ESTABLISHING THE OFFICE OF THE CHILD ADVOCATE

KANSAS' S FOSTER CARE SYSTEM IS STILL IN CRISIS – THE KANSAS LEGISLATURE HAS A ROLE TO PLAY IN IMPROVING OUR KIDS' FUTURES

Too many children are in the foster care system. Children are entering care at racially disproportionate rates. Placement instability is dangerously high. These are just some of the issues facing Kansas's foster care system.

Fixing the foster care system will take coordinated effort that addresses issues on several fronts, including:
- Increased resources and support for Kansas families
- Improving conditions and training for those working in the system
- Implementing structural improvements like those that could be addressed with the creation of the Office of the Child Advocate

Truly independent oversight is a crucial and necessary component to successful foster care reform.

WHY DO WE NEED AN OFFICE OF THE CHILD ADVOCATE?

The 2018 Child Welfare System Task Force Working Groups studied Kansas's child welfare system and recommended “The State of Kansas shall fund and establish the Office of the Child Advocate (OCA) for Children's Protection and Services within the Kansas Department of Administration to identify challenges across the child welfare system, provide oversight, and propose solutions.” According to the National Conference of State Legislatures (NCSL), Kansas is one of few states that doesn't currently have either an Office of the Child Advocate, Children’s Ombudsman Office or a statewide Ombudsman program to address concerns including children’s services. The United States Ombudsman Association established best practices for ombudsman offices in government. According to these best practices, “Independence is a core defining principle of an effective and credible Ombudsman.”

The model of the OCA proposed in HB 2187 – an office established by the Kansas Legislature that reports and acts independently of the Kansas Department for Children and Families and the Department of Corrections – offers the highest level of independence among the state models outlined by the NCSL. Thirteen states currently have similar offices that operate independently of their child welfare agencies.
The Office of the Child Advocate (OCA) would help assure Kansas children receive adequate protection and care through the services offered by Kansas state agencies.

The OCA would be located in the Department of Administration and would be administered by the Child Advocate. The Child Advocate would be jointly appointed by the Governor and the Kansas Supreme Court Chief Justice with the advice and consent of the Kansas Senate. The Child Advocate would report directly to the Secretary of Administration. They would hold office for a six-year term. Importantly, the Child Advocate would act independently of the Kansas agency administering the foster care system. The Department of Administration would provide administrative support and staff to the office as necessary.

The entities overseeing children’s services shall enter into agreements with the OCA for the provision of financial funds from available state and federal funds currently available to those agencies. This assistance would be included in the proposed budgets going forward.\(^6\)

Over the last decade, the average foster care expenditure per child was $25,819 in Kansas.\(^7\) For FY 2020, it was $32,317. The fiscal note for HB 2187 estimates the OCA would require $766,064. Using the 10-year average figure, the OCA would pay for itself if it results in just 30 fewer kids in foster care.\(^8\)

The cost of the OCA is 0.004% of the 2020 state budget—in other words, four pennies per $1,000.\(^9\)

**WHAT WOULD THE OFFICE OF THE CHILD ADVOCATE DO?**

The OCA would have the authority to communicate privately with any child under protective services of the state and anyone working with the child. It would be able to access relevant child records, work with juvenile officers and guardians ad litem, and utilize the resources of the Office of the Attorney General as necessary. Functions of the OCA would include:

- Establishing and implementing procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of children receiving state services
- Conducting independent reviews of any entity with three or more reports of child abuse or neglect in a calendar year
- Filing reports of findings regarding the parent or child with the appropriate court
- Issuing recommendations regarding investigations
- Drafting and submitting briefs to support the interests of a parent or child in the courts
- Initiating meetings with employees of relevant state agencies

HB 2187 would also make several amendments to current law with regards to the necessary access to certain files and records by the OCA.

**CONCLUSION**

Kansas kids deserve the best support we can provide them. Vulnerable children entering state care need an independent entity looking out for their interests.

The best available information tells us that independent oversight is an important piece of providing the best for our children. **Establishing an Office of the Child Advocate is a necessary step to fixing issues in Kansas’s foster care system.**

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7. Data analyzed by Kansas Appleseed. Sources included: DCF Removals, DCF Testimony to the House Social Services Budget Committee 2019, Kansas Division of the Budget 2020 Comparison Report, and Reports on Removals, Placements and Out of Home Placement from DCF.
8. $766,064 (cost of OCA) / $25,819 (cost of foster care per kid) = 29.67
9. $66,064 / $18,410,958,177 = 0.004%. Source for total expenditures: Kansas Division of the Budget 2020 Comparison Report.