

March 6, 2023

The Honorable Susan Concannon, Chairperson  
House Committee on Child Welfare and Foster Care  
300 SW 10th Avenue, Room 152-S  
Topeka, Kansas 66612

Dear Representative Concannon:

**SUBJECT:** Fiscal Note for HB 2443 by House Committee on Appropriations

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2443 is respectfully submitted to your committee.

HB 2443 would establish the Office of the Child Advocate as an independent state agency. The purpose of the Office would be to ensure children and families receive adequate coordination of child welfare services from various entities, including the Judicial Branch. The Child Advocate would receive, investigate, and attempt to resolve complaints from any person involved in the child welfare system that various entities, including the juvenile courts, have provided inadequate protection or care of children. The Child Advocate would also assist the State of Kansas in conducting oversight of the child welfare system. The Office of the Child Advocate would operate independent of other state agencies and would report directly to the Child Advocate Advisory Board created by the bill, which also lists the responsibilities and members of the Board.

None of the Child Advocate's duties would delay court proceedings or excuse any court, county or district attorney, guardian ad litem, or other agency from their duties. The Child Advocate would be required to have a current license or credential which is listed in the bill and have at least seven years' experience in the field of child welfare. No former or current executive or manager of any program or agency or contracting agency subject to oversight by the Office could be appointed the Child Advocate within twelve months of that person's period of service with such program or agency.

The bill would also require various reports to be submitted to the Governor, various legislative committees, and the Office of Judicial Administration. These reports would include information related to complaints received by the Child Advocate, recommendations for improving the function of various offices, and recommendations for changes in Kansas law. These

reports would not be subject to the Kansas Open Records Act until a legislative committee who receives a report has met.

Information obtained by the Office of the Child Advocate would be subject to the same state and federal statutory disclosure restrictions and confidentiality requirements that are applicable to the state agency or entity providing the information. Any files maintained by the Office of the Child Advocate would be confidential and disclosed only at the discretion of the Child Advocate, except that the identity of any complainant or child could not be disclosed unless certain elements are met.

The bill would specify that no retaliatory action could knowingly be taken against any child or employee of various entities providing child welfare services, including employees of juvenile courts, for any communication made or information given to the Child Advocate. A violation would constitute a Class A nonperson misdemeanor. Disclosure or use of information received by the Office of the Child Advocate, or any record containing information, for any purpose other than provided in law would constitute grounds for removal from office or termination of employment.

The Office of Judicial Administration (OJA) indicates that HB 2443 could increase the number of cases filed in district courts because it would create a new crime. This, in turn, would increase the time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. Since this crime carries a misdemeanor penalty, there could also be more supervision of offenders required to be performed by court services officers. In addition, the bill could result in some additional work for district court and OJA staff to provide information requested by the Child Advocate. The bill could result in the collection of supervision fees in those cases filed under the provisions of the bill. Nevertheless, until the courts have had an opportunity to operate under the provisions of the bill, an accurate estimate of the fiscal effect on expenditures and revenues by the Judicial Branch cannot be given. The bill could result in the collection of docket fees, fines and supervision fees in those cases filed under the provisions of the bill, which would be deposited in the State General Fund or other state funds.

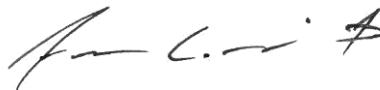
Currently, the Kansas Division of the Child Advocate (KDCA) is a division within the Office of Public Advocates and attached to the Department of Administration (DoA) for technical assistance and advice to function independently. Operating in calendar years 2022 and 2023 under E.O. 21-28, KDCA has focused on building a new division. Future workload is expected to increase moving forward as the division is incorporated into statute, further publicized, and in consideration of the number of children and families involved in the child welfare system. KDCA indicates that HB 2443 would increase expenditures by \$104,200 from the State General Fund for 2.00 additional FTE Case Investigative Analyst positions in anticipation of workload increases. Also, KDCA currently receives operational support services from the DoA for personnel matters, budgeting, accounting, facility management, and information technology. If that support were not to continue, KDCA would have additional expenditures to cover the services. The fiscal effect for additional support is unknown.

The bill states that the Office of the Child Advocate *may* “utilize the resources of the Office of the Attorney General, as necessary, to carry out any duties of the Child Advocate and receive

legal counsel or services.” It is unclear what that language would require from the Office of the Attorney General. The Office is unable to determine a fiscal effect on expenditures.

The Department for Children and Families and the Kansas Department for Aging and Disability Services indicate that HB 2443 would not have a fiscal effect on either agency. Any fiscal effect associated with HB 2443 is not reflected in *The FY 2024 Governor’s Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt  
Director of the Budget

cc: Tamara Emery, Department of Administration  
Kim Holter, Department for Children & Families