

Approved: February 22, 2011
Date

MINUTES OF THE HOUSE CHILDREN AND FAMILIES COMMITTEE

FEBRUARY 17, 2011

The meeting was called to order by Vice Chairman Wolf at 9:08 a.m., February 17, 2011, in Room 142S of the Capitol.

All members were present except: Chairperson Kiegerl (excused).

Committee Staff Present:

Martha Dorsey, Kansas Legislative Research Department
Jay Hall, Kansas Legislative Research Department
Rena Jefferies, Office of the Revisor of Statutes
June Christensen, Committee Assistant

Conferees:

Heather Morgan, Public Affairs Office, United Methodist Youthville
Mark Hunt, Parent
Tanya Keys, Director of Children and Family Services, Kansas Department of Social and Rehabilitation Services (SRS)
Kathy Winters, Grandparent Advocate
Reverend Fred and Sadie Carpenter, Written Testimony

Others Attending: See attached list.

Chairperson Wolf said the Committee will be hearing testimony on **HB 2105, children in need of care; relating to removal of child from parent's custody**, today. Anything that needs to come before the Committee will be through him, and he will be working with leadership. They have assured him that they will work with the Committee to get timely action.

Martha Dorsey, Kansas Legislative Research Department, briefly explained **HB 2105** and how it had come about. She distributed copies of the *Report of the Joint Committee on Children's Issues to the 2010 Kansas Legislature* and said the present bill was a version of previous 2010 HB 2494 that would have prevented removal of a child(ren) from parental custody unless there was a felony conviction for either parent (Attachment 1). A portion of that bill was removed, and the current bill only addresses the removal of children from parental custody due to being homeless.

Vice Chairperson Wolfe opened the hearing on **HB2105**.

Heather Morgan, Public Affairs Officer for United Methodist Youthville, presented testimony in support of **HB 2105** (Attachment 2). She noted that rather than removing the child, it would be better policy to help the family with living arrangements and jobs.

Mark Hunt, parent, presented testimony and spoke in favor of the bill but said it contained too many loopholes that would allow children to be taken from the home and not returned after investigation (Attachment 3). He cited personal experience with one of his children being removed and still in the custody of a questionable party.

Tanya Keys, Director of Children and Family Services for the Kansas Department of Social and Rehabilitation Services (SRS), extended her wish for Chairperson Kiegerl's recovery. She also spoke in favor of the proposed bill, noting that if only the issue of homelessness is apparent, that is not a reason to remove the child(ren) unless there are other issues that would be harmful (Attachment 4).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON CHILDREN AND FAMILIES
Room 142S, Statehouse, 9 a.m., February 17, 2011

Representative Gatewood questioned if the increase from 10 to 14 days for return of the children, would be a problem, and Ms. Keys said that change should not be.

Representative Brunk said he realized the overwhelming need for individual help and said the Legislature is trying to make changes. He requested a follow-up for the previous conferee's problems, which Ms. Keys will do.

Kathy Winters, grandparent advocate, addressed the Committee and said she was also in support of the bill but agreed with Mr. Hunt that the provisions were not enough. She presented testimony and cited an example of her failed attempts to get custody of a grandchild (Attachment 5).

Written testimony was presented by Reverend Fred and Sadie Carpenter (Attachment 6).

Chairperson Wolf reiterated that time is of the essence in getting legislation passed and that the Committee is aware of the problems but only has a limited amount of time to address all the concerns. He also said if the Committee members had issues to be considered, he would attempt to address them but stressed a simple approach must be used. Next week will be the last week the Committee can have a hearing, as the Legislature will not be meeting for most of April.

The next meeting will be held on Tuesday, February 22, at 9 a.m., Room 142S, and the hearing on **HB 2105, children in need of care; relating to removal of child from parent's custody**, will be held.

Chairperson Wolf adjourned the meeting at 9:35 a.m.

CHILDREN AND FAMILIES COMMITTEE

GUEST LIST

DATE: February 17, 2011

[illegible]

**Report of the
Joint Committee on Children's Issues
to the
2010 Kansas Legislature**

CHAIRPERSON: Representative Mike Kiegerl

VICE-CHAIRPERSON: Senator Julia Lynn

OTHER MEMBERS: Senators David Haley, Oletha Faust-Goudeau, Roger Reitz, and Susan Wagle; and Representatives Marti Crow, Peter DeGraaf, Bill Otto, and Valdenia Winn

STUDY TOPIC

The Committee is directed statutorily to study children's issues the Committee deems necessary.

December 2009

Joint Committee on Children's Issues

REPORT

CONCLUSIONS AND RECOMMENDATIONS:

The Committee acknowledges receipt of the response from the Department of Social and Rehabilitation Services (SRS) regarding the 23 specific cases for which testimony was received from the parents or grandparents of children who had been removed from their homes. The SRS response took a significant amount of work, and the agency's efforts were appreciated. After considering the response, however, several concerns remain. The Committee also has concerns regarding several contracting issues. As a result, the Committee makes the following conclusions and recommendations.

- The Committee requests that the Legislative Post Audit Committee direct the Legislative Division of Post Audit to investigate the manner in which Foster Care and Family Preservation contractor bids are awarded and the effect(s) this has on the children in the system. As part of this audit, the Division of Post Audit should examine whether a financial incentive exists for a contractor to keep children in the Foster Care system and, as a result, not return the children to their homes or recommend placement in the homes of relatives. If the current system of paying contractors – *i.e.*, on the basis of a flat rate plus a monthly amount per child – is found to be adequate and without negative effects on the children, the audit should examine whether SRS should provide greater administrative control over its contracting agencies to ensure the contractors sufficiently justify their actions and recommendations regarding the children for whom they are responsible.
- SRS provided a general explanation for many of the problems discussed in the cases, *i.e.*, that SRS is not responsible for the removal of children because the courts have to order the child be taken into custody. While technically accurate, it is SRS (or its contracting agency) who recommends to the court that a child be removed. The courts generally accept the testimony of SRS and its contracting agencies over the testimony of the parents or grandparents regarding the removal of the children. The Committee therefore recommends that documentation giving specific reasons for removal be provided to the families within 72 hours when children are removed from their homes.
- The Committee believes training of caseworkers and their managers is inadequate and, as a result, errors in their judgment can be expected. The Committee recommends additional training be considered.
- The courts cannot order a child to a specific placement while in SRS custody. The court only has the ability to deny a placement, but not to order a child's placement. The Committee recommends the Legislature consider whether the courts should be given the statutory authority to order the placement of a child.

- The Committee believes grandparents and foster parents should be reimbursed at the same rate. However, an argument exists that this could provide a disincentive to parents to provide adequate care to their own children. The Committee therefore recommends giving SRS discretion to reimburse grandparents at the appropriate rate.
- It appears the present method of selecting the contractors is not done at arm's length, and terms of the contract are not negotiated in a neutral fashion. Due to negotiation regarding reimbursement in one 2005 contract, the state ended up paying \$2.9 million in excess that year. The Committee recommends the Legislature consider possible remedies.
- The investigation by Attorney General Six regarding the \$713,000 Extraordinary Funding (EF) payment resulted in a finding that the Secretary of SRS did not follow the established procedures but his actions did not constitute a criminal act. The Committee recommends that the Legislature review why SRS had that much in surplus money.
- The Committee recommends the Legislature consider increasing oversight and control over SRS' budget and expenditures. For example, the Legislature could review SRS' expenditures based on a three-month interval, insisting on qualitative as well as quantitative measures for SRS' expenditure decisions and resulting budget requests.
- The Committee requests that the four bills introduced by various of its members be considered by the Legislature. These bills include HB 2461 (rescinding SRS' authority contract privately for foster care and related services); HB 2511 (granting SRS the authority to reimburse grandparents sufficiently for providing care for their grandchildren); HB 2512 (granting courts additional authority regarding placement of children); and HB 2494 (adding restrictions on the courts' authority to remove children and terminate parental rights).
- The Committee recommends it be constituted so that it can introduce legislation. Committee members are introducing the four bills cited above individually.

Proposed Legislation: The Committee has no authority to introduce legislation.

BACKGROUND

The Joint Committee on Children's Issues was created in 1998 as part of the legislation enacting the state children's health insurance program, known as HealthWave in Kansas. In 2008, House Sub. for SB 81 was enacted, which transferred the Committee's responsibility for overseeing the implementation and operation of the children's health insurance program to the Joint Committee on Health Policy Oversight. As

currently specified in KSA 46-3001, the Joint Committee on Children's Issues is responsible for addressing children's issues as the Committee deems necessary.

COMMITTEE ACTIVITIES

The Committee was granted two meeting days for the 2009 Interim. It met on November 30

and December 1, 2009. A brief summary of the Committee meeting and deliberations follows.

Policies, Procedures and Practices Regarding Foster Care and Adoption

The foster care system in Kansas is administered by the Department of Social and Rehabilitation Services (SRS) and delegated to regional contractors. The contracting relationship will be addressed in greater detail in the second portion of this report.

The Committee received testimony from private citizens regarding 23 specific foster care cases. The individuals who testified were parents or grandparents of children who had been placed in the foster care system. Included in the testimony were a number of claims and complaints. Following is a partial list of the allegations and complaints.

- Grandparents being denied placement of their grandchildren due to their age.
- The state making money when children are adopted by non-relatives.
- Case managers, caseworkers and other resource personnel not being licensed or trained properly.
- SRS and contractors making questionable decisions regarding the children's care and placement. For example, some adoptive parents ultimately selected and some other placement decisions were of concern to some parents or grandparents.
- Children's behavior growing worse in foster care placement.
- Children being abused during foster care placement.
- Children being removed from parents when

parents have not been convicted of a felony.

SRS officials were unable to respond during the Committee meeting regarding the 23 specific cases. The primary reason was that SRS and its regional contractors are required statutorily (KSA 38-2209) to maintain the confidentiality of each case. Because of the agency's confidentiality restriction, the Committee Chairperson requested that SRS review each case in detail and provide a detailed written response to the complaints expressed in the testimony regarding each case. Pursuant to KSA 38-2212, which provides an exception for disclosing such information to the Joint Committee on Children's Issues in executive session, the agency did provide a detailed response to each of the cases.

The Committee also heard from two guardians *ad litem* (GAL - an attorney charged by KSA 38-2205 to represent the child and to conduct an independent investigation as to what represents the child's best interests). The GALs expressed a number of concerns and made some suggestions. Among the concerns and suggestions were the following (some excerpted verbatim from their testimony):

- "GALs often hear complaints that the agencies [*i.e.*, Kansas Department of Social and Rehabilitation Services (SRS) and the regional contracting agencies for foster care and family preservation services] act without permission or input, do not place [children] with family, are allowed to submit sometimes subjective court reports parents and family of the child are not allowed to see, act in arbitrary ways, do not return children when parents have completed reintegration plans, and don't provide enough meaningful contact between children and parents in their visitation policies. In the course of investigating on behalf of children, I've found cases where this is true."
- "In my experience, when contractors have performed poorly in cases, it's due to a few

main factors:

- Inexperience of workers, changing workers
- Timeliness of services, dropping the ball, resources
- Placement issues – attachment of children to foster parents who want to adopt
- Policies that don't serve families (visitation, grandparent visitation, resources)"
- Although opining that the Kansas Child In Need of Care Code (KSA 38-2201 *et seq.*) is "... one of the best written bodies of law in the country as pertains to child welfare....," one GAL suggested a statutory change authorizing judicial determination of placement:
 - "The law currently provides that upon a finding that an emergency exists or reasonable efforts have been made to prevent removal of a child from home, a child can be placed in SRS custody with the authority for placement. SRS stands in *loco parentis* (in place of the parents) and takes custody of the child. SRS therefore makes many decisions for the child, including and most importantly where the child lives. The Court can review placement issues, but can only order a specific placement not be made. The Court cannot order that a child live with a specific person or family.

The Court should be given the authority to review and order placement as the Court finds represents the best interests of the child. Without this recourse, only SRS can make these decisions. Currently, the only option a party can take is to ask that SRS custody be removed. This does not always represent a child's best interests either, leaving a catch 22."

- "[In a number of case examples presented in one GAL's testimony] I find overreaching by the agencies and the Courts. In the state of Kansas we need to think of family as being important and consider the best interest of the child no matter how much money we can make by delay."

Issues Regarding Contracting of Foster Care and Family Preservation Services

Questionable contract award process - The Committee heard from a staff member of the Legislative Division of Post Audit regarding the appropriateness of procedures followed in awarding specific contracts in 2005. The Division of Post Audit was asked to review whether appropriate procedures were followed in awarding contracts to The Farm for foster care and family preservation services in 2005. The audit stated:

"During the [contracting] process, an SRS employee appears to have inadvertently disclosed information that The Farm subsequently used to increase its bids. When conducting the financial phase of the contracting process, SRS officials realized that four of five contractors' bid proposals were significantly higher than SRS' target, while The Farm submitted bids that were lower than SRS had projected.... While discussing its risk mitigation plan with Farm officials during the third and final negotiations, an SRS employee disclosed financial information that initially had been withheld, which led to The Farm increasing its bids. Consequently, the State paid an additional \$2.9 million to The Farm during the first two contract years. To avoid this situation, SRS officials could have finalized negotiations with The Farm before working with the other contractors on the risk-mitigation plan...."

Questions regarding an award of Extraordinary Funding - The Committee heard from an official of Johnson County Developmental Supports, an agency working with people with disabilities. According to the official, Extraordinary Funding (EF) is defined as follows:

“... funding above the established reimbursement rates for Community Service Providers (CSP) who demonstrate that their costs to support an individual with a developmental disability (DD) are significantly in excess of the established reimbursement rate for that individual. These costs would be due to the medical and/or behavioral needs of the individual being supported.”

The official stated that SRS authorized a payment of \$713,000 in EF to Community Living Opportunities (CLO), another provider of services to developmentally disabled individuals, in a manner that the official claimed deviated “... from the standard, overriding contract and policy.”

The Attorney General was asked to review the EF award to determine “...whether there was evidence of violations of Kansas criminal statutes, including KSA 21-3846 which prohibits the making of a false claim to the Medicaid program.” The Attorney General concluded:

“[Based upon several findings detailed in the letter]..., I conclude that SRS Secretary Don Jordan and his staff failed to follow SRS procedures in authorizing extraordinary funding for CLO. However, authorizing the extraordinary funding does not rise to the level of criminal culpability under Kansas law.”

CONCLUSIONS AND RECOMMENDATIONS

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Minority Report and Response to the Report of the Children's Issues Committee to the 2010 Legislature

The Children's Issues Committee Draft Report gives only one side of the cases that were brought to the attention of the committee by conferees who are dissatisfied with the outcome of Child In Need Of Care cases and foster care removal, placement, and adoption decisions by the courts.

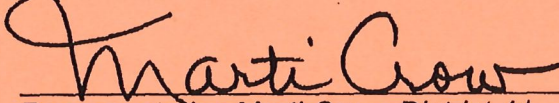
- **The Department of Social and Rehabilitative Services provided a very detailed and comprehensive response to the alleged problems in cases conferees brought to the attention of the Committee.** Each explanation provided specific reasons for the Department's recommendations and the decisions made by District Court Judges concerning the placement of children in foster care. The Committee held an executive session concerning the SRS response to the cases but no discussion was held concerning any allegation that SRS or foster care contractors or the courts have failed to inform parents or other stakeholders in the cases about the reasons for removal of a child from parents or a foster care placement. Since existing law requires a hearing within 72 hours of removal of a child from their parent's home and at least 24 hours notice to the child's parents or foster parents about the hearing, K.S.A. 38-2260. An evidentiary hearing, held within 72 hours of removal, allows parents, foster parents, grandparents with the opportunity to receive all the information concerning the case first hand and an opportunity to be heard as well. Is written documentation required from SRS prior to the hearing or at the hearing? Is the intent to have SRS provide written documentation of the reasons for the emergency removal to the parents, foster care home, grandparents and other close relatives?
- **K.S.A. 38-2259 requires SRS to notify the Court in writing when a child is removed pursuant to an emergency from parents or a foster care placement and the nature of the emergency that exists.** When there is no emergency, K.S.A. 38-2258 requires SRS to provide the parents or foster care home with written notice of any plan to move the child to a different placement and the reason for the proposed action thirty days prior to the move. The only exception is if everyone consents or the move is in response to an emergency. The court must find that an emergency exists. K.S.A. 38-2254 requires ten days notice to parents, foster parents, custodians, grandparents or other closest relative of any hearing that the court will hold concerning placement or change of placement. K.S.A. 38-2252 provides the opportunity for a conference between SRS, the court services officer and parents or others interested in the placement of the child to receive information about the case and to communicate about the issues in the case.

- **SRS has no authority to remove children on its own.** K.S.A.38-2230 requires that SRS, whenever any person furnishes information to the department that a child appears to be a child in need of care, to make investigate and determine whether the interests of the child require further action be taken. The inquiry is required to include a preliminary investigation of the circumstances which were the subject of the complaint, including the home and environmental situation and the previous history of the child. If SRS finds reasonable grounds to believe abuse or neglect exist, the department is required to take "immediate steps to protect the health and welfare of the abused or neglected child as well as that of any other child under the same care who may be harmed by abuse or neglect." If the department determines it is impossible to provide services necessary to protect the interests of the child without removing the child, SRS must go to the county or district attorney that a petition for the child to be found a child in need of care.
- **K.S.A. 38-2253 gives the court, not SRS, authority to place the child in the custody of SRS if the child is adjudicated to be a Child in Need of Care.** In that event, SRS steps into the role of parent. The court can also order case planning. K.S.A. 38-2243 gives the court the authority and jurisdiction to order temporary custody. K.S.A. 38-2242 provides the court with authority to order protective custody. K.S.A 38-2212 gives parents access to all records concerning the case and requires a free exchange of information between the department, law enforcement, the court and parties. The court decides whether the child is a child in need of care. K.S.A 38-2251.
- **The law requires parents, foster parents and grandparents to be provided with notice and an opportunity to be heard by the court on proposed living arrangements for the child.** K.S.A. 38-2254. The court has exclusive authority to order removal a child from parental custody and order custody to someone else, like a grandparent or SRS. K.S.A. 38-2255.. The court is, by law, where orders affecting the placement of CINC children occur, after a full hearing. K.S.A. 38-2260. If SRS plans to change the placement, notice must be supplied and the placement may not be changed if anyone objects unless the court approves the change. K.S.A. 38-2258. The report is, therefore, incorrect when it says that the court's authority in CINC cases is limited to denying placements. Rather, the department's authority to change a placement is subject to court approval if any objection is made by the parties. In fact, in 2002, the Kansas Court of Appeals found that SRS is not even an interested or necessary party in a CINC case. In the Interest of H.R.B., No. 87,290.
- **It is important to note that the Grandparents as Caregivers Act was passed with the goal to provide grandparents with financial assistance when they become caregivers of minor grandchildren.** Whether

grandparents are awarded custody according to the CINC code or become informal caregivers, it is in the best interest of Kansas children to provide them with the financial assistance they need to properly provide for these children.

I apologize for the tardiness of this minority report. The press of legislative business has not allowed adequate time for me to prepare my response to the Joint Committee's Report.

Signed:

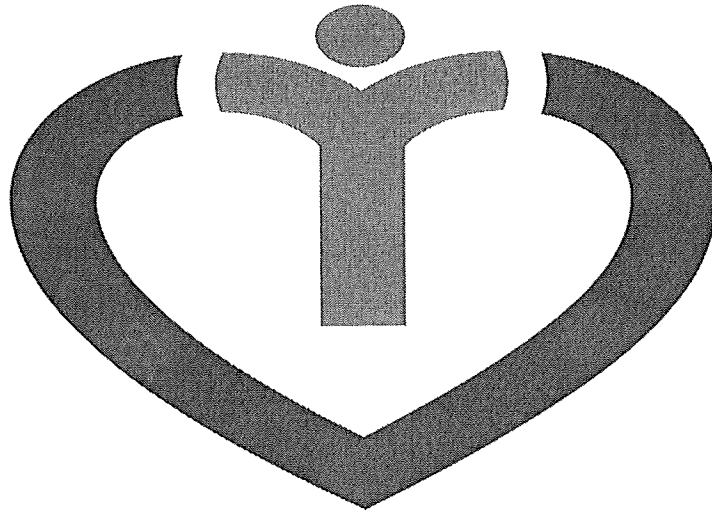
A handwritten signature in black ink that reads "Marti Crow". The signature is written in a cursive style with a large initial "M".

Representative Marti Crow, District 41
Member, Joint Committee on Children's Issues

United Methodist Youthville

Child Welfare Services

Testimony in Support of HB 2105



Youthville

Giving Children Back Their Childhood

For More Information Contact:

Heather Morgan
Public Affairs Officer
United Methodist Youthville
785-409-4170
913-683-9946 (Cell)
hmorgan@youthville.org

Shelley Duncan
President and Chief Executive Officer
United Methodist Youthville
316-529-9127
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sduncan@youthville.org

Chairman Kiegerl and Committee Members, thank you for the opportunity to testify today in support of HB 2105. We understand members of the committee are concerned with how homeless families are treated within the child welfare system. Current law stipulates that a child may only be removed from the home if:

- The child is likely to sustain harm if not immediately removed from the home;
 - Allowing the child to remain in the home is contrary to the welfare of the child; or
 - Immediate placement of the child is in the best interest of the child; and
 - Reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home; or that an emergency exists which threatens the safety of the child.

Adding that a child may not be removed from the custody of their parents solely for the reason of homelessness to the current statute does not change the intent of the law and merely clarifies that homelessness alone is not justification for removal of a child. We support this clarification in statute, because sometimes a loving and caring family finds its self homeless, but the family is still able to care for the child/children. Rather than removing children solely because they are homeless, we believe it is better public policy to provide the family with services to help them find permanent living arrangements and a job, rather than removing children from the custody of their parents.

HB 2105 also extends the advanced notice that must be provided to the court that a child will be reunifying with their family from 10 to 14 days. This increase in the time of notification should not cause a problem with current practice. We encourage you to favorably consider HB2105.

MARK J. HUNT
6114A S.W. 26TH
TOPEKA, KANSAS 66614
(785) 220-3843

To: 2010 Joint Committee on Children's Issues

My name is Mark J. Hunt; I am a parent seeking assistance with obtaining justice; An the ethical treatment of my case with Topeka The Farm Inc. This is a contract agency That works for Social and Rehabilitative Services that receives grants. I believe that I have been denied my parental rights have experienced custodial interference. I currently work at St Francis Hospital in Critical Care / Progressive Care in nursing. I have a Stable home environment and is currently a student trying to obtain additional medical licensure.

My wife and I were living in separate house holds when she suffered a medical situation that required her to be hospitalized. Due to a personal conflict between me and a city police officer my kids were put into Topeka the Farm Inc custody without my permission or it being necessary.

I would like the opportunity to sit down with your committee and discuss why I feel that a grave injustice has taken place and threatens the well being of my family and leaves my children in a damaged state that is being overlooked. I believe if allowed this opportunity it will aide in preventing this kind of injustice from ever occurring again with someone else. Due to the seriousness of this nature I would like to speak with you in person with supporting documentation.

HOUSE CHILDREN AND
FAMILIES
DATE: FEBRUARY 17, 2011
ATTACHMENT NO. 3

Sincerely,

Mark J. Hunt

Rob Siedlecki, Acting Secretary
Department of Social And Rehabilitation
Services

**Children and Families Committee
February 17, 2011**

Testimony in Support of HB 2105

**Children and Family Services
Tanya Keys, Director**

For Additional Information Contact:
Gary Haulmark, Director of Legislative Affairs
Docking State Office Building, 6th Floor North
(785)296-3271

House Committee on Children and Families

February 15, 2011

Testimony in support of HB 2105

Chairman Kiegerl and members of the committee, I am Tanya Keys, Director of Children and Family Services with the Kansas Department of Social and Rehabilitation Services (SRS). Thank you for the opportunity to provide testimony in support of HB 2105.

HB 2105 interjects the prohibition on homelessness as a sole basis for removal at the dispositional phase. Children may be removed by the court prior to the court's determination the child is in need of care. If, the adjudication hearing results in the court finding that the child is in need of care solely due to homelessness, the court must return custody to the parent.

SRS supports HB 2105 because children should not be removed from their parent's custody at disposition solely due to homelessness.

A child shall not be removed from his/her home unless both parents are openly charged or convicted of a crime. If only one parent is charged with a crime, then the child shall remain in the custody of the non-offending parent and the offending parent will leave the home. A parent charged with a crime would mean that they would get "due process". A parent's rights should never be severed unless that parent has been convicted of a crime.

If a parent has done everything on the case plan and has not been convicted of a crime, the child(ren) shall be returned to the parent(s) immediately.

If a child is removed from a parent who is charged with drug abuse, a drug test before each hearing or at least every two weeks shall be done and if the parent has been cleared of drugs for a total of two months, the child shall be returned to the parents with a follow up monitoring of drug tests for a period of four more months. Foster parents and other placements, including employees of institutional placements, group home, etc., should also be required to do drug testing on a regular basis.

When a CINC case is filed, one of the following happens:

1. The judge can give the child back (which ABSOLUTELY NEVER happens).
2. The children stay with whoever reported the CINC case.
3. The children go into foster care.
4. The children are placed with grandparents (which typically never happens) (Judge Burgess stated in a December, 2008, meeting that if the grandparents parented the "bad parents", then the grandparents are automatically assumed to be bad parents also.).

It matters not who makes the decision to remove the child or not, SRS, contractor, GAL, DA, or the judge, etc. The decisions are based on secretive reports given to the judges regarding the parents, which parents are not allowed to see or have a copy of, and decisions on what direction the case will go has already been decided behind closed door meetings in the judge's chambers. The decisions are a group effort between these entities before the court hearing has even begun. The parents are not included in these meetings and are rarely even consulted before the hearings by these entities. Court appointed attorneys or even expensive attorneys rarely represent their clients effectively because "they will not bite the hand that feeds them".

We should demand transparency and accountability!! This is a denial to 'access to justice' and breeds corruption and profit from those whom make their living on the tax dollar..

In Kansas there is already a law that provides for a Citizens Review Board to investigate CINC cases. However, the cases to be reviewed are chosen by the judges and the citizens on this board are also appointed by the judges. This,

also, deprives the parents of a fair and unbiased review of their case and keeps "justice" out of these reviews and the courts. The use of these Citizens Review Boards is rarely placed into effect. The cases and citizens on the board should be chose by an individual outside of the court system and the government. The board members should be rotated and it should be "peers" like a jury would be.

Sunshine is good for children. Open the cases up--confidentiality only breeds corruption. This is illegal except in juvenile and family courts, and used in that broad rule "best interest of child" for the profiteers to hide behind, who do not even know the child.

At the 72 hour hearing, the judge can decide to place a child in foster care on "probable cause". This needs to be changed to "clear and convincing evidence" that the child has been abused, and shall be met at the 72 hour hearing.. This should be changed

CONSEQUENCES: The DA or County Attorney is also supposed to show at the 72 hour hearing that they made reasonable efforts to maintain the family and investigate the allegations before removing the child. When there is falsification of documents, efforts have not been made to maintain the family, no significant investigation has been done, and any failure to follow the law, then there needs to be consequences written into law and mandated. This is a criminal act and should be treated as such.

Children shall not be removed where there are no signs of abuse or who are not in immediate danger. (There should be nothing in the bill that says the children can be removed if there is a likelihood of danger or abuse. This assumes just a thought that it might happen by the caseworker is all that is needed to remove the child from their home.)

WHEN A CHILD IS TAKEN FROM THEIR PARENTS, THE CHILDREN "SHALL BE PLACED WITH A GRANDPARENT OR NEAREST RELATIVE WILLING TO TAKE PLACEMENT AND CARE OF THE CHILD OR CHILDREN".

If a parent's rights are severed or the parent relinquishes his/her rights to a child (ren), the rights of the grandparents shall be elevated to the level and standard of a parent's rights per the law.

When a child is interviewed, there should be a taped interview from beginning to end.

I was told by a friend last night, "When you read this tomorrow, let your voice echo for all the children".

Kathy Winters, 605 S. Valley Rd., Olathe, Kansas, 66061, 913-782-8642

SWORN COMPLAINT AND AFFIDAVIT OF REVERAND FRED AND SADIE CARPENTER

16415 W. 129 TH St, Olathe, KS, 66062

1. Rose Nichols is our daughter; Rose's daughter, our granddaughter, is Alicia Miller, who is the mother of our great granddaughter, Victoria Thomas. All live in Wichita, Kansas.
2. On or about the summer of 2005, we received a phone call from our daughter Rose. She asked, "Will you come and get Victoria?"
3. Victoria's mother, Alicia Miller, had been incarcerated. Rose was unable to provide care for her at that time.
4. Victoria had been placed in a temporary foster home in Wichita. Rose thought we could pick Victoria up.
5. Shortly after Victoria was put in foster care, we received a phone call from "Youthville" to discuss temporary custody. Youthville is a private contractor working with the Kansas SRS Department (Social Rehabilitation Services) to take care of foster children. It was agreed Victoria should stay with the foster person in Wichita, enabling her mother Alicia, to visit her a few times per week. At that time, we lived in the Kansas City area and still do.
6. Youthville has authority from SRS to place children in foster care until the first hearing in a child placement case, what is commonly called a "Child in Need of Care" case.
7. The first hearing occurred shortly thereafter.
8. At the first hearing, the Judge ordered that the mother, Alicia, would have weekly visits for one year. If Alicia was able to maintain a job, a home and complete other rehabilitative requirements she could re-obtain full custody.
9. During this year of "probation", there were approximately five non-court hearings with various representatives from Youthville, family members and the foster parent.
10. During one of the meetings, one of the caseworkers told us that Victoria would, "Be in the system until she was 18". This, at the time, struck us as strange. After all, if Victoria needed care, we would provide that care and pursue adoption if that was the next step. We were there to prevent Victoria's placement in "the system". We had developed a wonderful relationship with our great granddaughter, and intended to provide a loving nurturing environment in which she would be raised.

11. During the court hearing after the probationary period, it was found that Alicia, the mother, had not fulfilled all of the necessary requirements stipulated by the Judge. She asked for more time; the Judge gave her two additional months.
12. During the court hearing after the additional two months, it was found that Alicia still had not fulfilled the requirements. During the hearing, one of the caseworkers said, "Judge, she's living with a convicted pedophile." The Judge replied, "OK, put the child up for adoption."
13. We immediately went to Youthville and told them we had every intention to adopt Victoria and filled out the necessary application. This was June 16, 2006.
14. The following July 4th weekend, a Youthville worker came to our home to complete the home study.
15. Upon completion of the study, the case worker said, "You're approved for adoption."
16. We expected to get custody of Victoria in due time.
17. After two follow-up calls, we received the Best Interest Staffing Decision letter from Youthville, dated August 22, 2006, which stated we had not been chosen as the adoptive family. Another family had been chosen.
18. We appealed this decision. We hired an attorney and met with the Staffing Team. We were astounded to find that the 'family' chosen was Myrtle Thomas, the woman Victoria had been placed with as temporary foster care.
19. We received a letter from the Youthville Review Committee, dated November 6, 2006. It was determined the Best Interest Staffing decision would be upheld. The reasons given in the letter for the decision did not accurately portray the difficult circumstances of the case. In fact, several reasons given regarding Victoria were not true.
20. The letter stated that "Victoria is very bonded to Myrtle Thomas." Victoria had repeatedly asked if she could live with us. She does not like living with Ms. Thomas. While on Thanksgiving holiday, we experienced first-hand the distress Victoria feels. We were allowed to take Victoria for a visit. We spent a wonderful time together. When taking her home, she began sobbing uncontrollably. She did not want us to leave her with Ms. Thomas. She later said that when Ms. Thomas asked why she was crying, she told her that we would not let her keep her hair clip as an excuse. We had given her a hair clip, intending for her to take it with her.

Cont'd #20. Victoria wanted us to keep every gift given or item purchased at our home, hoping she would return permanently.

21. Ms. Thomas is in her late 60's, lives alone and has multiple health problems. Victoria said, "Myrtle had a caregiver, but she didn't like children, so I have to be her caregiver. I have to get up in the morning and fix her coffee and get her cigarettes. I have to help her get dressed." (to clarify, the caregiver did not like children and quit)
22. Ms. Thomas is a long time heavy smoker. When picking Victoria up, she smells heavily of smoke. Her clothes are saturated with smoke. Studies have proven the dangers of second hand smoke. This is an issue directly effecting, and critical to Victoria's health and well being.
23. Ms. Thomas is on oxygen, yet continues to smoke. A warning sign posted outside Myrtle's front door states, "No smoking, Oxygen in use." Myrtle smokes in the house. This is placing Victoria in grave danger of fire and explosion.
24. Ms. Thomas is also diabetic with heart problems. The people in Ms. Thomas' church must provide transportation when Victoria has to go anywhere. She is unable to drive at night due to poor vision.
25. The letter from the Review Committee stated Victoria had "a strong bond with her current school." Victoria has shared many times, that she dislikes her school. She has said, "They're mean to me. I want to go to another school." Victoria is Caucasian and has been placed in a predominately black school where she is harassed.
26. We have observed cockroaches while visiting in Ms. Thomas' house. While discussing this problem with our home study caseworker, she said this would not be an issue in regards to placing the child in a foster home or an adoptive home, though, if cockroaches are found in the birth mother's home, this could be used as grounds to remove a child.

27. In order to fight for our great granddaughter, we were told that our attorney would need a \$5,000 retainer to start, and that there were no guarantees. We do not have money to wage an expensive legal battle.
28. In the Youthville Review Committee letter dated November 6, 2006, one of the reasons given for choosing Ms. Thomas as caregiver was that she "is open to having continued contact with Mr. and Mrs. Carpenter if she is the adoptive placement." The adoption became official March 2007. We received no notification of the final adoption by Youthville, the State of Kansas or the foster mother. We eventually found out during a phone conversation with Victoria. Victoria said, "I'm not supposed to tell you this, but the adoption became final."
29. Since we found out the adoption was final, Ms. Thomas makes it difficult to get visitation. When we do get Victoria, she begs to stay with us and cries when she has to go back.
30. We found out that Victoria was allowed to spend the weekend with her mother and her boyfriend, who has been convicted as a pedophile. On December 19, 2008, we met Judge Burgess and discussed this information with him. Judge Burgess said, "I can't have that, I can't have that permitted. I've got to keep her safe." He also said, if we would come down to Wichita, he would open the case and help us. After going to Wichita, and speaking with his secretary, we received an e-mail from Judge Burgess stating we misunderstood, he couldn't help us.
31. Victoria is still a "Child in Need of Care." She is being deprived the opportunity to live in a healthy environment. She has been put in a situation where she is more the caregiver. She is deprived of growing up in a two parent family unit, able to serve Victoria's interests. She is missing contact with family members that would be a positive influence in her life. She is missing growing up in an environment of her own culture and race.

32. Our Background:

- We love Victoria and feel a great sense of responsibility for the health and wellbeing of our granddaughter.
- We have worked very hard to maintain a positive personal relationship with Victoria.
- We are blood relatives to Victoria.
- We have a strong family support system.
- We own a home in a comfortable middle class neighborhood, in an excellent school system.
- Mrs. Carpenter is a retired school teacher and willing and eager to help Victoria with her education.
- We do not smoke or drink, and will provide a healthy environment in which Victoria can thrive.
- We are active in our local church. Victoria loves attending our church. Mr. Carpenter is a retired minister.
- Mr. Carpenter is retired from the military and have full military health care benefits, which would also cover Victoria.

33. In the ensuing time, we have contacted state legislators and have testified before State Legislators three times concerning the welfare of Victoria, Foster Care and the adoption process. We are currently seeking legal representation to continue the fight for our granddaughter.