

# DCF LEGISLATIVE TESTIMONY



2/2/2021

## **TESTIMONY OF**

Scott Henricks, Director of Permanency  
Kansas Department for Children and Families

## **TESTIMONY ON**

HB 2149

**Chair**

Concannon

**Vice Chair**

Esau

**Ranking Member**

Ousley

**and**

**Members of the Committee**

## SUMMARY OF ISSUE & DCF POSITION

House Bill 2149 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 someone residing there has a criminal offense on their record. Even if the only prohibited offense on record is a non-person misdemeanor from decades ago, it must be expunged before the home can be licensed. Expungement can be a cost prohibitive process for families that can delay or otherwise negatively impact a child's case.

DCF requested and introduced HB 2149 to give the Secretary of the Department for Children and Families discretion to grant an exception to these prohibited offenses when no current safety concern exists and doing so is determined to be in the child's best interest.

## 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 and juvenile crimes like burglary.

The strict language in KSA 65-516 offers no statute of limitations for offenses, no appeal or exception process, and no discretion for DCF as the entity with oversight licensure. Even if the prohibited offense is a juvenile or non-person misdemeanor that is preventing the licensure of an otherwise perfect family foster home, DCF has no authority to grant exemptions to the provisions of KSA 65-516. This does not align with DCF's common sense approach to licensure.

With costly legal expungement as the only way for families with prohibited offenses to achieve 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.

Specific problem areas affected by the lack of flexibility on prohibited offenses:

- Limits licensing and placement in kinship homes
  - A substantial number of potential kinship placement homes are ineligible for licensure and increased supports and subsidies due to existing prohibitive offenses statute.
- Limits some relative placement homes from becoming licensed
  - Relative placement homes have the right to become a licensed family foster home if they choose to be. Some might be ineligible to pursue licensure and enhanced support due to KSA 65-516.
- Limits ability for some foster/adoptive parents to maintain license
  - There have been instances when families have been required to relinquish their foster home license due to having a family member with a prohibitive offense reside in their home, or even when they have adopted a child with a prohibitive offense.
- Limits employment pool for congregate care settings
  - Effects the ability to hire and meet regulated staffing ratios
- Impact on Interstate Compact for the Placement of Children placements (ICPC)
  - Creates barriers for children in the custody of another state from potentially being placed in Kansas with an identified kinship home.

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 2149 would amend KSA 65-516 to give the Secretary for the Department for Children and Families the discretion to grant exemptions to prohibited offenses should it be determined that doing so would be in a child's best interest and does not present a current safety concern. 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 any such exemption is granted.

Granting the Secretary of DCF this authority would result in the following:

- Allow more placement options for children in custody of DCF Secretary
- Increase capacity of kinship and relative homes
- Increase capacity of family foster homes and applicants
- Allow for certain family units to remain intact while providing care for a child in the custody of the Secretary
- Improve placement stability, as some kinship and relative homes may be eligible for licensure and increased support

### FISCAL IMPACT OF LEGISLATION

DCF estimates little to no fiscal impact on the agency should HB 2149 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 2149 will result in some caregiver families not having to pay for an expungement of a prohibited offense.

### DCF POSITION

DCF asks for your support for House Bill 2149. If adopted, it will allow DCF to provide additional supports to families and youth in the foster care system, improve placement stability for foster youth, and align statute with a common sense approach to licensure.