Kansas Family Voice Testimony in Support of H.B. 2311

House Committee on Child Welfare and Foster Care

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Chairwoman Howerton, and members of the Committee, my name is Brittany Jones. I am an attorney and the Director of Policy and Engagement for Kansas Family Voice. Kansas Family Voice cares deeply about ensuring our laws protect the conscience rights of Kansas families who want to follow the biblical command to care for children in need through foster care and adoption. Thank you for the opportunity to share with you our reasons for supporting H.B. 2311.

A staggering number of children are in the foster care system or are waiting to be adopted. According to a Department for Children and Families (DCF) report from last year, there were almost 6,000 children in foster care at any given time in the state.[1] Many of those who want to adopt, or foster do so because their faith compels them. It does not make sense for our state to capitalize on the Judeo-Christian belief to care for the widow and orphan and then ask those same families to leave their beliefs about sexuality and marriage at the door when being considered for placement.

This bill does a few simple things:

1) Instructs the Secretary for Children and Families not to adopt a policy that requires foster or adoptive families to affirm a government policy regarding sexuality or marriage that violates a sincerely held belief or prohibits that family's selection or licensure to foster or adopt. It simply ensures that there is not a pre-emptive bar for families whose sincerely held religious beliefs conflict with the Department's.
2) It adds some clarity that the secretary is still allowed to consider the beliefs of the child or the child's family when placing the child and the child's best interest.
3) It allows the potential adoptive or foster care family to sue for being denied a placement or licensure solely for the family's belief.

Every child in need of a family and every courageous birth mom who pursues adoption should be at the center of Kansas' foster care and adoption policy. Shouldn't we pursue *more* opportunities for children without families and birth moms—not less? The government's job isn't to choose which beliefs are worthy. The government's job is to protect religious freedom for all equally. When the government excludes an entire faith community from adoption and foster care it only takes away opportunities from children. We need more foster and adoptive families to take in children–not fewer.

Unfortunately, we have already seen other states take action against families for simply living out their faith. Colorado has passed a law that would exclude any family

[1]FY 2024 Removals, Exits and Out of Home Summary, https://www.dcf.ks.gov/services/PPS/Documents/FY2024DataReports/FCAD_Summary/FACTSRemovalsExitsOOHSFY24.pdf.

that did not agree with the state's belief about sexuality.[2] In Massachusetts, Oregon, and Washington, families have already been denied licensure and placements because of their beliefs.

A Seventh-day Adventists Washington couple was denied the right to adopt their granddaughter because of religious conflict with Washington's policy.[3] The Court in this case found that the policy burdened "potential caregivers with sincere religious beliefs yet almost no others." Similarly, the DeGross family, who had fostered for nearly a decade, accepting children from all backgrounds, were denied renewal of their foster care license because they refused to affirm Washington's statement of belief about sexuality.[4]

In Oregon, Julia Bates sued the state because its regulations for foster care and adoption excluded her because of her deeply held religious beliefs on human sexuality.[5] Mrs. Bates decided to foster because she felt that it was God's calling for her family. Mrs. Bates was happy to care for and accept any child, but she could not affirm beliefs and actions that go against her Christian beliefs. As a result, her application to adopt foster siblings was denied. She argues that this violates her First Amendment to be free from compelled speech and her right to freely exercise her faith. Oregon's rule has categorically excluded people of faith from participation in adoption and foster care and created a religious litmus test for families. Similarly in Massachusetts, a Roman Catholic couple, Mike and Kitty Burke, sued the state in August after their application to foster was denied due to their beliefs about gender and sexuality.[6]

And in Vermont at least two families are suing the state for violating their First Amendment rights when it comes to fostering and adopting. [7] Brian and Katy Wuoti and Michael and Rebecca Gantt were both licensed as foster parents for years and had cared for multiple children in need. Both families tried to renew their licenses after the state instituted a new requirement that foster families agreed to fully embrace and affirm a child's sexual orientation and gender identity, even if it was contrary to the families' belief. They were informed that they would be required to use pronouns inconsistent with their children's sex, take children to events like pride parades, and agree to affirm certain ideas and beliefs about gender. As devoted Christians, both families are willing to love and care for any child, but they cannot be complicit in lying to children about gender or taking them to events that violate their religious beliefs. These families were told they were ineligible for placements and eventually their licenses were revoked.

And these laws do not just effect Christians. There are many faiths that believe that sexuality is given by a higher being and it cannot be changed. It is important that

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[2] CO HB 24-1017.
[3] *Blais v. Hunter*, 493 F. Supp. 3d 984 (E.D. Wash. 2020).
[4] *DeGross v. Hunter*, Case No. 3:24-cv-05225 (W.D. Wash. 2024).
[5] *Bates v. Pakseresht*, Case No. 2:23-cv-00474-AN (D. Or. 2023).
[6] *Burke v. Walsh*, Case No. 1:23-cv-11798 (D. Mass 2023).
[7] *Wuoti v. Winters*, Case No. Case No. 2:24-cv-614 (D. Ver. 2024).

our system focus on finding placements for the children in their care, not worry about policing family's beliefs.

While it is not clear that a family has been denied placement or licensure because of their religious beliefs in Kansas, DCF has taken several actions during Gov. Kelly's administration that could create concern for families interested in adopting or fostering. In 2019, a draft policy was released from the Governor's Administration that would have violated the faith of many Kansas families.[8] After receiving push back the Administration stated it was merely a draft rule and had not been finalized. We are not aware that this rule has been implemented.

Recently, DCF issued a foster care regulation that requires training that could include training on human sexuality and gender identity. It states,

> Each licensee shall obtain eight clock-hours of training each licensing year. At least two of the required eight clock-hours shall include instruction between an instructor and participant. The training topics shall provide the opportunity to develop competency in two or more of the following areas:....(7) human sexuality, including gender identification.[9]

It does not appear that families are mandated to take this particular course, but it does beg the question why it was included in the regulation, when most children in foster care simply need their basic needs met. Further, it is possible that a family could feel coerced to take the course or self-select out of providing foster care because policies like this express that the Kansas Government does not welcome them. H.B. 2311 is important to ensure that families know that no matter what the Administration believes, the family's religious beliefs still have to be respected.

It is important to point out that this policy does not mandate that a child has to be placed with a family and it still requires that the best interest of the child be considered. It simply ensures that families cannot be automatically excluded from placements or licensure because of their beliefs.

People of faith have long played a crucial role in caring for children in need. Christian and other faith groups started some of this country's first orphanages. Even today, according to one survey, practicing Christians are more than twice as likely to adopt than the general population.[10] At least two other states are considering a similar law.[11] We should join Tennessee, Idaho, and Arizona who are already protecting adoptive and foster families.

Many Kansans whether they ascribe to a particular faith, share the Judeo-Christian belief that they are called to care for widows and orphans. But they also

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[8] The Associated Press, *New Kansas governor brings sharp shift on LGBTQ foster kids*, NBC News, Aug. 6, 2019, https://www.nbcnews.com/feature/nbc-out/new-kansas-governor-brings-sharp-shift-lgbtq-foster-kids-n1039686.
[9] K.A.R. 30-47-806.
[10] Jedd Medefind & Natalie Bergstrasser, *New BPC/Harris Polling Data on Religion and Child Welfare*, Bipartisan Policy Center, Feb. 2024, https://bipartisanpolicy.org/blog/new-bpc-harris-polling-data-on-religion-and-child-welfare/
[11] Iowa, and West Virginia.

believe that the two sexes are given by God and cannot be changed. Excluding these families from caring for children in need only hurts the children. This bill ensures that these caring families will not be excluded for simply living out their beliefs. I ask that you pass H.B. 2311 out favorably.

Thank you!

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