



# DCF Legislative Testimony

February 7, 2025

**TESTIMONY OF:** Laura Howard, Secretary Department for Children and Families

**TESTIMONY ON:** House Bill 2175 - Requiring the secretary for children and families to notify the parent of a child who is the subject of an investigation of abuse or neglect of such parent's rights during such investigation and to complete a written report upon closing such an investigation, providing for an agreement between the parent of a child and the secretary if such child is removed from the home during an investigation of abuse or neglect and a parent to withhold certain information except when otherwise ordered by a court.

## DCF | HB 2175 | Parents Rights During an Investigation

Chair Howerton and members of the committee. Thank you for the opportunity to provide neutral testimony on House Bill 2175 and to share some concerns regarding the bill as written. In recent years, the Kansas Legislature passed a Bill of Rights for Foster Parents and a Bill of Rights for Foster Youth. DCF is very supportive of parents of a child under investigation knowing their rights and supporting parents in understanding what they will experience during the process of a child abuse and neglect investigation. However, we have concerns that the bill as written may hamper or delay the ability of DCF to investigate abuse and neglect and protect children from harm.

### Summary of the Bill

HB 2175 requires DCF to provide a written summary and verbal notification of the rights of the parents at the first contact in an investigation of child abuse and neglect. The bill allows parents to refuse to speak with DCF, to refuse to allow the secretary to enter the home until the parents' attorney is present and to not allow access to or interviews of the child without a court order. The bill allows parents to review all records of the investigation, unless the review would jeopardize a criminal investigation or child safety. The bill provides for an optional agreement between DCF and a parent in those situations when a child is removed from the home by an emergency order, is placed in police protective custody, or when a parent is receiving services from the secretary.

The bill provides that consent is required for the medical examination of a child who is in the custody of the Secretary but who is not yet adjudicated as a child in need of care. If a parent refuses to consent to release of medical records or treatment requested by the Secretary, a court shall conduct a full hearing to determine whether there is probable cause that releasing the records is necessary to protect the child from abuse or neglect. The court can enter an ex parte order requiring the production of the documents only if there is probable cause that conducting a full hearing would put the child in danger. The bill requires visual observation of a child in an investigation of abuse and neglect occur "as soon as possible." The bill further requires that if the Secretary is denied access to the child, the court can order access after a hearing if the court finds probable cause exists that access is necessary to protect the child from abuse and neglect. The Secretary can access the child, without a hearing, only when the Secretary has probable cause to believe the child has been harmed, is missing, or has a reasonable belief the child is being trafficked, or is experiencing a behavioral health crisis.

The bill requires the agency to inform the parent of several rights which are parallel to rights provided an accused in a criminal proceeding including that any statement or admission made by the parent can be used against them in a criminal or child in need of care proceeding, that they have the right to refuse to talk to the Secretary or provide access to the child without an attorney present or without a court order. The bill encourages parents to record and document each interview and interaction related to the investigation.

### Current Agency Practice and Concerns

The Secretary and law enforcement have the duty under Kansas law to receive and investigate reports of child abuse and neglect to determine whether (1) the report is valid and (2) whether action is required to protect a child. In SFY 2024, the Secretary assigned twenty-four thousand eight hundred eleven (24,811) reports of abuse and neglect for investigation and further assessment. The Secretary's duties under state law and pursuant to the Child Abuse Prevention Treatment Act (CAPTA) require the immediate screening, risk and safety assessment, and prompt investigation of such reports, procedures for immediate steps to be taken to ensure and protect the safety of a victim of child abuse or neglect and of any other child under the same care who may be in danger, and their placement in a safe environment. DCF currently provides a brochure to parents at the onset of a child abuse investigation: "*Kansas Child Protective Services: What you need to know about investigations of child*

*abuse or neglect*” (PPS 2010) which lists parents’ rights, instructs them on how to file a complaint, and describes the investigation procedures. When a report of abuse or neglect is assigned, an assessment is completed alongside the family to determine potential next steps to be taken to provide for the protection of the child. DCF shares Conversation Notes and assessment documentation with the parents. The goal of the Kansas Practice Model is to walk alongside families in building lasting safety for the family unit. While some of the rights included in this bill are consistent with the Kansas Practice Model, the mechanism for advising parents of these rights creates challenges in early engagement with families. DCF strives to provide a clear picture to families of their rights during an investigation or other proceedings in a way that builds relationships and rapport. The intricate nature of the rights in this bill may be difficult for families to navigate while also involved with child welfare staff.

As earlier said, DCF supports the spirit of a Bill of Rights for Parents and concurs that it is important and valuable for parents to know those rights, to understand what is happening, and to know what will take place during an investigation of child abuse and neglect. However, the agency has a number of concerns with the legislation as written: This bill would make it more difficult to protect children from harm because it creates procedural obstacles increasing response times, creates confusion, and includes processes that are duplicative or unnecessary. The requirement for a probable cause showing when a parent does not consent to medical examination will make it more difficult for the Secretary to comply with KSA 38-2226a requiring referrals for CARE exams for children under the age of 5 in certain investigations.

The bill also makes it more difficult to comply with the requirements of Adrian’s law which requires visual observation of the child. While the bill requires the Secretary to visually observe the child “as soon as possible,” the bill allows the parent to refuse the child being seen without an attorney present and to refuse to allow the Secretary to interview the child without a court order. The requirement that an attorney be present before there can be compliance with Adrian’s Law could delay such an action indefinitely, as the family would need to both identify and pay for the attorney until the right to court appointed counsel attaches at the filing of a child in need of care case. Furthermore, if the Secretary is denied access to see a child, a court hearing will be required except in certain situations where the Secretary must have probable cause or a reasonable belief, depending on whether the child is presumed to be harmed, missing, a victim of trafficking, or is experiencing a behavioral health crisis. These separate standards of proof applied to different children are inconsistent and will create confusion. While a family involved in a filed Child in Need of Care case would have the right to court appointed counsel, this bill does not clearly provide for counsel to the family during the different times when the Secretary may need to hold a hearing to access records, to access the child, or to obtain medical examination of the child.

The bill’s requirements that DCF inform the parents that they have the right for an attorney to be present before allowing DCF to enter the home, talk to a parent, or to see and interview a child will prevent the Secretary from investigating reports of abuse and neglect in a timely manner, will create confusion, and will increase the danger for such child. Also, if visually observing a child is delayed, then there may be a delay in the statutorily required Child Abuse Review Examination (CARE) referral.

New responsibilities detailed in the bill would require six additional attorney positions, one for each DCF region. Additionally the agency assumes increased operating expenses for document translation in the amount of \$21,600 annually be needed along with the salary, fringe and standard operating expenses.

While DCF supports the ability for parents to be more informed of their rights, we hope the committee considers the concerns outlined with this legislation as written. Thank you again for the opportunity to provide testimony on HB2175.

## What is a DCF Finding Decision?

The case finding is the decision about whether what happened meets the State's definitions for abuse/neglect, and whether the alleged perpetrator should not be permitted to reside, work or regularly volunteer in a child care facility regulated by the Kansas Department of Health and Environment (KDHE) or DCF Child Foster Care and Residential Facility Licensing. DCF has two case finding decisions.

- An **"unsubstantiated"** finding means a reasonable person weighing the facts or circumstances would decide it is more likely than not (preponderance of the evidence) the alleged perpetrator's actions or inactions do not meet the abuse and/or neglect definitions per applicable Kansas Statutes Annotated (K.S.A.) and Kansas Administrative Regulations (K.A.R.).
- A **"substantiated"** finding means a reasonable person weighing the facts and circumstances would decide it is more likely than not (preponderance of the evidence) the alleged perpetrator's actions or inactions meet the abuse/neglect definition per Kansas Statutes Annotated (K.S.A.) and Kansas Administrative Regulations (K.A.R.), and meet criteria indicating the alleged perpetrator should not be permitted to reside, work, or regularly volunteer in a child care facility regulated by KDHE or DCF Foster Care and Residential Facility Licensing.

If the evidence supports a substantiated finding, the person identified as responsible for the abuse or neglect will have his/her name placed on a statewide list of substantiated perpetrators known as the Kansas Child Abuse/Neglect Central Registry.

You will receive a copy of the finding decision in writing.

**State law does not allow DCF to tell you who made the report.**

## Kansas Child Welfare Values: Statements of what we believe drive what we do.

1. All children deserve to be protected and free from abuse and neglect.
2. Children should be maintained with their family whenever possible.
3. Families are important to the health and wholeness of children.
4. Children need consistent nurturing in a healthy environment to realize their full potential.
5. Children and families are to be understood within the context of their own family history and culture.
6. All children need and deserve healthy, enduring relationships that provide stability and belonging.
7. Foster care is a temporary intervention, with the primary goal of reintegration and, if reintegration is not possible, a secondary goal is to attain another form of permanency, such as adoption.
8. Kansas child welfare staff should demonstrate integrity, understanding and compassion when addressing and overcoming difficult issues with children and families.
9. Kansas child welfare staff should be committed, qualified, trained and skilled, and supported by an effectively structured organization.
10. Parents have the primary responsibility for a child's safety and wellbeing. However, the entire community can contribute to helping families so children reach their fullest potential.

Office:

CPS Specialist:

Telephone:

Kansas Department for Children and Families Prevention and Protection Services 555 S Kansas Ave. 4th Floor, Topeka, KS 66603  
1-833-765-2003 PPS-2010 REV Jan. 2025

# Kansas Child Protective Services

What you need to know about investigations of child abuse or neglect



## Why is DCF investigating me?

State law requires the Kansas Department for Children and Families (DCF) and/or law enforcement officers to investigate reports of alleged child abuse and neglect and decide if action is needed to protect your child.

## What is going to happen?

DCF staff members will identify themselves, talk with you about what has been reported and what will happen next.

DCF staff and/or a law enforcement officer will gather information to make a decision about whether the allegation(s) of abuse or neglect has happened or is in danger of happening.

To find out if any action is necessary to protect your child, DCF will ask to see and talk to your child, family members and others who may know about what is happening.

DCF will talk with you about the things you are already doing to help your family and other ways your family is being supported.

DCF may work with you, other family members and any other support resources you identify to develop a plan of care in order to protect your child.

## What are my rights?

- To refuse to talk to DCF
- To know what was reported
- To request DCF services
- To know the DCF finding decision
- To appeal a substantiated finding decision

## What can I do to help?

DCF staff wants to help your family. We will work with you to find the best ways to get the help your family may need. Please see Kansas Child Welfare Values on the back which describes the agency's values supporting our work to partner with families.

You can help by being cooperative and by openly talking to DCF and law enforcement officers. Giving the names of your relatives, friends, doctors, teachers and other people who have first-hand knowledge of you and your children will also be useful.

## What if I don't want to talk to DCF?

It is your right not to talk to DCF. However, by talking to DCF, you can help DCF staff members better understand your family's situation. This will ensure the best possible service decisions are made to keep everyone safe.

If you choose not to talk to DCF staff, and DCF staff members are not able to determine that your child is safe, DCF may ask for law enforcement assistance or a court order.

A law enforcement officer who believes a child may be harmed has the authority to take the child into protective custody. If it is necessary, the officer will take your child to a safe place.

## What can I do if I am dissatisfied with the process?

Talk about your concerns with DCF, calmly stating the facts as you see them. If you have concerns or questions after talking with DCF staff, you may speak to a DCF supervisor.

You may also contact the DCF Office of Client Services by calling **1-833-765-2003** or emailing [DCFCustomerService@ks.gov](mailto:DCFCustomerService@ks.gov).

## Will my child be removed?

DCF believes children should remain with their parents unless the children are determined unsafe. Your child will be removed from your home only in the most serious situations and if you are unable to protect your child by yourself.

If abuse or neglect has happened or is likely to happen to your child, DCF will help your family make a plan to keep everyone safe.

In order to ensure the safety of your child and minimize trauma, you may need to consider:

- If someone in your home is a threat to your child, can you tell that person to leave?
- Are any family members or friends willing and able to care for your child in their home?

If neither choice is possible right now, law enforcement may place your child in protective custody or a judge may give temporary custody of your child to DCF or another person.

## Will I go to court?

Parents can usually make necessary changes without involving the court. DCF must report substantiated case findings to the county or district attorney. The county or district attorney decides whether to file a case with the court. If a "Child in Need of Care" petition is filed, the court will hold a hearing, and you may appear with an attorney. DCF may be a witness, but DCF has no authority or control over court decisions.

If your child has been removed by a law enforcement officer or by an emergency court order, a court hearing must be held within 72 hours (except weekends and holidays) to determine if your child can be returned to you.