



## House Committee on Judiciary

March 15, 2016

*Testimony on:*

**SB 418**

Presented by:

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**Testimony of:**

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**Chair Barker, Vice Chair Macheers, Ranking Member Carmichael and Members of the Committee:**

I am Kathy Armstrong, Assistant Director for Legal Services, Prevention and Protection Services, Kansas Department for Children and Families (DCF). Thank you for this opportunity to provide supportive testimony regarding Senate Bill 418.

SB 418 amends certain statutory provisions of the Kansas Statutes including, but not limited to, the Kansas Child in Need of Care Code to ensure compliance with the federal law *Preventing Sex Trafficking and Strengthening Families Act* enacted on Sept. 29, 2014. The Act amended Title IV-E of the Social Security Act, which relates to children in foster care.

The federal act was an omnibus bill that addressed many topics and included both child welfare and child support provisions. The child support provisions related primarily to improved collections in cases where the custodial parent and child live in one country and the non-custodial parent lives in another country. This portion of the bill was addressed in State law last session by the Kansas Legislature, via SB 105, which enacted, updates to the Uniform Interstate Family Support Act (UIFSA 2008).

A Joint Committee was formed during the summer of 2015, made up of selected members of the Kansas Supreme Task Force on Permanency Planning and Judicial Council Juvenile Offender/Child In Need of Care Code Advisory Committee, as well as a few members of the Kansas Human Trafficking Advisory Board (which included representatives from law enforcement and the Office of the Attorney General). The Joint Committee spent many hours reviewing the federal law and determining what State legislation/revisions to the Child in Need of Care Code were needed to bring the State into compliance, based upon current research and best practices in the area of child welfare and victims of trafficking. This compliance will ensure DCF, the Title IV-E agency in Kansas, will continue to receive the needed funding to provide vital services for children and families who have contact with the agency and provide the most appropriate services and processes. The areas of revision as set out in the proposed bill are reflective of the changes to federal law for children in foster care.

SB 418 revises the CINC Code, as needed, to comply with requirements, based on best practices, to develop and implement processes for identifying, documenting in records and determining appropriate services for certain youth who are victims of sex trafficking or at risk of victimization.

SB 418 revises the definition of “sexual abuse” in the CINC Code. The bill further revises 38-2202, by adding paragraph (14) to the definition of a “child in need of care” and provides “has been subjected to an act which would constitute human trafficking or aggravated human trafficking, as defined by K.S.A. 2015 Supp. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 2015 Supp. 21-6422, and amendments thereto, or has committed an act which, if committed by an adult, would constitute selling sexual relations, as defined by K.S.A. 2015 Supp. 21-6419, and amendments thereto. The definition of “runaway” is also added to the definition section of the CINC Code. The term “runaway” is added to 38-2231, which currently only refers to “missing person or verified missing person,” as a child under 18 who law enforcement can take into custody when it believes there is probable cause that the child fits into the stated definition.

The bill adds the “interstate compact for juveniles compact administrator” to the list of persons or entities in K.S.A. 38-2210 and K.S.A. 2310 who shall freely exchange information concerning a child who is alleged or adjudicated to be a child in need of care.

SB 418 adds the definition of “reasonable and prudent parent standard” to the K.S.A. 38-2202 definitions provision to clearly define a standard to ensure children in foster care have the opportunity to participate in activities that are appropriate, in light of their age and stage of development. This concept is already reflected in the licensing regulations for foster homes, but this addition to the statute will ensure courts are tracking the implementation of this standard. Careful and sensible decisions by the caregiver should maintain a child’s health, safety and well-being, while at the same time encouraging emotional and developmental growth by ascertaining whether to allow a child or youth in foster care, in the custody of the State, to participate in particular extracurricular, enrichment and social activities. Under the new bill, the court is required to make a finding regarding the reasonable and prudent parent standard and whether the child is being provided regular opportunities to engage in age or developmentally-appropriate activities.

Other provisions seek to reinforce permanent adult connections for youth to assist in their transition to adulthood. The new law, in compliance with the new federal law, will ensure “another planned permanent living arrangement” (APPLA) (“other planned permanent living arrangement (OPPLA)” is a term used in Kansas) will not be assigned as a permanency plan to any child under the age of 16 (previously under 14). The court is now required to determine the permanency efforts to place children with a parent, relative or in a guardianship or adoption placement of children with OPPLA as a permanency plan. If OPPLA is found to be best permanency plan for the child over the age of 16, the court must document the compelling reason why it is not in the child’s best interest to be placed permanently with a parent, relative or in a guardianship or adoptive placement. Revisions in connection with these considerations are made to K.S.A. 38-2264.

The new law requires children 14 years of age or older to participate in their case plan and provides the opportunity for them to select two members of the case plan team. This is reflected in the revision to K.S.A. 38-2263. The child must be consulted not only

in the development of their case and permanency plans, but in any revisions to such plans. They are required to be made aware, with the court ensuring accountability, of their right to receive important documents (i.e., birth certificate, Social Security card, etc.). The DCF Policy and Transition Plan already require this, but this will now be statutorily required. The new bill will require the court to request the child's input into the desired permanency outcome. Per the bill, K.S.A. 38-2265 will be revised and children 14 and older will be provided notice of their permanency hearing or administrative hearing. The notice will request their input by attendance or report to the court.

Language regarding trafficking is added to K.S.A. 38-2269 as a factor to be considered in making a determination of unfitness of a parent in connection with possible termination of parental rights.

The language of K.S.A. 38-2287 is strengthened to ensure a validated evidence-based tool or instrument is utilized when a suspected victim of human trafficking is assessed. The Secretary shall use the results to make recommendations to the court. The revised language clarifies the Secretary is to provide a summary of the results from the assessment rather than the complete assessment or tool.

The bill further provides that after the DCF Secretary is notified, a child in the custody of the Secretary cannot be located or has run away, the Secretary has 24 hours to make a report to local law enforcement and the National Center for Missing and Exploited Children. Law Enforcement will report to the National Crime Information Center. Both federal and State law are purposed to ensure improved tracking and documentation relating to victims of trafficking so the population may be protected from harm and provided appropriate services to prevent recurrence of such abuse/maltreatment.

The bill amends K.S.A. 75-7023 to ensure information regarding the possible trafficking of a runaway is provided to prosecutors and the court in juvenile offender cases, to be used only for diagnostic and referral purposes.

The bill removes some of the restrictive language for "Staff Secure" facilities, which were created by statute for placement of victims of human trafficking. This will allow for more facilities to become licensed to provide needed placement and treatment for human trafficking victims.

Some of the revisions clean up language to ensure proper terminology is used for certain entities (i.e., "Department of Corrections" rather than "juvenile justice authority").

The proposed bill, as originally introduced, absent the amendment added in the Senate as New Section 14., is detailed and was reviewed by numerous entities (Joint Committee, Kansas Judicial Council JO/CINC Committee, Kansas Supreme Court Task Force on Permanency Planning and Kansas Human Trafficking Advisory Board) involved with and knowledgeable about the issues and law addressed. The amendment added as New Section 14. has not been reviewed and vetted by these entities. The underlying bill will serve to bring the State into compliance with P.L. 113-183 *Preventing Sex Trafficking and Strengthening Families Act* and ensure improved processes and

services for children in the foster care system including, but not limited to, victims and those at risk of being victims of trafficking.

SB 418 will ensure Kansas is in compliance with federal law, which strengthens the State's requirements to identify, document and track minors in foster care who have been or are at risk of being victims of sex trafficking and ensure quality and effective services are provided. The provisions of the bill enhance and strengthen best practices in multiple areas of the foster system.

DCF is in support of SB 418. Thank you for the opportunity to provide testimony before the Committee today.