EXECUTIVE REORGANIZATION ORDER NO. 44

Executive Reorganization Order (ERO) No. 44 transfers all jurisdiction, powers, functions, and duties for the Kansas Department for Aging and Disability Services (KDADS), Juvenile Services from the Department of Corrections, and oversight of the Kansas Juvenile Correctional Complex to the Department for Children and Families (DCF), and renames this agency the Kansas Department of Human Services (DHS), effective July 1, 2020. The ERO specifies that whenever the Secretaries of, or names of, these agencies, or predecessor agencies—the Department of Social and Rehabilitation Services, Department on Aging, and the Juvenile Justice Authority—are referred to or designated by any statute, rule and regulation, contract, or other document, such reference should be deemed to apply to DHS.

Beginning on July 1, 2020, all the jurisdiction, powers, functions and duties of DCF, KDADS, Juvenile Services from the Department of Corrections, and oversight of the Kansas Juvenile Correctional Complex, for which the agencies are serving as the operating agency or grants manager for another agency, are transferred to and imposed upon DHS and the Secretary of Human Services. DHS will be the successor to the powers, duties, and functions of DCF, KDADS, Juvenile Services from the Department of Corrections, oversight of the Kansas Juvenile Correctional Complex, and any potential remaining rights, titles, or interest belonging to the Department of Social and Rehabilitation Services, Department on Aging, and Juvenile Justice Authority in real property. Actions performed by DHS will have the same force and effect as if performed by the above entities, in which the same powers, duties, and functions were vested prior to July 1, 2020.

Kansas Department for Children and Families

Rules and regulations authority; fees, funds, and account balances; property and property rights; and liability regarding DCF will be succeeded by DHS.

Kansas Department for Aging and Disability Services

Rules and regulations authority; fees, funds, grant funds, loan repayment funds, and account balances; property and property rights; and liability for accrued compensation or salaries of personnel for KDADS will be transferred from KDADS to DHS. All current policies, procedures, orders, and directives will continue to be effective until revised, amended, or nullified pursuant to law. The Secretary of Human Services will appoint officers and employees as needed to carry out necessary powers and duties for former KDADS programs and will determine the manner in which the following offices and programs are organized within DHS: the Office of the Secretary of KDADS; Aging, Disability, and Behavioral Health programs;
oversight of the State Hospitals; and the Survey, Certification, and Credentialing programs. KDADS personnel performing duties prior to the ERO will retain all retirement benefits and leave balances upon being transferred to DSH, however the Secretary of Human Services may eliminate positions upon a determination that individuals are not performing necessary services. Classified employees will remain classified, however the Secretary of Human Services has discretion to convert vacant positions from classified to unclassified.

The Aging and Disability Community Services and Programs Commission; the Behavioral Health Services Commission; the State Hospital Commission; the Survey, Certification, and Credentialing Commission; and the Financial and Information Services Commission are transferred from KDADS to DHS. The Secretary of Human Services will determine the manner in which the following programs are organized: Mental Health and Substance Abuse; Serious Emotionally Disturbed, Intellectual and Developmental Disability, Physical Disability, Brain Injury, Autism, Technology Assisted, and the Frail and Elderly Medicaid Home and Community Based Services Waivers and programs; licensure and regulation of Community Mental Health Centers; regulation of Community Developmental Disability Organizations; licensure of private psychiatric hospitals; licensure of Psychiatric Residential Treatment Facilities; licensure and regulation of facilities and providers of residential services; licensure and regulation of providers of addiction and prevention services; licensure and regulation of providers of services and administration for the Older Americans Act, Senior Care Act, and Medicare programs including the Senior Health Insurance Counseling for Kansas, the senior Medicare Patrol, and the Medicare Improvements for Patients and Providers Act, the Client Assessment Referral and Evaluation program, the respite for caregivers program, the Program for All-Inclusive Care for the Elderly; oversight of the state hospitals; licensure of dieticians and adult care home administrators; certification of residential care facility operators, activity directors, social service designees, nurse aides, medication aides, and home health aides; maintenance of the Kansas nurse aide registry; the Criminal History Record Check program; receivership of facilities; and any other programs and related grants not specifically named, but administered by these commissions prior to the effective date of the ERO.

Juvenile Services and Oversight of the Kansas Juvenile Correctional Complex

Rules and regulations authority for persons admitted and operations; fees, funds, grant funds, advisory group funds, loan repayment funds, and account balances; property and property rights; and liability for all accrued compensation or salaries of officers and employees for Juvenile Services Programs and oversight of the Juvenile Correctional Complex affected by this order under the Department of Corrections; except the right, title, and interest of Larned Juvenile Correctional Facility and funds related to the maintenance and management of Larned Juvenile Correctional Facility; will be transferred from the Department of Corrections to DHS. All existing rules and regulations, internal management policies and procedures, standards, facility orders, post orders, and directives of the Department of Correction relating to the Juvenile Services Program and oversight of the Juvenile Correctional Complex will continue to be effective until revised, amended, or nullified pursuant to law. Personnel previously performing duties for the Juvenile Services Program and oversight of the Kansas Juvenile Correctional Complex prior to the ERO will retain all retirement benefits and leave balances upon being transferred to DHS; however, the Secretary of Human Services may eliminate positions upon a determination that individuals are not performing necessary services. Classified employees will remain classified; however, the Secretary of Human Services has discretion to convert vacant positions from classified to unclassified service. The memorandum of agreement between the Department of Corrections and Kansas Department of Administration and Teamsters Union Local #696 will remain effective after the ERO.
After the ERO is effective, the Kansas Advisory Group on Juvenile Justice and Delinquency Prevention will report to the Secretary of Human Services; the Kansas Correctional Industries is authorized to continue to provide canteen services to the juvenile facilities; and DHS will participate in the Interstate Compact for Juveniles. For the Compact, the Secretary of Human Services and the Secretary of Corrections will execute a memorandum of understanding for transferring representation on Compact and share staffing and other agency resources for the administration of interstate compacts to economically meet the needs of juvenile services programs administered by DHS and the needs of adult services administered by the Department of Corrections.

Custodian of Records

DHS will succeed to the records of DCF and KDADS used for the performance of powers, duties, and functions transferred to it by this order. DHS will have legal custody of all records, memorandum, writings, entries, prints, representations or combinations of any act, transaction, occurrence, or event of the Juvenile Services Program and oversight of the Kansas Juvenile Correctional Complex and any agency or office transferred under this ERO, except records relating to the maintenance and management of the Larned Juvenile Correctional Facility, which will remain with the Department of Corrections.

Conflicts and Legal Actions

Any conflict that arises regarding the transfers described above will be resolved by the Governor, whose decision will be final. The ERO states the status of lawsuits or other proceedings commenced or which could have commenced and the status of criminal actions commenced or which could have been commenced against agencies referenced above will not abate due to the ERO.

Background

The Governor transmitted ERO No. 44 to the House of Representatives on January 30, 2020. It was referred to the House Committee on Appropriations on January 31, 2020.

In the House Committee on Appropriations hearing, the Secretary for Children and Families and Secretary for Aging and Disability Services provided proponent testimony that combining the agencies is necessary to best serve Kansans; merging will allow for more efficient services; and these efficiencies will allow for prevention earlier in the stream of service. A representative from the Kansas Area Agencies on Aging Association presented testimony noting ERO No. 44 aims to support access to service centers, strengthen the referral process for services and supports, and create an opportunity for the new agency to share resources and be more responsive. Written-only proponent testimony was provided by representatives of the Children's Alliance of Kansas, the Douglas County Citizens Commission on Alcoholism, Harvesters Community Food Network, Kansas State Alliance of YMCAs, and KVC Kansas, and a private citizen.

A representative of Little Government Relations provided opponent testimony in support of juvenile services and the oversight of the juvenile correctional complex remaining in the
Department of Corrections. Written-only opponent testimony was submitted by a representative of the Restorative Justice Authority for the 11th Judicial District.

Neutral testimony was provided by a representative of the Juvenile Community Advisory Committee, who noted possible benefits of the ERO, but expressed concerns the ERO could destabilize positive outcomes arising since the passage of 2016 SB 367. Written-only neutral testimony was provided by a representative of Grassroots Advocates for Independent Living.

The House Committee introduced HR 6032, disapproving ERO No. 44.

No fiscal note on ERO No. 44 was prepared. The Governor’s recommendation, which was included in The FY 2021 Governor’s Budget Report, includes the transfer of funding associated with ERO No. 44 from KDADS and DOC to the newly created Department of Human Services.

Since 1973, several EROs adjusted or would have adjusted the organization of the agencies involved in ERO No. 44, including:

- ERO No. 1 (1973) created the State Department of Social and Rehabilitation Services headed by an appointed Secretary;
- ERO No. 3 (1974) created the State Department of Health and Environment headed by an appointed Secretary;
- Disapproved ERO No. 16 (1977) would have established the Division of Services to the Aging within the State Department of Social and Rehabilitation Services;
- ERO No. 17 (1980) reorganized and clarified various functions within the State Department of Social and Rehabilitation Services;
- ERO No. 20 (1982) established Juvenile Offender Services within the State Department of Social and Rehabilitation Services;
- Disapproved ERO No. 33 (2005) would have established the Kansas Health Policy Authority (Note: KSA 75-7401 established the creation of the Health Policy Authority through enactment of authorizing legislation during the 2005 Legislative Session);
- ERO No. 38 (2011) reorganized the Kansas Health Policy Authority into the Division of Health Care Finance within the Department of Health and Environment;
- ERO No. 41 (2012) consolidated the financing arm of Medicaid in the Kansas Department of Health and Environment Division of Health Care Finance; renamed the former Department on Aging the Department for Aging and Disability Services; consolidated all disability waiver and mental health services from the Department of Social and Rehabilitation Services into the newly created Department for Aging and Disability Services; and renamed the Department of Social and Rehabilitation Services as the Department for Children and Families;
● ERO No. 42 (2013) abolished the Juvenile Justice Authority and transferred the jurisdiction, powers, functions, and duties of the JJA and the Commissioner of Juvenile Justice to the Department of Corrections and the Secretary of Corrections; and

● ERO No. 43 (2015) transferred Medicaid eligibility processing responsibility from the Kansas Department for Children and Families to the Kansas Department of Health and Environment, effective January 1, 2016, and transferred foster care licensing duties from KDHE to DCF, effective July 1, 2015.
Executive Reorganization Order No. 44

**DCF**
- Administration
- Licensing
- Child Support
- Economic & Employment Services
- Rehabilitation
- Prevention & Protection Services
- Client Service Delivery
- Developmental Disabilities Council
- Transfers
- Faith-based Community Initiatives

**KDADS**
- Administration
- Medicaid Program
- Behavioral Health
- State Hospital Commission*
- Aging and Aging Grants
- Survey and Certification and Credentialing
- Community Services

*Prior to the ERO, this program was not considered a distinct program, but was included in other programs.

**DOC**
- Juvenile Services
- Oversight of the Juvenile Correctional Complex

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**Department of Human Services**

**KEY RESOURCES AND ORGANIZATIONAL SUPPORT**
- Organization Health and Development
- Strategic Communications and Government Relations
- Administration Services
- Financial Management/CFO
- Legal
- Chief Information Officer/IT
- Audit & Accountability

**FAMILY SERVICES**
- Prevention
- Children's Mental Health
- Permanency
- Juvenile Justice/Crossover Youth
- Practice Model and Performance Improvements

**ADULT SERVICES AND SUPPORTS**
- Long Term Services and Supports
- Adult Behavioral Health
- Economic
- Employment
- Practice Model and Performance Improvements

**FACILITIES AND HOSPITALS**
- Licensing, Survey, and Certification
- Hospitals and Facilities
The graphs below show the budgets for Juvenile Services from the Department of Corrections, the Kansas Department for Aging and Disability Services, and the Department for Children and Families as each part of the FY 2021 budget with the ERO.

The graph below breaks down the budgets of the Department for Children and Families, the Kansas Department for Aging and Disability Services, the Department of Corrections, and the Kansas Juvenile Correctional Complex, both with and without the ERO.