

Report of the Special Committee on Foster Care Adequacy to the 2016 Kansas Legislature

CHAIRPERSON: Senator Forrest Knox

VICE-CHAIRPERSON: Representative Connie O'Brien

OTHER MEMBERS: Senators Laura Kelly and Mary Pilcher-Cook; and Representatives Erin Davis, Willie Dove, and Annie Tietze

STUDY TOPIC

Review Issues Pertaining to Foster Care Adequacy:

- Review the level of oversight and supervision by the Department for Children and Families (DCF) over foster care contractors;
- Evaluate whether a working group consisting of attorneys in the area of family law, judges, foster parents, and parents with reintegrated children would aid in addressing foster care concerns;
- Study the proper selection of foster parents and the qualifications of foster parents; and
- Review the duties of those individuals responsible for foster children, the Safe Families Act, the disconnect between DCF and foster care contractors, and the Grandparents Rights Law.

Special Committee on Foster Care Adequacy

REPORT

Conclusions and Recommendations

The Committee makes the following conclusions and recommendations:

- In considering the best interest of a child, evidence-based peer-reviewed research on family structure be considered a high priority in making foster care placement decisions; and
- Legislation be introduced to create a foster care oversight committee similar to the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight; and should legislation creating a foster care oversight committee not be approved, a Senate committee and a House committee each be charged with reviewing the topic of foster care.

Proposed Legislation: The Committee was supportive of legislation being introduced during the 2016 Legislative Session to create a foster care oversight committee, but did not request a bill be drafted on behalf of the Committee

BACKGROUND

The Legislative Coordinating Council (LCC) in 2015 created the Special Committee on Foster Care Adequacy, which was composed of seven members. The Committee was tasked by the LCC to review issues pertaining to foster care adequacy as follows:

- Review the level of oversight and supervision by the Department for Children and Families (DCF) over foster care contractors;
- Evaluate whether a working group consisting of attorneys in the area of family law, judges, foster parents, and parents with reintegrated children would aid in addressing foster care concerns;
- Study the proper selection of foster parents and the qualifications of foster parents; and

- Review the duties of those individuals responsible for foster children, the Safe Families Act, the connection between DCF and foster care contractors, and the grandparents rights law.

The Committee was granted one meeting day by the LCC. After the November 17, 2015, meeting, a request for another interim day was made to the LCC, but the request was not granted. The Committee met on January 11, 2016, for the purpose of deliberating and making recommendations for inclusion in this Committee report.

COMMITTEE ACTIVITIES

The Committee held an all-day meeting on November 17, 2015. After making introductions and reviewing the charge to the Committee, the Chairperson commented on a bibliography he had prepared, titled "Chairman's Notes"; he noted the

far-reaching effects of family structure on children's lives.

Overview of the Kansas Foster Care System

The Committee received an overview of the Kansas foster care system from Kansas Legislative Research Department (KLRD) staff. Staff began by reviewing a historical timeline of the foster care system, including the establishment of the State Board of Social Welfare in 1937, enactment of the Kansas Code for Care of Children in 1982, privatization of the foster care system in 1996 and 1997, and transfer of foster care licensing responsibilities from the Kansas Department of Health and Environment (KDHE) to DCF in 2015.

Staff presented information on the role of various entities in the Kansas child welfare system, including DCF, the federal Department of Health and Human Services, the judicial system, and foster care contractors. Staff reviewed the child in need of care (CINC) process, which may lead to the initiation of foster care services, and those individuals who are required to report to DCF any suspicion that a child may be a CINC ("mandatory reporters"). Next, the CINC investigation and placement process was reviewed, followed by general information on Kansas foster care contractors, statewide statistics, and payments and funding.

Staff then reviewed the authorizing statutes for DCF related to the foster care system and provided additional details related to the privatization of foster care in Kansas, a 2001 performance audit of foster care contracts (staff noted the contracts in effect at the time of this audit are no longer in effect), and privatization efforts in other states, including system-wide privatization in Florida, large-scale privatization in Illinois, and small-scale privatization in Missouri, Nebraska, and Texas. Staff then provided a summary of the 11 audit reports produced by the Legislative Division of Post Audit (LPA) between 2001 and 2015 that include topics related to the foster care system.

Next, staff presented a chart summarizing legislation involving foster care and related issues introduced from the 2011 Session through the 2015 Session, as well as related studies by the Kansas Judicial Council and some agency and

other stakeholder actions during that period. Staff presented additional detail regarding 2015 SB 37 (Foster Parents' Bill of Rights Act) and 2015 SB 148 (Safe Families Act), including some testimony that had been offered at the hearings on those bills.

Staff then presented an overview of existing Kansas workgroups, task forces, and committees that address Kansas foster care issues and additional detail regarding the makeup of the Kansas Judicial Council's Juvenile Offender/Child in Need of Care Advisory Committee.

Finally, staff presented a summary of foster care data that had been requested of and received from DCF based upon categories outlined by the Chairperson. The data include information from 2011 through 2015 (except as noted below) in the following categories:

- General and demographic information;
- Out-of-home placement settings;
- Permanency goals;
- Average length of stay by placement type before reunification;
- Length of stay information;
- Foster home licensing and inspection data (including a separate list of prohibitive offenses for foster home licensure);
- Substantiated maltreatment;
- Foster home alcohol and tobacco use regulations;
- Foster care and adoption;
- Latest quarterly reports from foster care contractors; and
- Crossover youth report examining the number of youth exiting home placement who later entered the custody of the Deputy Secretary of Juvenile Services as juvenile offenders.

Staff noted certain data that had been requested were not available, including:

- Organizational/system charts (in development by DCF);
- Foster parent arrests (conviction data available and provided);
- Number of foster homes by family structure (data not kept); and
- Number of foster homes in which alcohol or tobacco are used.

Staff also provided the Committee with the latest report showing national fiscal year (FY) 2014 data from the U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau's Adoption and Foster Care Analysis and Reporting System (AFCARS).

Following the presentations by staff, Committee members asked staff to request the following additional data from DCF or other sources:

- Information regarding the number of days between a child's removal until adjudication;
- Any LPA audits examining the current foster care system in comparison to the past;
- Information on persons who are placed in foster care and who later are convicted of crimes as adults; and
- Information on the number of days of school missed for children in grades 1 through 12 who are in foster care.

A Committee member asked staff if Executive Reorganization Order No. 43 transferred all foster care responsibilities of KDHE to DCF. Staff replied that it did. Another member asked staff to compare the Kansas version of the Safe Families Act with versions enacted in other states, and staff

replied that this comparison could be completed and provided to the Committee at a later date.

Social Worker Perspective on Kansas Foster Care

A Board member for Kansas Chapter of the National Association of Social Workers provided written testimony outlining the foster care system from the social workers' perspective and provided recommendations for the Committee. The Board member noted the rapid turnover of social workers in the child welfare systems, at both DCF and the foster care contractors, and the numerous LPA reports since 1991 on different aspects of foster care that did not include the reports related to the foster care settlement agreement reached in 1993 in the 1989 case, *Sheila A. v. Hayden*. The recommendations made by the Board member included the investigation of the scope of social worker turnover in both DCF and foster care contractors, including caseloads; a determination of the reasons social workers are leaving; the implementation of a multi-year focus on recruitment and retention of social workers; and the development of long-term incentives, supports, career path (advancement), professional development, on-going training, supervision, student loan forgiveness, and competitive compensation.

Department for Children and Families' Perspective and Kansas Foster Care Contracts

A DCF staff member stated DCF received 65,152 reports of alleged abuse or neglect of children in FY 2014 and then outlined the foster care process for children who require out-of-home placements. The DCF staff member stated most children who require foster care have been abused or neglected, but some children who have not been abused or neglected may be placed in foster care for reasons such as out-of-control behavior, overwhelmed parents, failure to attend school, or running away from home. The staff member noted children in foster care are most frequently placed with relatives or in licensed family foster homes, though some children may need more structured settings, such as group homes or residential centers. DCF entered into contracts that commenced on July 1, 2013, with two private

agencies (Saint Francis Community Services and KVC Behavioral Healthcare [KVC]) to provide reintegration, foster care, adoption, and family preservation services in contract regions that align with the four DCF regions. The initial term of the contract was four years, but DCF renegotiated the costs of the contract in 2015, as is allowed every two years.

A DCF staff member stated there are six protective factors included in all aspects of the child welfare system that DCF expects to be a part of all contracts and, when present, these factors improve the well-being and health of children and families: nurturing and attachment, knowledge of parenting and child development, parental resilience, social connections, concrete support for parents, and social and emotional competence of children.

According to a DCF staff member, as part of the contracts entered into in 2013, DCF enhanced its role in monitoring children placed in the custody of the Secretary for Children and Families (Secretary). Placements, case plans, and case plan goals are subject to DCF approval, and contractors are required to notify DCF in advance of placement changes, unless an emergency exists. The DCF staff member stated important considerations for placements include whether placement is possible with grandparents, other relatives (including siblings), or those with a close relationship with the child; the ability for the child to remain in the same school and the same community; and the potential for permanency. DCF also expanded services to families following permanency in order to maintain safety and stability. The contractors provide continued services following permanency through reintegration and, if permanency is reached through adoption, the contractors continue to serve the child and the adoptive family for the life of the contract. The contractors also are responsible for reviewing and completing the revised Transition Plan that went into effect in July 2015 for youth in the Secretary's care beginning at age 16 in order to teach them skills that reinforce personal accountability.

The DCF staff member stated the contractors are required to maintain a complaint response system and collaborate with DCF in complaint responses. DCF maintains an Office of Customer

Services and a Foster Parent and Youth Ombudsman to assist in responding to concerns.

Additionally, contractors are required to employ an in-home preservation system to implement safety and risk assessments. Staff training is provided. DCF assesses this model through outcomes, case reads, and site visits. The DCF staff member stated there is a requirement to contact the family within 24 hours of a referral for family preservation services and to make the first in-person contact within 2 business days. DCF may require an earlier in-person contact if deemed appropriate.

A second DCF staff member outlined the licensing procedure for foster care homes, noting the licensing process was transferred from KDHE to DCF in July 2015 by Executive Reorganization Order No. 43. The staff member noted the change was intended to allow DCF to better monitor the entire foster care system and streamline services for any child determined to be a CINC, their families, and foster parents, and to make DCF responsible for all foster-care-related activity in the state.

The DCF staff member outlined the process to become a foster parent and the requirements that must be met by the applicants. Prospective foster parents first contact a child placing agency (CPA) to receive sponsorship. The CPA works with the prospective foster parent to complete the foster parent application and to prepare the home for inspection by the DCF Licensing Division surveyor. In examining the qualifications and expectations for foster parents, statutory and regulatory requirements center on addressing where the child will reside, identifying the individuals who also will be in the home, and the treatment of the child.

According to the DCF staff member, it is the responsibility of the Licensing Division to ensure the physical environment of the home does not present a threat to the health, safety, or welfare of any child in foster care. State regulations address numerous requirements that must be met to provide for adequate sleeping arrangements, including the minimum required size of the room, provisions for sharing a room with another child, and restricting the maximum number of foster

children allowed in any one home to four. Exceptions to the number of foster children can be made in certain circumstances, most commonly to allow for keeping larger groups of siblings together in the same home.

The DCF staff member stated the fundamental and basic requirements to be a foster parent include being at least 21 years of age, having sufficient income or resources to provide for the basic needs and financial obligations of the foster family and to maintain compliance with all regulations governing family foster homes, and having access to safe transportation. Foster parents must complete required training, commonly referred to by the acronym PS-MAPP, consisting of 30 hours of training conducted over a 10-week period. Foster parents and any other person who is 10 or older and resides, works, or regularly volunteers in a foster home must pass a background check. Kansas statute (KSA 2015 Supp. 65-516) identifies approximately 100 prohibited criminal offenses for which a conviction will disqualify one from working, residing, or regularly volunteering in any child care facility, including a family foster home. A person also may be prohibited from being a foster parent for committing an act of physical, mental, or emotional abuse or neglect or sexual abuse and being listed on the Child Abuse and Neglect Registry maintained by the Secretary. Individuals who have had a child removed from their home under a CINC finding or had their parental rights terminated also are prohibited from becoming foster parents. Foster parents also must undergo a health assessment to determine their physical and mental ability to provide safe and healthy care for children in foster care.

The required treatment of a foster child also was explained by the DCF staff member. A foster parent must act in the best interest of the health, safety, and welfare of the foster child, including providing supervision appropriate for each child, nutritious food, clean clothing and bedding, and birthday and holiday gifts, and being active participants in the child's case plan and implementing the provisions assigned to the foster parents. Kansas Administrative Regulations outline the appropriate methods of disciplinary guidance appropriate for the age of the child to which foster parents must agree and also set out the prohibited punishments. Kansas foster parents

must ensure the foster child's school attendance and serve in a mentoring role to assist the child in learning basic life skills that will prepare him or her for life after foster care.

The DCF staff member briefly explained the Secretary may deny a foster care application or revoke a foster care license, and the denial or revocation order must state the specific reasons justifying such action. The applicant or licensee has the right to a hearing under the Kansas Administrative Procedure Act to appeal the Secretary's decision, and a decision of the administrative law judge may overrule the Secretary's determination.

A foster care overview sheet and a Child Welfare Fact Sheet, both dated November 2015, were provided by the DCF staff member. The overview sheet outlined the number of children in foster care, noting the number of children in out-of-home placement is influenced by the number of those entering the system (removals) and the number of those exiting the system (exits). The DCF staff member noted, in order to see a decrease, or no increase, in the total number of children in foster care, the number of exits must be equal to or exceed the number of entries into the foster care system. The staff member provided data indicating the number of children entering foster care in a given month has held steady for the past two fiscal years, at 317 children. However, over the past four fiscal years, the average number of those exiting foster care in a given month has not kept pace with the number of those entering, resulting in an increase in the number of children in foster care.

The information provided by the DCF staff member noted children ages one to three comprise the largest age group of children in out-of-home placement, and the median age of a child in foster care is eight. The data indicates the average length of stay in foster care for those who are reintegrated is nine months and for those adopted is 33 months. During FY 2015, 765 adoptions were finalized, with 54 percent of children having a foster parent as an adoptive resource. The FY 2015 adoption finalization number reflects an adoption increase of 99 over the previous fiscal year. Additional statistics on adoption, family preservation, primary reasons for removal, placement settings, permanency goals, and general foster care were

provided in the Child Welfare Fact Sheet, along with information on the child protective services process, the history of privatization in Kansas, and child welfare goals; an explanation of substantiated and unsubstantiated findings; and a list of parents' rights.

The Secretary for Children and Families provided an overview of DCF activities related to foster care. The Secretary outlined agency reforms and initiatives to provide more oversight of contractors, as well as establishing an ombudsman liaison program and placing foster care liaisons with the contractors to assist with placement decisions. The Foster Parent and Youth Ombudsman appointed in June 2014 will address the concerns of foster parents and youth who have been or are in foster care. Noting DCF is actively recruiting foster parents, the Secretary expressed a need to develop a surplus of foster homes in order to make more relevant placements and give foster children placement choices. In response to Committee questions, the Secretary stated the agency is reviewing the entirety of the licensing procedures. The Secretary stated DCF is looking into social worker compensation to acknowledge long-time social work employees and to address concerns with pay.

The Secretary's testimony provided data on child fatalities and maltreatment while in foster care or receiving family preservation services. The data indicate 46 foster care fatalities and 37 family preservation fatalities between SFY 2001 and SFY 2016 (through September 30, 2015). However, the data note foster care fatalities can be due to the illness of a child, vehicle accident, or other non-maltreatment reasons.

The Committee's questions for the Secretary included a request for information regarding the use of psychotropic medications for children in foster care and whether special training was provided to foster parents with children on psychotropic medications. Concerns were expressed regarding the amount of time it takes for records data to move with foster children, especially those on medication. Questions also were posed regarding the number of CINC cases per social worker and what the ideal caseload should be. DCF officials indicated they would look into that concern and provide the data on open cases by social worker by region and county.

The Secretary indicated a recent policy allowing other professionals licensed under the Behavioral Sciences Regulatory Board to provide assistance to social workers should alleviate the caseload burdens.

Concerns were raised regarding a foster child placed in 20 foster homes in 7 months and being absent from school for 5 months. The Secretary indicated the case was an anomaly, but DCF would investigate the case. The Secretary noted compliance with the federal guidelines in this area are closely monitored.

In response to questions as to the contractual obligation of contractors with regard to child placement when the contractor does not have a local licensed foster care home it contracts with, but other foster care homes are available that are licensed by other groups, the Secretary noted DCF has identified some issues and concerns. DCF is reviewing the licensing system now that licensure is the responsibility of DCF. DCF is using KDHE regulations until the agency completes a plan for changes, which is not likely to take place until the spring of 2016 due to the thoroughness of the review.

Written testimony was provided by representatives of KVC and St. Francis Community Services, the state's foster care contractors, outlining the services provided to Kansas children.

Family Structure Considerations

The Committee received testimony *via* speakerphone from presenters with differing views on family structure considerations with regard to foster care and placement (additional detail regarding these presenters is provided below). Additionally, written testimony was provided by a National Conference of State Legislatures (NCSL) staff member containing Child Trends Databank research on family structure and data from the Institute for Family Studies. Chapter 6 of George Barna and David Barton's book, *U-Turn*, also was provided as written testimony regarding family structure.

A research professor of sociology at the Catholic University of America presented research

data *via* speakerphone regarding foster care and adoption by same-sex couples. The professor noted that most studies focus on lesbian parents, but stated scholarly evidence documents a finding that children raised by same-sex couples have higher incidents of behavioral problems, developmental disability, sexual abuse, and instability than children raised by biological parents. The professor referenced the findings from the 2001-2007 National Health Information Surveys comparing children in intact married families with those in post-divorce single mother, single father, or blended families (among others) on a wide range of indicators of physical and emotional health as support for his position.

A representative of the American Psychological Association's (APA) Lesbian, Gay, Bisexual, and Transgender Concerns Office stated *via* speakerphone that empirical research indicates there is no measurable difference in outcomes for a child raised by heterosexual parents or same-sex couples. He noted there is no statistical difference when comparing various family structures and referenced information in the APA *amicus* brief to the U.S. Supreme Court in the *Obergefell* case in support of the APA's position. The Supreme Court's decision in the case holds same-sex couples may not be deprived of the fundamental right to marry.

DCF was asked for information as to whether foster children were in the care of same-sex couples because such couples were more willing to take children with troubles and on the potential impact on the number of children who could not be placed in foster homes if same-sex couples were denied foster care rights. Concern was expressed by a Committee member that same-sex parents would not be allowed to have foster care rights.

Law Enforcement Perspective

The Committee heard testimony from law enforcement representatives who stated they have experienced an unproductive relationship with DCF and DCF foster care contractors, especially with regard to inadequate responses to emergency calls and accessibility outside of the Monday through Friday 8:00 a.m. to 5:00 p.m. hours. Concerns exist regarding the ineffectiveness of the

DCF Hotline in assisting law enforcement personnel when foster care issues arise. The representatives also cited the compromising of limited police resources when DCF or the contractors fail to address a foster care situation in a timely or effective manner. Recommendations made by the law enforcement representatives included conflict-resolution training for foster parents and the provision of DCF staff cell-phone numbers to law enforcement to facilitate access and assistance. DCF responded to the latter recommendation by stating the cell-phone numbers would be made available immediately and concerns regarding difficulties with responses from the DCF Hotline would be addressed.

Legislator Report of Foster Care

Senator Julia Lynn, District 9, appeared before the Committee on behalf of Representative Mike Kiegerl, District 43, to provide a report containing legislative background and a review of DCF data. A copy of the Report to the Joint Committee on Children's Issues to the 2010 Legislature also was provided to the Committee. Senator Lynn emphasized the need for updated and expanded standards for foster care parents. She raised the question of whether DCF should continue to rely on private foster care contractors. In response to a question, Senator Lynn stressed the need for accountability for DCF, contractors, and the Legislature for healthy results and for the expected results to be defined and measured over time, so those who failed could be held accountable.

Other States' Non-Conventional and Innovative Programs and Successes

The NCSL staff member presented information on foster care innovations in other states, referencing national information regarding foster care, recent legislation in various states, and standards and supports for foster parents. The staff member identified effective, evidence-based foster care practices and promising approaches and resources to improve foster care being applied in other states. In response to whether states undertake statewide implementation of new foster care practices and approaches, the staff member noted some states used pilot plans and other states borrowed from other states' experiences in enacting statewide measures.

One program referenced is Keeping Foster Parents Trained and Supported (KEEP), which teaches foster parents about the techniques and benefits of positive reinforcement. Kansas has a KEEP pilot program. In response to the availability of evaluation data on other states' programs, the staff member cited the California Evidence-Based Clearinghouse for Child Welfare as a source that identifies whether a foster care program actually is working and provides links to evaluation data.

The NCSL staff member responded to questions related to foster care licensing training in other states and training specifically geared to grandparents as foster parents by indicating some do not want to go through the training program because it is so intensive. The staff member noted federal law requires licensure to receive payment under Title IV-E, but most relative care providers do not want to go through the licensing process.

Written testimony was provided by a representative of the Midwest Foster Care and Adoption Association explaining the agency's Behavioral Interventionist Program, an initiative to keep special-needs children in their current homes.

Foster System Success Factors

A representative of Casey Family Programs noted 76 percent of Kansas children enter foster care due to neglect, not abuse, and provided 6 critical components leading to successful protection for children and support for families. One of the components stressed is to have in place a robust and transparent process for continuous quality improvement (CQI) that allows an agency to self-monitor, based on data, to make adjustments and improvements in real time. The representative noted it appeared Kansas is well-positioned to have a robust CQI system. The creation of a trauma-informed system to best serve children who enter foster care was another factor the representative shared with the Committee.

The Casey Family Programs representative also made several recommendations and suggested tools to enhance licensing policies as DCF considers changes to existing licensing policies. The representative stressed the importance of focusing on quality foster homes and engaging

with foster parents as a means of improved outcomes. When foster families are seen as members of the professional child welfare team, they are more satisfied and likely to provide longer care for children and better support birth families. In response to a question asking if there is a right to be licensed as a foster parent, the representative stated the licensing process should be robust and the same across the board, but not onerous. With regard to prioritization to criteria to be considered, the representative noted every state needs to set its own criteria, but the first key is safety. The representative indicated some states have enough foster care homes to provide a choice in matching children with placement close to home and appropriate kin placement.

The Casey Family Programs representative responded to a question on balancing the safety issue with the trauma of removing a child from the home by stating the trauma as a result of removal from the home is significant, so a robust assessment process with the funds to implement it would allow more children to remain in their homes.

Alternative Methods and Community Programs

The Committee heard testimony from representatives of various community programs focused on addressing foster care concerns. A representative of Communities in Schools Mid-America, Inc., presented information on a pilot program funded by the Casey Foundation to reduce the incidence of neglect in vulnerable families at two elementary schools in the state, one in Pittsburg and the other in Chanute. By collaborating with the school staff and staff of other child welfare agencies, the program identifies at-risk children and offers intensive support for the family focused on making the home a safe place for the child and helping to keep the child in the home. The program is working in 20 Kansas communities with a mix of both private and public moneys, and it supplements family preservation services. The cost per student is \$106 annually, but the amount reflects the program-wide cost. The overall outcomes are reported to the school with no identifiable details.

A representative of FaithBuilders, Inc., stated her agency uses volunteers to provide a range of services to families in crisis: food, clothing, furniture, appliances, mentoring, respite care, and other services, as needed. The representative stated funding for the program is entirely from private donations. The representative noted a lack of cooperation on the part of DCF in a case where FaithBuilders was assisting a parent with a guardianship, but DCF stepped in and filed a CINC case.

A representative of Safe Families for Children presented another alternative to foster care, a separate volunteer organization that provides host families for families in crisis. The representative noted the program has a 90 percent success rate in reuniting children with their families. Partnerships with churches and other non-profit organizations provide the financial and professional support for the program. Funding for the program is from Casey Family Programs and Lifeline Services, with no government funding provided.

In response to a question regarding who decides if reunification should occur in the Safe Families program, the representative noted the family coach helps review whether the goals set for the reunification are met. The hosting agreement contains a reunification goal date.

With regard to how a parent who is out of the country or state regains custody of a child after the other parent has placed a child with a host family in the Safe Families program, the representative noted the issues of the child's right to contact with and access to the other parent are discussed during the initial intake visit and allows for the parent to have custody of the child upon his or her return without the need to initiate a court process. The representative stated, if there is a conflict among the parent, family coach, and the temporary host family, the parties talk to resolve the matter; however, if it involves a safety concern, Safe Families is a mandated reporter and will report to the appropriate entities.

In response to questions about who makes the school and healthcare decisions in the Safe Families program, the representative stated the parent signs a medical power of attorney for immediate care; the parent makes the decisions

but, if the parent does not, the host family can decide. The parent still has custody, so he or she can make these decisions.

Testimony was provided by the CarePortal State Director for Kansas in Missouri, a program that is part of The Global Orphan Project. The program works to meet the needs of at-risk children through partnership with local churches. The organization acts as a bridge to provide three tiers of services: physical needs, such as help with utilities; relational services, such as mentoring or taking a family member to a doctor appointment; and providing a temporary host family for vulnerable children. The funding for the program is entirely private.

A representative of Project 17 Circles explained the mission of the project is to improve the economic opportunities and quality of life for individuals who live in 17 counties in southeast Kansas. One focus of the project is to lower the number of children removed from their homes. Referrals are received from DCF and KVC, and Project 17 uses volunteers to build relationships with at-risk children and their families, helping to create more stable families. The representative stated Circles receives a small amount of government funding, but most funding comes from grants and donations.

A two-week deadline to submit additional testimony was set by the Committee. In addition to follow-up information provided by individuals testifying at the meeting, a private citizen whose grandchild died in foster care provided written testimony requesting changes to the foster care system.

Legal Considerations

The legal issues related to foster care were reviewed by a staff member with the Office of Revisor of Statutes. In response to questions regarding how the state addresses family structure, the staff member stated Kansas statutes do not address non-traditional family settings for foster care placement. In response to whether a same-sex couple has a right to a foster care license, the revisor stated there is no right to a foster care license, rather it is a privilege with limits. The revisor stated it is not clear in *Obergefell* if same-

sex foster care must be allowed. The revisor noted the *Obergefell* decision of the U.S. Supreme Court regarding same-sex marriage eventually may lead to further court decisions offering a more detailed legal platform regarding the issue. The revisor reviewed other states' court decisions regarding foster care by same-sex individuals or couples.

With regard to the state's liability for foster care children, the revisor noted the state is immune to lawsuits; however, federal law has held that a foster child has a constitutional right to protection, which under certain circumstances may overshadow the state's immunity.

Kansas Courts Perspective

The Honorable Mary B. Thrower, Saline County District Court Judge, provided the Kansas courts' perspective on foster care. She noted an increase in the number of children in foster care has limited DCF's ability to place a child close to his or her current home or community and recommended family preservation services and other community-based programs be used to reduce out-of-home placements. The Court Appointed Special Advocates program, which receives 90 percent private funding, was noted by a representative of the Office of the Judicial Administration as an example of the most successful agency for addressing needs of at-risk children. Bench cards used to illustrate the CINC code, to guide court officers in determining proper adjudication, and to help other child welfare agencies better understand judicial findings were provided to the Committee.

In response to a Committee member request, Judge Thrower provided a list of the types of programs included in prevention services. With regard to working with non-profit community groups that receive no government funds or oversight, Judge Thrower stated volunteers in those community-based programs need trauma-based training.

CONCLUSIONS AND RECOMMENDATIONS

Members requested additional information from the Secretary. The information available was provided by DCF after the meeting.

Additionally, ancillary information was requested from a representative of KVC Health Systems regarding negotiations with the federal government to receive a naval base in West Virginia that would be converted into Sugar Grove College and used by KVC to create a transition and training facility for those aging out of foster care. The college would provide room, board, and mentoring at no cost to students. Mental health services would be addressed and educational opportunities, with job placement following completion of the curriculum, would be provided.

The Committee discussed the need for an additional meeting day to consider recommendations. A motion passed to request another interim day from the LCC and to request a special or joint committee be established to finish the work assigned to the Special Committee. A request for another interim day was made, but the request was not approved by the LCC.

The Committee met briefly on January 11, 2016, to discuss and make recommendations for inclusion in this report. The following recommendations were made by the Committee:

- In considering the best interest of a child, evidence-based peer-reviewed research on family structure be considered a high priority in making foster care placement decisions; and
- Legislation be introduced to create a foster care oversight committee similar to the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight; and should legislation creating a foster care oversight committee not be approved, a Senate committee and a House committee each be charged with reviewing the topic of foster care.

Proposed Legislation

The Committee was supportive of legislation being introduced during the 2016 Legislative Session to create a foster care oversight committee, but did not request a bill be drafted on behalf of the Committee.