

SESSION OF 2023

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2194**

As Amended by House Committee on Child  
Welfare and Foster Care

**Brief\***

HB 2194, as amended, would enact the Representative Gail Finney Memorial Foster Care Bill of Rights (Bill of Rights) within the Revised Kansas Code for Care of Children (Code), which would enumerate the rights of children in need of care in the child welfare system (foster youth) and the rights of foster parents and kinship caregivers. The bill would also outline the requirements of the Secretary for Children and Families (Secretary) and case management providers to notify foster youth, foster parents, and kinship caregivers of the Bill of Rights. The bill would also add a definition of “kinship caregiver” in the Code and would amend law governing jurisdiction of proceedings under the Code to apply the federal Indian Child Welfare Act (ICWA) to the Bill of Rights.

***Jurisdiction, Indian Child Welfare Act***

The bill would amend law governing jurisdiction of proceedings under the Code to specify the provisions contained in the Bill of Rights could not apply when an Indian child is involved in a child in need of care (CINC) proceeding, and would state the ICWA applies instead.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

### ***Definition of “Kinship Caregiver”***

The bill would add the definition of “kinship caregiver” to the Code, defined as an adult that the Secretary has selected for placement for a child in need of care with whom the child or child’s parent already has close emotional ties.

### ***Rights of Foster Youth***

The bill would provide that, consistent with the policy of the State expressed in the Code to provide proper care and protection of foster youth, such youth would have certain rights, as described by the bill, unless otherwise ordered by the court.

### ***Rights of Foster Parents and Kinship Caregivers***

The bill would provide that, consistent with the policy of the State expressed in the Code to ensure active participation of foster parents and kinship caregivers as an integral, indispensable, and vital role in the State’s efforts to care for foster youth, such foster parents and kinship caregivers shall have certain rights, as described by the bill, unless otherwise ordered by the court.

### ***Notification of Rights; Prohibition on Private Right of Action***

The bill would require the Secretary to provide written and oral notification of the Bill of Rights as well as information for filing complaints to foster youth, foster parents, and kinship caregivers, and make the Bill of Rights available on the Secretary’s website.

The bill would also require case management providers to make available physical and digital copies of the Bill of Rights.

The bill would specify that the Bill of Rights would not create a private right of action independent of the Code, but may be enforced through equitable relief in a corresponding CINC case.

## **Background**

The bill was introduced by the House Committee on Child Welfare and Foster Care at the request of Representative Concannon.

### ***House Committee on Child Welfare and Foster Care***

In the House Committee hearing on January 30, 2023, representatives of the Children's Alliance of Kansas and FosterAdopt Connect and Representative Carlin testified as **proponents** of the bill. Proponents stated the need for both foster youth and foster parents to have a clear statement of rights in order to feel empowered in navigating the child welfare system and expressed gratitude that the bill's provisions would be a memorial to the late Representative Finney, who worked to pass similar legislation in years prior.

Written-only proponent testimony was submitted by Representative Sawyer Clayton, a case manager, the Child Advocate, and representatives of the Center for the Rights of Abused Children, Department for Children and Families (DCF), Kansas Appleseed Center for Law and Justice, and TFI Family Services. [*Note: Some of the testimony submitted references HB 2112, a bill containing similar provisions introduced by the Joint Committee on Corrections and Juvenile Justice Oversight on January 20, 2023.*]

No other testimony was provided.

On February 22, 2023, the bill was withdrawn from the House Calendar and referred to the House Committee on Appropriations (Appropriations). On March 1, 2023, the bill

was withdrawn from Appropriations and rereferred to the House Committee on Child Welfare and Foster Care.

On March 15, the House Committee amended the bill to:

- Specify that ICWA applies over the Bill of Rights when an Indian child is involved in a CINC case;
- Add a right provided to foster youth concerning retaliation;
- Clarify a right provided to foster parents and kinship caregivers concerning discrimination;
- Specify notification requirements of the Secretary and case management providers;
- Add a definition of “kinship caregiver” to the Code; and
- Add references to kinship caregivers throughout the bill.

### **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration and DCF indicate enactment of the bill would have no fiscal effect.

Foster care; foster parent; foster youth; foster care bill of rights; kinship caregiver; Indian Child Welfare Act; Revised Kansas Code for Care of Children