



## House Corrections and Juvenile Justice Committee

March 8, 2016

*Testimony on:*

**SB 367**

Testimony By:

Kathy L. Armstrong

Assistant Director for Legal Services

Kansas Department for Children and Families

Andrew Wiens, Director of Policy and Legislative Affairs

DCF Administration Building, 555 S. Kansas Ave., 6th Floor

(785) 291-3629

[www.dcf.ks.gov](http://www.dcf.ks.gov)

**Testimony of:**

Kathy L. Armstrong, PPS Assistant Director for Legal Services  
Kansas Department for Children and Families  
Topeka, Kansas

**Testimony on:**

SB 367

**Chairman Rubin, Vice Chair Gonzalez, Ranking Member Highberger and Members of the Committee:**

I am Kathy Armstrong, Assistant Director for Legal Services at the Kansas Department for Children and Families (DCF). Thank you for the opportunity to testify about Senate Bill 367.

DCF greatly appreciates the work of the Juvenile Justice Workgroup in reviewing the juvenile justice system in Kansas for needed improvements. DCF was represented on the workgroup by our Deputy Secretary of Family Services, Jaime Rogers.

We believe that the workgroup's in-depth look at the juvenile justice system in the state was a beneficial process that yielded a number of positive policy recommendations to help improve the system for children, families, communities and other stakeholders. We support the general reform concepts put forth as a result of this juvenile justice system review and applaud the workgroup for its tireless efforts.

The bill before you today, SB 367, was drafted to enact changes to the system discussed in the workgroup's report. Given the complexity of the original SB 367, a bill which establishes and modifies numerous statutes, it was amended to address various concerns. Provisions in SB 367, discussed here, relate to revisions to the Kansas Child in Need of Care Code (CINC).

**New Section 3.** mandates the appointment of a multidisciplinary team (MDT) to review cases in which a juvenile fails to substantially comply with the development of the "immediate intervention plan." MDTs can be a great resource to communities. It is important to note that in the event a juvenile who fails to substantially comply with the intervention plan is in DCF custody, this MDT review may result in duplicative efforts. This duplication could occur if teams, case workers and the court presiding over the CINC action are already involved with the child. DCF is not listed as a required member of such MDT, but could be allowable per (a)(5).

**New Section 4** does require DCF to be a member of a newly-created juvenile justice oversight committee, which is appropriate, as some youth are "crossover" youth and move between the CINC system and juvenile justice system. New Section 4(c)(8)(D), as amended, lists as a topic subject for review by the juvenile justice oversight committee the "removal from the home of children in need of care for non-abuse or neglect, truancy, running away or additional child behavior problems when there is not court finding of parental abuse or neglect." This is a welcome provision that DCF

wholeheartedly supports, as further discussion and review of CINC children removed for these reasons is warranted.

**New Section 7 (as amended)** sets out requirements for a written reintegration plan to be submitted to the juvenile offender court if a juvenile is placed outside of his/her home and no reintegration plan is made part of the record at the dispositional hearing. This plan must be prepared by the “person who has custody,” and if there is disagreement among “persons necessary for the success of the plan,” (which would need to be defined), a court hearing must be set. If such a juvenile is placed in DCF custody, this process becomes potentially duplicative and cumbersome, as there are existing CINC statutes and related regulations for case plans that are based on the best interests of children and consistent with applicable federal and State laws relating to child welfare. Though DCF is well aware that reintegration is generally the preferred case plan, the case plan in the best interest of the child may or may not be reintegration, depending upon the facts and circumstances of the case.

**New Section 14 (as amended)** sets out in much detail requirements for law enforcement and the State Board of Education to promulgate rules and regulations creating a skills development training for responding “effectively to misconduct in school while minimizing student exposure to the juvenile justice system.” CINC children are also in the education system, and this section is relevant to considerations relating to these children. The training requires inclusion of the following: (b)(2) a risk and needs assessment (who will be required to administer the assessment?); (b)(3) mental health (generally only professionals licensed by the Kansas Behavioral Sciences Regulatory Board (BSRB) are trained to address mental health issues of students).

**New Section 16 (as amended)** Language provides for the exploration, development and utilization of a data exchange system. DCF supports improved systems to allow for secure and expedient sharing of necessary and legally-allowable information. However, requirement that DCF “shall” cooperate in the development of such system leaves some question as to the funding obligation at a time of budgetary constraints.

**Section 22** removes “juvenile detention facility” as an option for placement under specified circumstances and leaves as the option “secure facility”. Conceptually, DCF supports not placing children in juvenile detention facilities in these circumstances. This is a needed reform to the system, but there are some considerations that must be made as the State moves forward on this provision. Currently, there is only one secure care facility for girls in Kansas, and there are no secure care facilities for boys. If children in certain situations are not placed in safe placements temporarily (until other suitable placements can be identified), it places them at risk of becoming the victim of crimes including, but not limited to, human trafficking. Removing the option for the courts to place in a juvenile detention facility in K.S.A. 38-2232, 38-2242, 38-2255 and 38-2260, when there is such a limited number of licensed secure care facilities in Kansas, could be problematic for law enforcement and courts to act in the best interest of children in challenging scenarios. The amended language does delay the effective date of this section to July 1, 2019, which may remedy concerns, as it allows for additional time to strengthen placement options for children other than juvenile detention facilities.

DCF strongly supports the amended language in Section 22 (hh) requiring separation of CINC and juvenile offender children/youth placed in a Youth Residential facility.

DCF also strongly supports the Senate amendment, which included striking all language in what was Section 25 of the original bill.

Currently, K.S.A. 38-2288 prohibits a child alleged or found to be a Child in Need of Care (CINC) from being placed in a juvenile detention facility “unless such placement is necessary to protect the safety” of the child and is authorized by 38-2232, 38-2242, 38-2243 or 38-2260. The proposed bill in Section 27 deletes the current statutory provisions and removes the option for placement in a juvenile detention facility, even when the placement may have been deemed necessary to protect the safety of the child alleged or found to be a CINC. While this placement prohibition would typically not be an issue, there may be some individual situations that warrant a temporary placement. DCF would propose the date of effectiveness of this section be delayed to July 1, 2019.

**K.S.A. 38-2301** is revised by adding provisions relating to a “Reintegration Plan”. The terminology and requirements of such “reintegration plan” can relate to a child in “out-of-home placement.” If such a child is in the foster care system, this provision could possibly overlap and duplicate the child’s CINC case plan.

The bill as amended deletes the definition of “Youth residential facility” from **38-2302**, effective July 1, 2018. Though this placement option certainly does not serve the needs of all youth, it has provided an option deemed beneficial for certain youth in the past.

**Section 28** of the bill further revises 38-2302(g)(1) by providing a sentencing court may order “the continued placement of the juvenile offender as a child in need of care,” but deletes the current language immediately following such option, which states “unless the offender was adjudicated for a felony or a second or subsequent misdemeanor”. The current language provides an appropriate limitation to juvenile offenders who can be ordered to continue placement as a CINC. The new language added to (g)(1) further requires that in such a case (ordered continued placement as CINC), the DCF Secretary “shall address issues of abuse and neglect by parents and prepare parents for the children’s return home.” As stated previously, there may be certain occasions when the CINC case plan is not currently reintegration, in which case, a requirement to prepare parents for the children’s return home is not applicable. (g)(2) strikes language which allowed for consideration of reports/recommendations of foster placement, DCF Secretary, contract provider and “all other relevant factors” regarding continued placement. New language provides the risks and needs of juvenile offenders shall be addressed “according to the results of the risk and needs assessment”.

**K.S.A. 38-2202(g)(3)** is revised from language that currently indicates DCF shall not be responsible to furnish services ordered in CINC proceedings during the time of placement, pursuant to the Juvenile Offender Code. The new provision states that DCF shall be responsible for collaborating with the Kansas Department of Corrections to furnish such services. DCF has limited resources, which could inhibit the agency’s ability to meet this requirement.

Section 2. amends **K.S.A. 38-2330**. The provision relates to instances when law enforcement may take a juvenile into custody. (d)(1) is revised by deleting the existing requirement to take a juvenile taken into custody by law enforcement to certain enumerated entities and adds the requirement for the juvenile to be returned to the custody of his/her parent or custodian, unless there are “reasonable grounds to believe such action would not be in the best interest of the child”. If law enforcement staff, with limited time and resources, cannot determine “best interests,” the child may be returned to an unsafe home situation by eliminating entities as temporary placement options that currently further assess the child’s situations and needs.

**Section 33** is revised by deleting provisions related to language necessary under federal law to draw down Title IV-E dollars. If the IV-E eligibility of a child removed from home and placed into the custody of KDOC-JS is not determined, if that child is later transferred to the custody of DCF, the child will be barred from being determined IV-E eligible. The unintended consequences of such a deletion need to be fully explored.

The bill adds to **K.S.A. 38-2231** a new provision (c) which prohibits placement in a juvenile detention center solely for specified reasons that include risk of self-harm or violation of valid court order. This may limit options to ensure the safety of youth in certain scenarios.

The new bill in Section 41 revises **38-2361** by adding (k) which allows for short-term alternative placement of a juvenile to an emergency shelter, therapeutic foster home or community integration program, if a juvenile has been adjudicated a juvenile offender for offenses which, if committed as an adult, would constitute commission of certain sex or trafficking offenses enumerated. The provision engages DCF, but is specific in nature and could limit when such placements would occur and the manner and timeframe for addressing issues. This provision creates overlap with the juvenile system and child welfare system. As discussed previously, the CINC Code is created to allow for multiple options as determined to be in the best interest of children.

### **Conclusion**

DCF supports review and improvement of the juvenile justice system and services to meet the needs of children. We support the overall efforts to return children to their homes when it can be done safely and is in the best interest of the child. In fact, DCF places great emphasis on reintegrating children into their homes. We offer a broad range of services to help families address issues that prevent them from providing a safe and healthy home for their children. The goal is to address safety concerns so families can be reunited.

DCF is neutral with respect to SB 367 as amended, even as we support this effort to improve the juvenile justice system. Thank you for the opportunity to present testimony before this Committee.