

DCF LEGISLATIVE TESTIMONY



3/24/2021

TESTIMONY OF

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TESTIMONY ON

HB 2448

Chair

Concannon

Vice Chair

Esau

Ranking Member

Ousley

and

Members of the Committee

SUMMARY OF ISSUE & DCF POSITION

House Bill 2448 removes barriers for families who want to serve as licensed foster caregivers. KSA 65-516 restricts persons maintaining, residing, working or volunteering at a childcare facility based on prohibited criminal offenses. As written, this statute has resulted in barriers to placements, options and supports for children and families in the foster care system.

Because there is no exception or appeal process for these prohibited offenses, there are instances in which an otherwise perfect home cannot be licensed as a foster home because a foster youth residing there has a juvenile adjudication on their record and ages out of foster care.

DCF supports HB 2448 as it will remedy this issue by giving the Secretary of the Department for Children and Families the discretion to license a family foster home where a former foster youth who has been adjudicated as a juvenile offender resides, as long as certain conditions are met.

CONTEXT & HISTORY

As a result of agency reorganization, in 2015 DCF became the licensing and regulatory agency for 24-hour childcare facilities. These facilities include:

- Family Foster Homes
- Child Placement Agencies (CPA)
- Group Boarding Homes and Residential Centers
- Detention and Secure Care Centers
- Attendant Care Facilities
- Staff Secure Facilities
- Secure Residential Treatment Facilities

The DCF Licensing Division conducts initial licensure surveys, ongoing compliance inspections, and complaint investigations for these facilities. As part of this licensure process statute requires that individuals who work, reside, or volunteer in these facilities must be cleared of a criminal background check. KSA 65-516 lists the offenses that prohibit the licensure of one of these facilities. The offenses included on this list range from felony level crimes to non-person misdemeanors, but also include juvenile adjudications for crimes like burglary.

The strict language in KSA 65-516 offers no statute of limitations for juvenile adjudications, no appeal or exception process, and no discretion for DCF as the entity with oversight of licensure. This creates a problem in situations in which a foster child who has a juvenile adjudication ages out of care but wishes to remain in the foster home they were residing in. Due to the youth's juvenile adjudication, the family foster home must give up their license in order to be able to adopt the youth or allow them to maintain residence in the home. This results in the state losing a placement for other children and, if other foster youth reside in the home, youth having to move to new placements.

With costly legal expungement as the only way for families in this situation to maintain licensure, the existing statute limits the number of potential foster and adoptive families, limits support and subsidies available to families, restricts eligible caregivers in other placement options, and inhibits family and kinship placements in some instances. It also presents barriers to DCF's existing outcome measures and forthcoming settlement requirements; and is counterproductive to Kin First initiatives to enhance placement stability, place children with kin, and increase supports for caregiving families.

It should be noted that similar exception flexibility exists for criminal offenses for other licensing categories in the state. For instance, the Secretary of the Department for Aging and Disability Services has the authority to grant a waiver of an individual's criminal history for the purposes of employment in an adult care home, hospital, or home health agency.

EFFECT OF LEGISLATION

If adopted, HB 2448 would amend KSA 65-516 to give the Secretary for the Department for Children and Families the discretion to grant an exemption to a juvenile adjudication and allow a home in which an adult with a juvenile adjudication on their record resides to keep their foster home license if certain criteria are met. Criteria include determining that such an exemption would present no safety concern, that the individual was a child in state custody who was placed in that family foster home, is 18 years of age or older, and will either be maintaining residence in the home or has been legally adopted by any person who resides in the home.

DCF staff regularly makes determinations as to the safety and best interest of a child, so this process would not be a new one for the department. Each case would be carefully reviewed before an exception would be granted.

Granting the Secretary of DCF this authority will help youth in care reach permanent family homes with foster or adoptive families. It will also support family foster homes that are put in these situations maintain their licenses, so they are not forced to pick between the youth with the juvenile adjudication they want to keep in their home and the other children they are fostering.

FISCAL IMPACT OF LEGISLATION

DCF estimates little to no fiscal impact on the agency should HB 2448 be adopted. Any additional supports provided to families who become licensed due to the bill's passage can be absorbed in the existing budget. It's important to note that HB 2448 will result in some caregiver families not having to pay for an expungement of a juvenile adjudication.

DCF POSITION

DCF asks for your support for House Bill 2448. If adopted, it will allow DCF to provide the opportunity for youths with a juvenile adjudication to stay in their forever home, improve placement stability for foster youth, and align statute with a common sense approach to licensure.