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Mike Fonkert, Deputy Director
Kansas Appleseed Center for Law and Justice
mfonkert@kansasappleseed.org
Oral Testimony in Opposition to HB 2521
Senate Committee on Judiciary

Chair Warren, Ranking Member Corson, and Members of the Senate Committee on Judiciary,

Thank you for the opportunity to provide testimony on behalf of Kansas Appleseed in opposition to HB 2521. This bill would add Child Placement Agencies (CPAs) to the definition of a governmental entity under the Kansas Tort Claims Act. This change would extend governmental liability protections to private contractors that are entrusted with the care and supervision of vulnerable children in foster care. Doing so represents a troubling example of regulatory capture, where private entities performing public contracts are granted the legal shields of government without being subject to the same public accountability structures. CPAs are not state agencies; they are private organizations operating under contract. Extending sovereign-style protections to them fundamentally alters the balance between accountability and immunity.

Kansas Appleseed is a strong advocate for foster care reforms intended to improve the experiences of foster youth and ensure accountability when maltreatment occurs. The provisions of HB 2521 would move Kansas in the opposite direction by shielding CPAs from accountability.

Kansas' child welfare system has a history of glaring performance and safety concerns that have led to trauma, harm, and tragedy among foster youth. In the case of *Boone v. TFI Family Services, Inc. et al.*, it was discovered that a child was removed from their mother's home and placed in their father's custody by the defendant, despite strong objection from the mother out of fear that the father would abuse the child. Unfortunately, that's exactly what happened. The father moved the child to a different school after initial abuse was reported and stopped taking the child to therapy. Even so, court documents show that TFI had no concern about leaving the child with their father. Less than a month later, that child died at the father's hands. The state and DCF settled with the mother in 2016 for \$412,000.

In *Smith v. TFI Family Services, Inc. et al.*, it was revealed that DCF had received 13 reports of abuse or neglect of foster children placed with the Wilkins family from 2001 to 2009. Each report was 'unsubstantiated,' but TFI and DCF both knew or should have known of this pattern of abuse allegations before TFI placed the minor in the Wilkins home when she was nine years old in October 2008. The plaintiff alleged that TFI had knowledge that the minor was being abused while in the Wilkins' home, but did not remove her until October 2009. The case was settled between TFI and the plaintiff.

In *Melvin Gregory v. Saint Francis Ministries, Inc. et al.*, the court found that the child suffered a catastrophic traumatic brain injury (TBI) that doctors considered “non-accidental” and EMS noted an older, linear bruise on the child’s neck when responding to the TBI-related call. The case was eventually settled.

Current and former foster youth should have the opportunity to seek unconstrained justice for the maltreatment they faced while in the care of the CPAs. HB 2521 would shield CPAs from accountability for past and ongoing problems.

According to the Kansas Department for Children and Families Case Management Contract Outcomes data, there are 3.47 instances of abuse and neglect per 100,000 days in foster care. Children are moved at a rate of 6.7 moves per 1,000 days, significantly higher than the state’s own performance goal of 4.48.¹ These numbers reflect instability and risk within the system that cannot be ignored.

The 2024 Neutral Annual Report under the *M.B. v. Howard* settlement further highlights instability within placements. In 2024, 824 children experienced 2,006 night-to-night placements, and 90% of those children had at least one placement that did not meet allowable exception criteria. Additionally, 1,282 children experienced 3,577 short-term placements, with 82% experiencing at least one that did not meet criteria. Case reviews found that only 66% of children with identified mental health needs received appropriate services. For a substantial portion of children who did not receive necessary care, the reason was placement instability.²

Against this backdrop, limiting legal accountability is deeply concerning. When children experience abuse, neglect, or systemic failures while in the custody of a CPA, their ability to seek redress through the courts is one of the few mechanisms available to ensure transparency and accountability. By classifying CPAs as governmental entities under the Kansas Tort Claims Act, HB 2521 would impose liability caps, procedural barriers, and immunity provisions that significantly restrict foster youth’s ability to pursue just compensation.³ It would shield private contractors from the full consequences of negligence while they continue to receive public funds.

Extending governmental immunity to private CPAs sends the wrong message at a time when performance data demonstrate ongoing instability and safety challenges. Rather than strengthening oversight and accountability, HB 2521 reduces incentives for corrective action and diminishes the rights of children who have already been failed by the system. Foster youth should not bear the cost of insulating contractors from liability.

Foster care kids deserve safety, stability, and meaningful access to justice when harm occurs. HB 2521 moves in the opposite direction by narrowing avenues for accountability and exemplifying regulatory capture in a system that urgently needs stronger safeguards, not expanded immunity. For these reasons, I respectfully urge the committee to oppose HB 2521.

Thank you for your time,

Mike Fonkert

¹ Kansas Department for Children and Families. (n.d.). *Foster Care\Adoption Case Management Contract Performance Outcomes*. Retrieved March 03, 2026, from <https://www.dcf.ks.gov/services/PPS/Pages/CaseManagementContractOutcomes.aspx>

² Meltzer, J. (2025). *Neutral’s Annual McIntyre v. Howard Progress Report*. Center for the Study of Social Policy. Retrieved March 03, 2026, from <https://cssp.org/wp-content/uploads/2025/09/McIntyre-v.-Howard-Neutral-Annual-Report-Period-4.pdf>

³ Kansas Legislature. (n.d.). *Kansas tort claims act: Statutes article 61, chapter 75 K.S.A.* Kansas Department of Health and Environment. <https://www.kdhe.ks.gov/DocumentCenter/View/488/Kansas-Tort-Claims-Act-Statutes-Article-61-Chapter-75-KSA-PDF>