

State Child Death Review Board; Advisory Committee on Trauma; Child Abuse and Neglect; Family Foster Care Home Licensing; Joint Committee on Child Welfare System Oversight; HB 2158

HB 2158 amends law regarding the State Child Death Review Board (Board), the Advisory Committee on Trauma, the Kansas Code for Care of Children concerning investigations for child abuse or neglect, family foster home licensing, and eligibility for child care assistance and establishes the Joint Committee on Child Welfare System Oversight (Joint Committee).

State Child Death Review Board

The bill clarifies the language of an exception to the confidentiality of information acquired by and records of the Board for certain legislators and legislative committees and adds exceptions to confidentiality to allow the Board, or the Board's designee, to disclose information and records to:

- Any person or entity contracting with the Board, if the Board determines disclosure is essential for completion of the contract and has taken appropriate steps to preserve confidentiality;
- Any person or entity, if the information and records being disclosed are statistics or conclusions of the Board of the same type included in the Board's annual report;
- Any Kansas state or local law enforcement agency, if the Board determines the information and records being disclosed were not previously available to the law enforcement agency for the investigation of the cause of the child's death; and
 - The Board determines the cause of the child's death was from abuse or neglect; or
 - The Board does not determine the child's death was from abuse or neglect and has knowledge of a law enforcement investigation based on an official offense report as required in statute of abuse or neglect involving the death of a child;
- Any county or district attorney, if the Board determines the information and records being disclosed were not previously available to the county or district attorney for the prosecution of any crimes related to the cause of the child's death; and
 - The Board determines the cause of the child's death was from abuse or neglect; or
 - The Board does not determine the child's death was from abuse or neglect and has knowledge of a law enforcement investigation based on

an official offense report as required in statute of abuse or neglect involving the death of a child;

- Any entity established by a city or county for the express purpose of providing a local review of child deaths if the information and records being disclosed are related to a child's death where either such death occurred in such city or county or such child was a resident of such city or county. The bill provides this exception expires on July 1, 2026, unless reviewed and reenacted by the Legislature prior to that date, and requires the Joint Committee created by the bill to review this exception;
- Any licensing body, as defined elsewhere in statute, if:
 - The information and records being disclosed are related to a disciplinary complaint against a person licensed by such licensing body;
 - Any member of the Board is under a professional obligation to make a disciplinary complaint against a person licensed by such licensing body; or
 - A person licensed by such licensing body may have caused or contributed to the child's death; and
- A governmental agency or an organization that has a federal-wide assurance (FWA) for the protection of human subjects that is in good standing with the U.S. Department of Health and Human Services Office for Human Research Protections, if:
 - The agency or organization provides documentation that an institutional review board designated in the FWA has reviewed the organization's research proposal;
 - Personally identifiable information is redacted from the disclosure;
 - The disclosure is only for the purpose of health or education; and
 - The agency or organization requires all persons granted access to the disclosed information and records to sign a confidentiality agreement prior to receipt of the information and records.

Advisory Committee on Trauma

The bill removes the July 1, 2021, sunset date for authorization for the Advisory Committee on Trauma (ACT) and regional trauma councils to conduct closed sessions at meetings when reviewing trauma cases and any records or findings that are privileged.

Visual Observation During Investigations for Child Abuse or Neglect (Adrian's Law)

[Note: The bill contains a whereas clause designating these provisions as Adrian's Law.]

Concerning investigations related to reports of child abuse or neglect, the bill requires that a child who is an alleged victim of abuse or neglect be visually observed by either the employee of the Kansas Department for Children and Families (DCF) or the law enforcement agency investigating the report. The bill allows either the Secretary for Children and Families (Secretary) or the law enforcement agency to appoint a designee for observation.

In the event of a joint investigation by DCF and law enforcement, the bill requires the Secretary and the law enforcement agency to visually observe such child. All investigation reports required by the bill must include the date, time, and location of any such visual observation of a child. The bill allows both the Secretary and the law enforcement agency to appoint a designee for such observation.

Joint Committee on Child Welfare System Oversight

The bill establishes the Joint Committee and outlines the topics for Joint Committee review, provides for the appointment and compensation of Joint Committee members, establishes the frequency of meetings, requires an annual report to designated House and Senate leadership positions and certain standing committees, allows for professional services, and authorizes the Joint Committee to make recommendations and introduce legislation.

Topics for Review by Joint Committee

The Joint Committee is required to review the following:

- Data on child maltreatment and demographic trends impacting the child welfare system;
- Duties, responsibilities, and contributions of DCF, Kansas Department for Aging and Disability Services (KDADS), Kansas Department of Health and Environment (KDHE), Department of Corrections, law enforcement, and the Judicial Branch that comprise and impact the child welfare system;
- Programs, services, and benefits offered directly or through grants or contracts by DCF, KDADS, KDHE, and the Judicial Branch that impact children and families at risk of becoming involved or who are involved in the child welfare system, including:
 - Child maltreatment prevention;
 - Investigation of child maltreatment;
 - In-home family services, including services offered through federal prevention and family preservation funding; and
 - Foster care, reintegration, and adoption services;
- Trends, performance outcomes, activities, and improvement plans related to the federal child and family services reviews;

- Reports from child welfare-related groups, including citizen review panels, the Kansas Supreme Court Permanency Planning Task Force, the Kansas Children’s Cabinet, and any interim study committees or work groups authorized by the Kansas Legislature;
- Implementation of the 2019 Child Welfare System Task Force Report recommendations, including top-tier recommendations related to the child welfare workforce, data technology, access to behavioral health care for high-risk youth, and implementation of the federal Family First Prevention Services Act;
- Reports on concerns received from the DCF child welfare ombudsman, customer service department, or similar office;
- Opportunities for Kansas to strengthen the child welfare system through evidence-based interventions and services for children and families;
- Data and trends on family foster home licenses issued pursuant to the exception created elsewhere in the bill;
- The exception added by the bill to confidentiality of Board records for city or county entities reviewing child deaths; and
- Any other topic the Joint Committee deems necessary or appropriate.

Membership

The bill provides for the appointment of 13 members to the Joint Committee, as follows:

- Two members of the House Committee on Children and Seniors by the Speaker of the House of Representatives;
- One member of the House Committee on Children and Seniors by the Minority Leader of the House of Representatives;
- Two members of the Senate Committee on Public Health and Welfare by the President of the Senate;
- One member of the Senate Committee on Public Health and Welfare by the Minority Leader of the Senate;
- Two members of the House of Representatives by the Speaker of the House of Representatives;
- One member of the House of Representatives by the Minority Leader of the House of Representatives;

- Two members of the Senate by the President of the Senate;
- One member of the Senate by the Minority Leader of the Senate; and
- One member of the House of Representatives appointed by the Majority Leader of the House of Representatives.

Terms of Membership

The bill requires members to be appointed for terms coinciding with the legislative terms for which such members were elected or appointed. Appointments to fill vacancies or to succeed members appointed to the Joint Committee will occur in the same manner as the original appointment of the member succeeded.

Appointment of Chairperson, Vice-chairperson, and Ranking Minority Member

The President of the Senate is required to appoint the first chairperson from among the members of the Joint Committee appointed by the President of the Senate, within 30 days of the effective date of the bill. The bill requires the chairperson and vice-chairperson positions to alternate annually between the members appointed by the President of the Senate and the Speaker of the House of Representatives. When appointing a chairperson or vice-chairperson as provided in the bill, the President of the Senate and the Speaker of the House of Representatives are required to appoint a member from their respective chambers.

The bill requires the ranking minority member of the Joint Committee be from the same chamber as the chairperson. When appointing a ranking minority member as provided in the bill, the Minority Leader of the Senate and the Minority Leader of the House of Representatives are required to appoint members from their respective chambers.

Member Compensation

Joint Committee members will be paid compensation, amounts for travel expenses, and subsistence expenses or allowances for attendance at any meeting of the Joint Committee or any subcommittee meeting authorized by the Joint Committee.

Professional Services

The bill allows the Legislative Coordinating Council to provide for professional services as requested by the Joint Committee.

Recommendations and Introduction of Legislation

The bill authorizes the Joint Committee to make recommendations and introduce legislation it deems necessary in performing its functions.

Meetings

After the initial meeting, the Joint Committee is required to meet at least once during each of the first and second calendar quarters when the Legislature is in regular session and at least once during each of the third and fourth calendar quarters, on the call of the chairperson. The Joint Committee is limited to six meetings in a calendar year.

Seven members of the Joint Committee constitutes a quorum.

Annual Report

At the beginning of each regular session of the Legislature, the bill requires the Joint Committee to submit a written report to the President of the Senate, the Speaker of the House of Representatives, the House Committee on Children and Seniors, and the Senate Committee on Public Health and Welfare. The report must include any recommended changes to current laws, rules and regulations, and policies regarding the safety and well-being of children in the child welfare system in the state.

Eligibility for Child Care Assistance

The bill amends law governing eligibility for non-temporary assistance for needy families (non-TANF) child care by adding an exemption to the 20-hour-per-week work participation requirement for adult caretakers of a child in custody of the Secretary in out-of-home placement who need child care assistance.

Family Foster Home Licensing

The bill amends statutes governing restrictions on persons maintaining or residing, working, or volunteering at a child care facility. Specifically, the bill allows the Secretary to license a family foster home when a person who has been adjudicated as a juvenile offender for certain otherwise disqualifying acts under continuing law:

- Was a child in the custody of the Secretary and placed with such family foster home by the Secretary;
- Is 18 years of age or older; and
- Maintains residence at such family foster home or has been legally adopted by any person who resides at such family foster home.

To grant a license under this provision, the Secretary must determine there is no safety concern and that six months have passed since the date of adjudication.

The otherwise disqualifying acts covered by this provision include:

- Acts that if done by an adult constitute the commission of a felony that is a crime against persons;
- Any act described in the articles of the Kansas Criminal Code covering crimes against persons, sex offenses, or crimes affecting family relationships and children; and
- Certain acts described in the articles of the Kansas Criminal Code covering crimes involving violations of personal rights, crimes against the public safety, and crimes against the public morals.

[*Note:* Although the statute makes other references to the Secretary of Health and Environment, who generally oversees child care licensing, 2015 Executive Reorganization Order No. 43 transferred responsibility for foster care licensing to the Secretary for Children and Families.]