



Senate Committee on Judiciary

February 11, 2016

Testimony on:

SB 394

Presented by:

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Chair King, Vice Chair Smith, Ranking Member Haley and Members of the Committee:

SB 394, the “Supporting Families Act,” codifies in statute the practice that allows parents to execute a power of attorney to delegate to another person known as a “host family” the care and custody of their child(ren) for a period of up to one year with a possible extension for an additional year. Parents in Kansas already have the existing right, via established rules and regulations (K.A.R. 28-4-801) to execute a power of attorney to allow a relative or close friend to care for their child if the parent has such a need for a variety of different reasons. The regulation currently allows for this arrangement for a duration of time up to 90 days, as directed by the parent, through written documentation.

These respite relationships can serve to support and strengthen families that have or may in the future have contact with the Kansas Department for Children and Families (DCF). They may also assist in preventing the necessity of contact with the agency. DCF supports this concept and believes that these arrangements can further our mission to protect children, promote healthy families and encourage personal responsibility.

Lifeline Children’s Services, which has operated for the past approximately five years in Kansas in the Shawnee County vicinity, is affiliated with the Safe Families organization that had its beginnings in Illinois. Lifeline also serves as a licensed Child Placing Agency (CPA) in Kansas. The structure of Lifeline has been successful as a pilot project. This structure/process could be replicated throughout the state. DCF appreciates and values support from numerous organizations, corporations, faith-based groups and other entities and individuals statewide to assist children and families with whom we work and serve. SB 394 proposes to embody in statute that which is similar to the structure and practice of the Lifeline model. However, SB 394 would allow for such a program to be developed not only under the auspice of a CPA, but also a “charitable organization working under an agreement with a child placement agency,” as defined in the bill. A CPA is a licensed entity in Kansas, but charitable organizations would not be “licensed” as would CPAs. Consideration should be given to what such an “agreement with a child placement agency” would entail. Additionally, the process by which a charitable organization would engage to ensure children’s safety with host families should be reviewed.

DCF recommends consideration of several items in the current language as drafted. It is DCF policy that, when all else is equal, children should be cared for in the home of a parent; however, if out-of-home placement is necessary, a relative or non-related kin placement is preferential to a third-party placement. State and federal child welfare law also require placement of children out of home to be with relatives prior to others based upon research that guides best practices and serves as a basis for enactment of most child welfare law. Absent relative placement options, the “Supporting Families Act” allows children who have not been removed from the home due to safety issues to be placed in the care of a third party, if circumstances arise that cause parents to need those supports on a temporary basis, initially up to a year.

Section 3.(a)(2) rightfully provides the delegation of powers under the section shall not deprive the parent or legal custodian of any parental or legal authority regarding care and custody. However, the bill provides in Section 3. (b) that if a parent withdraws or revokes the power of attorney, the child shall be returned “as soon as reasonably possible”. In reviewing the “Supporting Families Act,” a more definitive amount of time may need to be considered in order to protect the rights of the parents regarding the care and control of their children.

The bill is unclear whether a form could be authorized/signed by only one parent. This could potentially interfere with the rights of the other parent, a parent residing outside of the home or the rights of a non-custodial parent if the power of attorney is signed by only one parent. In reviewing the “Supporting Families Act,” consent of both parents may need to be considered.

Both Sections 6. and 8. of the bill add requirements for DCF that exceed current statutory roles and obligations. Section 6. requires DCF to provide information “during any child protective investigation” to families about community services that provide numerous services including, but not limited to, respite or voluntary guardianships. Although the intent is clear, DCF does not have staff currently identified as “child protective investigator[s],” so that term may need to be revised. DCF is not currently resourced, in terms of finances or staff, to “work with” all of the families who fall within the multiple categories set forth in Section 8, which is not limited to just families who under existing statutes may have contact with the agency (i.e., “families in financial distress, unemployed, homeless or experiencing other family crises”). A family could fall into any one or more of these categories, but still not have any contact with DCF. However, since the language in Section 8 merely “authorize[s]” DCF to work with these families, it does not obligate the agency to work with all of these families in Kansas (regardless of their contact with the agency, or lack thereof).

DCF endorses the concept of the “Supporting Families Act” and requests consideration of the above issues as the legislature looks to codify and expand supports for families needing some type of respite or assistance or care options for their children.

DCF is in support of SB 394. Thank you for the opportunity to submit testimony about this proposed legislation.