assure safety is by enforcing reasonable qualifications to be a foster parent in a fair and uniform manner. Fundamental and basic requirements to be a foster parent include: the foster parent must be at least 21 years old,<sup>1</sup> must be able to provide safe transportation to children in foster care,<sup>2</sup> and must have sufficient income or resources to provide for the basic needs and financial obligations of the foster family and to maintain compliance with all regulations governing Family Foster Homes.<sup>3</sup>

A critical function of the Licensing Division is to ensure that the physical environment of the home does not present a threat to the health, safety or welfare of any child in foster care. Ensuring compliance with this requirement is a core function of the division and is the source of many applicable statutes and regulations. For example, adequate sleeping arrangements must be provided for each child in foster care, with requirements detailed in the regulations.<sup>4</sup> Additionally, swimming pools and hot tubs in foster homes are closely regulated.

**Selection of Foster Families**

Prospective foster parents first contact a Child Placing Agency (CPA) to receive sponsorship.<sup>5</sup> It is the CPA, working together with the prospective foster parents, that completes the application and prepares the home for inspection by the Licensing Division surveyor. Foster parents must complete 30 hours of training, conducted over a

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<sup>1</sup> K.A.R. § 28-4-802(b)

<sup>2</sup> K.A.R. § 28-4-816

<sup>3</sup> K.A.R. § 28-4-802(c)

<sup>4</sup> K.A.R. § 28-4-821

<sup>5</sup> K.A.R. § 28-4-802(f)

10-week period.<sup>6</sup> Any person who seeks to become a foster parent must have his/her fingerprints taken and pass a background check. This is also a requirement for any other person who is 10 or older and resides, works or regularly volunteers in the foster home.<sup>7</sup> Finally, a foster parent must undergo a health assessment to demonstrate he/she is physically and mentally able to provide safe and healthy care for children in foster care.<sup>8</sup>

### **Duties of Foster Families**

At all times, foster parents must conduct themselves in a way that advances the best interest of the health, safety and welfare of the children in care. Foster parents are expected to integrate a child into the day-to-day family life in an honest, loving manner and attempt to preserve as much normalcy for the child as possible. Thus, the values and routines of the foster family are shared with the child who can incorporate that stability into his/her own life.<sup>9</sup> Foster parents must be active participants in the child's case plan and implement the provisions assigned to the foster parents.<sup>10</sup>

With regard to discipline, foster parents must agree to a written policy indicating methods of guidance appropriate to the age of the child.<sup>11</sup> Prohibited punishments include corporal punishment, verbal abuse, derogatory remarks and withholding food.

Foster parents are also expected to serve a mentoring role to provide assistance to each child in learning basic life skills that allow him/her the opportunity to improve his/her self-concept and identity in preparation for life after foster care.<sup>12</sup> This is arguably one of the most important roles foster parents play, and the best foster parents do so with dedication and selfless love.

### **LICENSING REFORMS AND INITIATIVES**

The Licensing Division was brought to DCF from the Kansas Department of Health and Environment (KDHE) as a result of Executive Reorganization Order (ERO) No. 43, in July 2015, for the purpose of unifying all foster care programs in one agency and improving processes to enhance child safety. My role with the agency began at that time, and I was charged by the Secretary to make whatever changes were necessary for that purpose. In the 18 months licensing has been at DCF, we have instituted many reforms. Some of the most significant reforms include the following:

### **Conflict of Interest**

A significant finding of the Legislative Post Audit was that there is an inherent conflict of interest in the current relationship between the CPAs and foster homes, because the exclusive source of CPAs' funding is the placement of children in foster homes. But the CPAs conduct inspections and other regulatory activities of those same homes. This

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<sup>6</sup> K.A.R. § 28-4-802(e)

<sup>7</sup> K.A.R. § 28-4-805

<sup>8</sup> K.A.R. § 28-4-819(a)(3)

<sup>9</sup> K.A.R. § 28-4-814(a)

<sup>10</sup> K.A.R. § 28-4-810(d)

<sup>11</sup> K.A.R. § 28-4-132

<sup>12</sup> K.A.R. § 28-4-813(d)(2)

creates an institutional bias against taking any action that might threaten the CPA's source of income.

When the Licensing Division was transferred from KDHE to DCF and the review of the program was undertaken, this conflict of interest was identified. In late 2015, prior to the initiation of the LPA audit, we notified our contractors that we would be taking corrective actions. In March 2016, while the LPA audit was in its initial stages and before LPA had identified the conflict of interest, we put in place the first reform to mitigate the impact of the conflict of interest.

We assessed that the conflict of interest had impacted the CPA system to the extent there was a lack of clarity regarding CPA case workers' responsibility for child safety. In response, DCF instituted a requirement that whenever a CPA worker is in the home for any reason, the CPA must assess the overall environment for any threat to the health, safety and/or welfare of any child in foster care, and then must act in the best interest of the protection of the children. This fundamental duty to assess and act was not, in certain instances, a clear expectation communicated by CPAs to their employees who were responsible for children in foster care. We were adamant in our communication of this expectation and made it clear that we would not hesitate to revoke the license of any CPA that failed to fulfill its obligations in this regard. We believe this requirement, more than any other, was the most urgent step taken to mitigate the effects of the CPA conflict of interest, and that is why we did not hesitate to put the measure into place. CPA case workers are required to conduct visits every month. Because of this new policy, these regular safety assessments are being conducted in all foster homes in Kansas, and CPA case workers are responsible to take affirmative action to protect any child in foster care who is in a threatening environment.

### **Annual Inspections**

Having enacted that measure, we feel that the next step is to remove CPAs from the process of conducting annual inspections of foster homes. The requirement to conduct annual inspections of foster homes is statutory. The statute allows the responsibility to conduct the inspections to be delegated to the CPAs, as the authorized agent of the Secretary. As stated, we feel because of the potential for conflicts of interest, it is unwise to continue to allow CPAs to have responsibility for these significant regulatory activities in the foster care system.

The DCF Licensing Division will assume responsibility for annual inspections of foster homes. With this responsibility comes the need to hire additional staff, consisting of an estimated 15 new surveyors. Since the CPAs are paid to do the annual inspections by the contractors with DCF funds via the child welfare contracts, we will be taking back funding for the positions from the contract. The net fiscal impact will be negligible. We are preparing to begin the hiring process for these positions at this time. It is our hope that, barring unforeseen circumstances, we will be conducting the annual inspections of foster homes by July 1, 2017.

### **Space Requirement Exceptions**

Another important initiative undertaken by the Licensing Division was to end the practice of allowing children to be placed in homes prior to all regulatory standards being met. Prior to its transfer to DCF, the Licensing Division had allowed children to be routinely placed into homes under so-called temporary permits before the completion of necessary training and all required background checks. Although not identified by the LPA audit as an issue, we determined this practice was not in the best interest of the safety of children for routine applications and ended it, effective Sept. 1, 2016.

### **Verifying Foster Family Resources**

In September 2016, we instituted new measures to verify the income and expenses reported by foster families at the time of application and at the time of yearly renewal. These measures were put in place upon the recommendation of the LPA audit. Foster families are asked to complete a relatively simple form summarizing their best estimate of average monthly household expenses and to provide verification of income. The goal is to ensure that foster families have sufficient independent financial resources apart from foster care reimbursement payments.

### **Background Checks**

Background checks for foster parents and others in foster homes is a critical function for the Licensing Division. The LPA Audit made recommendations that background checks should be run on an annual basis. Many misunderstood this recommendation as indicating that there was a legal requirement upon DCF to run annual background checks. There is no such statutory duty. Nevertheless, it is a good policy to run background checks more frequently than they were completed prior to ERO 43. Therefore, requirements were implemented in August 2016, for annual background checks to be conducted on every person 10 years of age and older, who is affiliated with a foster home at the time of the home's annual renewal (and at the time of application for new homes). However, conducting annual background checks is only a stopgap measure. DCF is implementing a much-improved system that will eliminate the need for running background checks on an annual basis altogether.

### **Instantaneous Notification**

This new system is being implemented in connection with recommendations made by LPA regarding fingerprint background checks, which are now required not only for foster parents, but also for any household members 10 years of age and older (who are not children in foster care). DCF is working cooperatively with the Kansas Bureau of Investigation (KBI) to enroll every person 10 and older in our foster homes in an effective monitoring service that will immediately alert the agency anytime someone in the home is arrested or convicted of a crime. Although all foster parents have already been fingerprinted, enrollment in this service requires that their fingerprints be retaken. We have been working with KBI to make this happen. Our foster parents are dedicated to the protection of children, and their response has been overwhelmingly positive. We are thankful for their commitment to helping us improve the safety and well-being of children in foster care.

This new system significantly exceeds LPA's earlier recommendation of annual background checks. The partnership with KBI for ongoing monitoring for criminal activity eliminates any wait involved in running background checks on a periodic basis—for instance, annually. Now, instant notice of arrests and convictions will be provided. This will greatly enhance the safety of children in foster care.

### **Geographic Information System for Foster Home Availability**

We are instituting a Geographic Information System (GIS) that shows data on licensed homes and placement of children in foster care. The most pressing need for the GIS arises from our work in the Licensing Division to improve in how we process requests from CPAs to exceed the regulation that limits the number of children in foster care in a home. CPAs usually have a good reason to make these requests, most often to keep a sibling group together. However, even in these cases, it still is best to find a home with adequate space. We needed a system that would quickly show us where homes are that have room for more children.

A GIS is exactly the application needed for this challenge. An example of an effective GIS is Google Maps, which gathers an incredible amount of data about specific locations—restaurants, traffic, navigation—and then displays it on maps on our computers or our phones on demand in real time. Seeing where information is on a map unlocks substantial information for practical uses.

Geographic Information Systems are widely deployed throughout Kansas government. The Data Access & Support Center, located at the Kansas Geological Survey, manages GIS services for the State, which has an enterprise licensing agreement with ESRI, a GIS software vendor for a suite of products. ESRI is also the vendor for Wisconsin's GIS system, which is a mature application of how GIS can revolutionize placement decisions in foster care. We have consulted with Wisconsin to gain insight into how its GIS has been useful to its foster care program. While this computer resource system is still being developed as a part of the native licensing system software, it holds great promise as a tool to be deployed to assist with making placement decisions. The DCF Licensing Division is actively collaborating with the DCF Prevention and Protection Services (PPS) Division so that it is aware of the system's capabilities and, as we develop the system, PPS is involved and participating on the ground floor. This will ensure that, as it matures, it will be accessible and ready for deployment in a strategic fashion.

The DCF Licensing Division, formerly housed at KDHE, still utilizes KDHE information systems. Very much to the benefit of DCF, KDHE has a great deal of experience with GIS, as one might expect in an agency that deals with issues such as public health and the environment. These issues naturally lend themselves to interpretation of distributed geographical data. KDHE has leveraged its GIS experience to integrate the ESRI software into a module of the licensing software that the DCF Licensing Division shares with KDHE's Child Care Licensing Section.

Today, we are operational with data on licensed foster homes plotted geographically. The system has already found many uses, but there is one particular instance that has

already worked to protect children in danger. On Oct. 21, 2016, a major chemical spill in Atchison caused more than 100 people to seek medical treatment. More than 11,000 Atchison residents were urged to take shelter. Staff in DCF Licensing used the GIS system to quickly identify all foster homes in Atchison in the affected area, and contacted the CPAs for those specific homes to make sure that they were doing whatever was necessary to protect the children in foster care.

What remains to be accomplished is to import data concerning the population of children in foster care. Our goal has been to import that data by the end of this month (January 2017), and we believe that goal remains realistic. After the data is imported, we will have full insight into system capacity. When CPAs approach Licensing with requests to exceed the maximum capacity of foster homes, we will consult the system to look for alternatives. The system will show us any nearby foster homes that may have room for the children without exceeding the capacity regulation. That way we can direct the CPAs to check with those homes first before granting the exception. This will be especially useful if the homes that have availability are sponsored by a different CPA than is requesting the exception. This is a more efficient way for CPAs to coordinate these issues. As we bring this system online and master its functionality, we will be thoughtfully considering the best way for this information to be effectively utilized throughout the foster care system.

Thank you for the opportunity to testify today. I am happy to take your questions.