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Oral Testimony in Support of HB 22132
House Committee on Child Welfare and Foster Care

Chair Howerton, Ranking Member Ousely and Members of the House Committee on Child Welfare and Foster Care,

Thank you for the opportunity to provide this testimony. I am here today in support of House Bill 2132, which would modify the definition of neglect in Kansas law so that a child could not be removed from their home based solely on a lack of financial resources.

Kansas Appleseed has a long history of unwavering commitment to advocating for the rights and well-being of children, including improving our state's foster care system. Despite some improvements to the foster care system in recent years, it remains a system in crisis that is not always serving the best interests of the children in its care.

The foster care system in Kansas has long done a disservice to Kansas' most vulnerable children. HB 2132 is a step to improve that system. Currently, state law defines neglect as a failure to provide for a child's needs. However, failure due to financial means is not the same as refusal to provide. The former represents parental circumstance and the latter represents intentional neglect and imminent harm to the child. Clarifying this definition will prevent unnecessary trauma to families and children due to removal of children from their home. Instead, families in need will receive help to provide for their children, strengthening positive outcomes for all in the family unit.

We know children do best with their families. Every effort should be made to ensure that children can safely stay with their families. An established body of research has shown time and again that children in foster care experience significant negative outcomes from being in foster care, impacting their ability to thrive later in life. For example:

- Children in foster care are more likely to experience depression, anxiety, PTSD, and other mental health issues compared to their peers. In many instances, this is due to the trauma of removal and prolonged separation from their loved ones and established networks.¹

¹ Pecora PJ, Jensen PS, Romanelli LH, Jackson LJ, Ortiz A. [Mental health services for children placed in foster care: an overview of current challenges](https://www.sciencedirect.com/science/article/pii/S0190740921001766). *Child Welfare*. 2009;88(1):5-26; Papovich, C. "Trauma and Children in Foster Care." *Forensic Scholars Today*. 2019, 5(4): 1-5; Dubois-Comtois, K., Bussieres, E., Chantal, C., St-Onge, J., Baudry, C., Milot, T., Labbe, A. "Are children and adolescents in foster care at greater risk of mental health problems than their counterparts? A meta-analysis." *Children and Youth Services Review*, 2021, 127: <https://www.sciencedirect.com/science/article/pii/S0190740921001766>

- They are also more likely to experience disruptions in brain development, which can impact cognitive functions like memory, language skills, and executive functioning due to growing up in inconsistent caregiving environments.²
- Children in foster care also are more likely to fall behind their peers in school in terms of academic achievement, attendance, and learning delays. This is due to frequent school changes with placement instability and moves outside of their own school districts. We see these same results in Kansas, with children in foster care having graduation rates and attendance rates that lag behind their peers. Additionally, children in Kansas foster care are significantly more likely to drop out of school.³

That harm and disadvantage from the foster care system and separation from parents is the reality for almost 6,000 Kansas children.⁴ The scale of the Kansas foster care system and where it is failing children speaks to the importance of keeping children with their families and loved ones when their safety is not at risk:

- The most recent federal review of Kansas' child welfare system shows that more can and should be done in the state to keep children and families together. Federal reviewers found in a case review that less than 50% of cases indicated that the agency made efforts to provide appropriate services to prevent the children from entry or reentry into the foster care system.⁵
- Once in foster care, Kansas children in foster care are moved from placement to placement at higher rates than other states. A federal review of Kansas' system reveals that the state continues to decline in their ability to provide stable placements to children in foster care. Federal reviewers found that the number of moves a child experiences per 1,000 days in foster care has increased. Kansas children in foster care experience a rate of over 6 moves per 1000 days in care. Monitoring of DCF's performance for our settlement agreement with them confirmed these results.⁶
- Further, once children are in foster care, they languish there. The recent federal review found that Kansas is performing worse than other states at ensuring children are reuniting with their families or achieving another permanent living arrangement in a timely manner. The federal review found cases only achieved timely reunification 27% of the time. Timely reunification is defined as less than 12 months. The longer a child is in

² Leve, L. D., Harold, G. T., Chamberlain, P., Landsverk, J. A., Fisher, P. A., Vostanis, P. "Practitioner Review: children in foster care—vulnerabilities and evidence-based interventions that promote resilience processes." *Journal of Child Psychology and Psychiatry*. 2012. <https://pmc.ncbi.nlm.nih.gov/articles/PMC3505234/>

³ Leve, L. D., Harold, G. T., Chamberlain, P., Landsverk, J. A., Fisher, P. A., Vostanis, P. "Practitioner Review: children in foster care—vulnerabilities and evidence-based interventions that promote resilience processes." *Journal of Child Psychology and Psychiatry*. 2012. <https://pmc.ncbi.nlm.nih.gov/articles/PMC3505234/> and DCF. "Foster Care Report Card." 2022-2024. <https://www.dcf.ks.gov/Agency/Testimony/Documents/2024/Foster%20Care%20Report%20Card%202023%20-%20Final%20Accessible.pdf>

⁴ DCF. FY 2024 Removals, Exits and Out of Home Summary. https://www.dcf.ks.gov/services/PPS/Documents/FY2024DataReports/FCAD_Summary/FACTSRemovalsExitsOOHSFY24.pdf

⁵ Administration for Children and Families. "Child and Family Services Reviews: Kansas Final Report." 2023. <https://www.acf.hhs.gov/sites/default/files/documents/cb/ks-cfsr-r4-final.pdf>

⁶ Administration for Children and Families. "Child and Family Services Reviews: Kansas Final Report." 2023. <https://www.acf.hhs.gov/sites/default/files/documents/cb/ks-cfsr-r4-final.pdf> and Center for the Study of Social Policy. "McIntyre v. Howard: Progress Report, Period 3." 2024. <https://cssp.org/wp-content/uploads/2024/09/McIntyre-v.-Howard-Period-3-Report.pdf>

foster care, the more at-risk the child is for poor outcomes and to never reunite with their family.⁷

- Kansas' rate of children in foster care is almost twice the national average. On any given day in Kansas close to 6,000 kids are in foster care and 250 more enter foster care.⁸

Poverty does not equate to neglect, yet of the close to 6,000 children in foster care in Kansas, the largest portion of them are in foster care due to neglect-related reasons.⁹ Neglect is the number one allegation in reports to child protective services around the country, and families experiencing poverty are more likely to be reported for child neglect.¹⁰ Poverty can be a risk factor for neglect, because it produces hardships and stress for families. Yet, to conflate poverty with neglect ignores the complicated realities of families facing poverty. Historically definitions of neglect have ignored risk factors and circumstances, leading to punishing struggling families and driving up the percentage of children entering foster care due to "neglect."¹¹

Each state has the authority to define what neglect means. The definitions vary across the states, but experts agree that child neglect occurs when parents do not meet the needs of their child. This can include inadequate clothing, food shelter, and medical care. However, what is missing from many states' definition of neglect is the fundamental distinction that a parent's incapacity to provide for a child is not the same as an unwillingness to do so.¹² HB 2132 brings this much needed distinction into Kansas law. As written, state law defines neglect as the failure to provide for a child. Under HB 2132 neglect would be defined as the failure of providing for a child, when a parent has the means to do so or when the child was in imminent danger.

Making this important distinction the law in Kansas, would help the hundred of thousands of struggling Kansas parents:

- 154,000 Kansas children live in homes with a family income less than twice the federal poverty level.¹³
- 12% of Kansas households live below the federal poverty level. Another 27% are households that do not earn enough to afford their basic needs such as housing, child

⁷ Administration for Children and Families. "Child and Family Services Reviews: Kansas Final Report." 2023.

<https://www.acf.hhs.gov/sites/default/files/documents/cb/ks-cfsr-r4-final.pdf>

⁸ DCF, FY 2023 Removals, Exits, and Out of Home Summary (FACTS). 2023.

https://www.dcf.ks.gov/services/PPS/Documents/FY2023DataReports/FCAD_Summary/FACTSRemovalsExitsOOHSFY23.pdf

⁹ Kansas Appleseed analysis of DCF. "FACTS: Children Placed in Out of Home Placement by Primary Reason for Removal." FY 2024.

https://www.dcf.ks.gov/services/PPS/Documents/FY2024DataReports/FCAD_Summary/RemovalsByPrimaryReasonFY2024.pdf

¹⁰ Child Welfare Information Gateway. "Separating Poverty From Neglect." 2023.

<https://cwig-prod-prod-drupal-s3fs-us-east-1.s3.amazonaws.com/public/documents/bulletins-povertyneglect.pdf?VersionId=x2GsXdvm8qWqsNr5PRp5cscenhOHas4zf>

¹¹ Yordy, J. "Poverty and Child Neglect: How Did We Get it Wrong?" 2023. NCSL. Child Welfare Information Gateway. "Separating Poverty From Neglect." 2023.

<https://www.ncsl.org/state-legislatures-news/details/poverty-and-child-neglect-how-did-we-get-it-wrong>; Child Welfare Information Gateway. "Separating Poverty From Neglect." 2023.

<https://cwig-prod-prod-drupal-s3fs-us-east-1.s3.amazonaws.com/public/documents/bulletins-povertyneglect.pdf?VersionId=x2GsXdvm8qWqsNr5PRp5cscenhOHas4zf>

¹² Yordy, J. "Poverty and Child Neglect: How Did We Get it Wrong?" 2023. NCSL.

<https://www.ncsl.org/state-legislatures-news/details/poverty-and-child-neglect-how-did-we-get-it-wrong>

¹³ Annie E. Casey Foundation. KIDS Count Data Center.

<https://datacenter.kidscount.org/data/tables/5048-children-in-low-income-working-families-by-age-group?loc=18&loct=2#detailed/2/18/false/2048,1729,37,871,870,573,869,36,868,867/34,35,36/11455,11456>

care, food, transportation, health care, and taxes.¹⁴ That means 447,000 Kansas households are struggling to make ends meet and are making difficult decisions everyday on how to get by and provide for their family's needs.¹⁵

Too many hard-working Kansans are still struggling to put food on their tables, gas in their cars, and a roof over their heads. They should not have to fear having their family torn apart on top of it all. HB 2132 allows for preventative services for these families struggling with poverty when their children are at risk due to the parent's inability to afford what they need. What seems like a minor language change, can keep hundreds of families together in Kansas and improve their future ability to thrive.

Families struggling to make ends meet have faced significant stress, leaving them hopeless with nowhere to turn. The result has been an increase on the number of abuse and neglect cases on an already imperfect foster care system in the state:

- Decades of research shows that household economic conditions are strongly correlated to child welfare services involvement, with poor children being overrepresented in the child welfare system.
- Researchers have found that as new barriers for struggling Kansans to receive assistance created barriers, the number of child abuse and neglect cases in the state went up.¹⁶
- The foster care system in Kansas has historically struggled with the number of children coming into foster care and finding stable, healthy placements for those children. To this day, DCF is still not achieving federal and settlement agreement (*McIntyre*, 2021) requirements to increase safe, stable placements for children in foster care.¹⁷

Changing the definition of neglect also protects the most vulnerable children and families in Kansas. People of color and people living in rural areas experience poverty at higher rates than their peers.¹⁸ Meanwhile, people of color are overrepresented in the foster care system.¹⁹ Providing needed family services rather than punishing these vulnerable families facing poverty

¹⁴ United Way. ALICE: Asset Limited, Income Constrained, Employed Kansas Report. 2023. <https://www.unitedforalice.org/household-budgets/kansas>

¹⁵ This is the number of households below the federal poverty level and the number of struggling households combined based on the information found at: United Way. ALICE: Asset Limited, Income Constrained, Employed Kansas Report. 2023. <https://www.unitedforalice.org/household-budgets/kansas>

¹⁶ Ginther, D. K., Johnson-Motoyama, M. "Associations Between State TANF Policies, Child Protective Services Involvement, and Foster Care Placement." *Health Affairs*. 2022. <https://www.healthaffairs.org/doi/epdf/10.1377/hlthaff.2022.00743>

¹⁷ Administration for Children and Families. CFSR: Kansas Final Report." 2023. <https://www.acf.hhs.gov/sites/default/files/documents/cb/ks-cfsr-r4-final.pdf> and Center for the Study of Social Policy: DCF, *McIntyre v. Howard*. Period 2. 2023. <https://cssp.org/wp-content/uploads/2023/08/McIntyre-v.-Howard-Period-2-Progress-Report.pdf>

¹⁸ Farrigan, T. "Data show U.S. poverty rates in 2019 higher in rural areas than in urban for racial/ethnic groups." 2021. USDA Economic Research Service. <https://www.ers.usda.gov/data-products/charts-of-note/chart-detail?chartId=101903>

¹⁹ NCSL. "Disproportionality and Race Equity in Child Welfare." 2021. <https://www.ncsl.org/human-services/disproportionality-and-race-equity-in-child-welfare>; Yordy, J. "Poverty and Child Neglect: How Did We Get it Wrong?" 2023. NCSL. <https://www.ncsl.org/state-legislatures-news/details/poverty-and-child-neglect-how-did-we-get-it-wrong>; Kansas Legislative Division of Post Audit. "Reviewing Foster Care Case Plan Tasks and Permanency Outcomes." 2021. <https://www.kslpa.gov/audit-report-library/reviewing-foster-care-case-plan-tasks-and-permanency-outcomes/>

could help reduce inequities Black, indigenous, and rural Kansans face based on their economic conditions.

Keeping children with their families when they are experiencing poverty can improve the beleaguered Kansas foster care system as well, which in turn, would improve outcomes for all Kansas children in contact with the system. The Settlement Agreement between DCF and plaintiffs in the *McIntyre* lawsuit (2021) outlines crucial requirements to improve the child welfare system, including addressing failures in placement and improving mental health outcomes for children in foster care. However, recent monitoring of DCF's progress has shown that the state is struggling to make the necessary changes and improvements. Much of this can be tied to an overextended system and staff with limited resources. For example, the most recent monitoring report found:

- On average, 3,016 children across Kansas were assigned to a permanency caseworker handling 30 or more cases, which accounted for 39% of all assigned children.
- The data also shows a failure to provide required mental health services and a substantial decline in performance from previous years. Of the children and youth whose cases were reviewed, 75 percent showed evidence of a mental health need, and only 52 percent of those in need received appropriate mental health services. Of the youth who received appropriate services, 58 percent experienced a delay in accessing those services.²⁰

Although there are systemic issues contributing to these failures, reducing the number of children in need of out of home placements will allow more resources to be directed toward staffing services and cases at levels necessary to see children in foster care have positive outcomes.

Clarifying the definition of neglect to end the conflation of it with poverty would also be a more cost effective approach to ensuring family safety in the state. As mentioned, the HB 2132 would provide prevention services to families experiencing poverty. Family preservation services cost between \$5,000 to \$10,000 a year per family. On the other hand, foster care placements can cost \$136,000 a year per family.²¹ That means the state is likely to see more positive outcomes with cost benefits of up to \$126,000 per family experiencing poverty that is kept together under HB 2132.

Prevention and policy changes can help families experiencing poverty more than the trauma of separation through removal and foster care placements. Research has shown that policies that are most effective at reducing the risk factors associated with poverty include child care subsidies, affordable housing, increased income through Earned Income Tax Credit, increasing wages, participation in SNAP and WIC, and Medicaid coverage.²² It is time we invest in families

²⁰ Center for the Study of Social Policy. "Progress Report, *McIntyre v. Howard*." 2024.

<https://cssp.org/wp-content/uploads/2024/09/McIntyre-v.-Howard-Period-3-Report.pdf>

²¹ KVC. "Your Complete Guide to the 2024 Kansas Child Welfare System Changes." 2024.

<https://kansas.kvc.org/2024/06/09/your-complete-guide-to-the-2024-kansas-child-welfare-system-changes>

²² Yordy, J. "Poverty and Child Neglect: How Did We Get it Wrong?" 2023. NCSL. Child Welfare Information Gateway. "Separating Poverty From Neglect." 2023.

<https://www.ncsl.org/state-legislatures-news/details/poverty-and-child-neglect-how-did-we-get-it-wrong>; Child Welfare Information Gateway. "Separating Poverty From Neglect." 2023.

<https://cwig-prod-prod-drupal-s3fs-us-east-1.s3.amazonaws.com/public/documents/bulletins-povertyandneglect.pdf?VersionId=x2GsXdvm8qWqsNr5PRp5cscenhOHas4zf>; American Public Human Services Association. "Poverty and Neglect Are Not the Same—It's Time to Realign Our Response." 2021.

<https://aphsa.org/resources/poverty-and-neglect-are-not-the-same/>

experiencing poverty rather than inflicting more harm and setting generations up for continued negative outcomes.

Kansas children deserve to grow up in healthy families, not a foster home. We cannot expect the foster care system to serve as the only solution when families do not have the means to completely provide for their children despite their best efforts. Instead, we can create a more compassionate and effective child welfare system that prioritizes the well-being of children and families.

I urge you to support 2132, in order to make sure the most vulnerable children in Kansas have the best opportunities for successful futures.

Thank you for your time,

Brenna Visocsky