

# FAMILY FOSTER HOME LICENSURE & HB 2158

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JOINT COMMITTEE ON CHILD WELFARE OVERSIGHT - OCTOBER 5, 2021



The background of the slide features a dark blue color with a faint, light blue silhouette of a family of five (two adults and three children) holding hands in a circle. The text is overlaid on the left side of this graphic.

# HB2158 – PROHIBITED OFFENSE EXCEPTIONS FOR FAMILY FOSTER HOME LICENSEES

KSA 65-516

# FAMILY FOSTER HOME LICENSURE

## Department for Children and Families (DCF) Licensing Division

Initial  
licensure  
surveys

Ongoing  
compliance  
inspections

Annual  
reviews

Complaint  
investigations

- Assures regulatory compliance to protect the health, safety and welfare of the children placed there.
- Not responsible for the placement of children into the foster homes licensed.

# FAMILY FOSTER HOME LICENSURE

## **K.S.A. 65-516 Background**

- Licensing statutes require that *all* individuals aged 10 and above who work, reside, or volunteer in a family foster home be cleared by criminal background check.
- Lists the offenses which prohibit the issuance and maintenance of a license.
- Contains no statute of limitations for offenses, no appeal process for applicants, and no discretion for DCF to consider extenuating circumstances where licensure may not pose a safety risk and may serve a child's best interests.
- Currently no ability statutorily for DCF to grant such exemptions and allow for certain considerations in issuing or maintaining a license.
  - Only current recourse for an individual with a prohibited offense on their record is legal expungement, which can be a costly and restrictive process for families interested in providing placement and can delay or otherwise negatively impact a child's case.

# FAMILY FOSTER HOME LICENSURE

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## History - House Bill 2149

### HB 2149

- Introduced in February 2021, allowing the Secretary of DCF discretion to approve exceptions to prohibited offenses when no current safety concern exists and doing so is determined to be in the child's best interest.
- Certain language in the proposed Bill was questioned. DCF and those objecting to the language met and agreed to suitable language changes. The House Committee on Children and Seniors recommended further amendments.
- The Bill as amended did not successfully advance.

# FAMILY FOSTER HOME LICENSURE

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## History - House Bill 2158

### HB 2158

- Amended Language was included allowing the Secretary of DCF to exercise a narrow scope of discretion and provide exceptions to K.S.A. 65-516(b).

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HB 2158 language amending K.S.A. 65-516

*(b) If the secretary determines there is no safety concern, the secretary may license a family foster home, as defined in K.S.A. 38-134, and amendments thereto, when a person who has been adjudicated as a juvenile offender for an offense described in subsection (a)(2):*

*(1) Was a child in the custody of the secretary and placed with such family foster home by the secretary;*

*(2) is 18 years of age or older;*

*(3) (A) maintains residence at such family foster home; or*

*(B) has been legally adopted by any person who resides at such family foster home; and*

*(4) six months have passed since the date of adjudication.*

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## Data Trend Impact of HB 2158

From 7/01/2021 – 9/22/2021:

- 258 Family Foster Home applications were received
- 191 of these applications resulted in a license being issued  
*This data includes new licenses and licenses that have moved or changed ownership*
- 21 of these Family Foster Home applications were not issued or further pursued due to K.S.A. 65-516 (1 juvenile offense and 21 adult offenses)
- None of these cases were eligible for exception as permitted by HB 2158 which amended law 65-516 (b).

Current language will be beneficial and applicable for cases in which a young person with prohibited offenses ages out of foster care, typically over age 18, and chooses to return to or live with a previous licensed placement for support.



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## Impact to Families of 2158: Case Examples

### Case 1:

- FFH wished to pursue guardianship or adoption of a youth who has a prohibited offense; however, the amendment would not apply in this case as the youth is not yet 18.

### Case 2:

- A foster parent with 3 long term placements in the home was granted permanent custody of a biological sibling. Once DCF custody of the youth was released, the sibling became a resident of the FFH.
  - Background checks revealed the child had prohibited juvenile adjudications pursuant to K.S.A. 65-516.
  - Amendments of HB 2158 are not applicable due to the sibling being under the age of 18.

The foster parent must now choose between:

- Relinquishment of FFH license: If the sibling with prohibited offenses continues to live in the home, the license cannot be maintained. If the home cannot be licensed then the three children who have lived in the home for an extended period of time must move, as they will not be permitted to stay, or;
- Request for the young youth with the prohibited offence be placed back into foster care. If the child is in the custody of the Secretary, living in the home is permissible.

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## Gaps with current law:

- Relatives are not eligible for licensure if they wish to be licensed, thus do not receive the level of care rates or supports due to very old prohibited offenses. This can result in children and youth being placed in a stranger's foster home rather than with a relative they know who is otherwise a safe/stable placement.
- Siblings have been separated due to an older sibling transitioning from foster care into adulthood and having a prohibited offense.
- Foster families are hesitant, or even recommended, not to provide residence for or adopt teens who have prohibited offenses due the impact on their FFH license.
- Foster families are not able to provide support to young adults who have transitioned from foster care into adulthood and maintain licensure at the same time.
- Foster families cannot provide palliative care for elderly family members with a prohibiting criminal history, no matter how old the offense or infirmed the individual.

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Benefits is there were to be limited ability to grant exceptions:

- Allows DCF as the licensing agency authority to determine when exceptions should be granted.
- Encourages foster families to youth and young adults who have offenses on their records that are not yet eligible for expungement.
- Encourages more relatives to be able to provide placement and support to youth in care.
- Allows siblings to remain together, particularly when one transitions from foster care into adulthood and remains in the foster home.
- Permits more relatives and non-related kinship connections to come together and function as a bigger support network for children in care.
- Provides more housing opportunities to young adults who have one transitioned from foster care into adulthood and are not yet ready to live on their own.

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What is needed? Further amendment to KSA 65-516

- Statutory language allowing for DCF to grant limited exceptions to prohibited offenses when the individual or juvenile meets established criteria and is vetted through a process to include licensing and placement professionals.

QUESTIONS?

