

**Proponent Testimony: HB 2021
Senate Committee on Judiciary
March 8, 2023**

Chair Warren, Vice Chair Wilborn, Ranking Member Corson, and Members of the Senate Committee on Judiciary, thank you for the opportunity today to speak to you about benefits to public safety that would be realized with the passing of HB2021.

My name is Erica Case, I am an attorney for Saint Francis Ministries. Prior to working for Saint Francis Ministries, I represented adults and juveniles in the practice areas of criminal defense and child in need of care (CINC) around the State of Kansas.

Saint Francis Ministries (SFM) is an independent not-for-profit that has served Kansas children and families since 1945. At Saint Francis, we remain committed to providing high-quality services to children and families that meet the current needs of Kansas families. Today, Saint Francis provides a continuum of child welfare services that includes case management, prevention, out of home, and residential services. Currently, we care for more than 2,950 children in foster care as a DCF grantee for catchment areas 1, 2, and 7, serving 66 counties and employing more than 975 Kansans. In addition to case management services, Saint Francis sponsors 470 foster care homes, operates a Psychiatric Residential Treatment Facility (PRTF), a Qualified Residential Treatment Facility (QRTP), and serves Kansas families with innovative and evidenced-based mental health and substance abuse treatment services under Family First Prevention Services Act programs. All this work includes services to children who interact with the juvenile justice system, commonly referred to as crossover youth.



* As December 2022

A cross-over youth is defined as a young person age 10 and older with any level of concurrent involvement with the juvenile justice system and the child welfare system (CINC).



*Calendar year 2022

In the calendar year of 2022, SFM received 1706 referrals. Of those 1706 referrals, 286 referrals (33.5%) could be identified as criminogenic CINC cases. Here are some examples of these referrals from 2022:

- A 17-year-old youth was charged with attempted murder after shooting and striking his sister twice. The youth was adjudicated as a juvenile offender and placed on probation at the time of sentencing. His parents refused to take him home, so he was dually adjudicated as child in need of care (CINC) and placed in a foster care home.
- A 17-year-old with a significant history of substance abuse, defiant behavior against his parents, and truancy was arrested for possession of a gun.
- A 15-year-old with five pending criminal charges after being adjudicated as a juvenile offender and placed on probation with community corrections for 28 previous charges that included aggravated assault, battery, felony theft, and felony attempted aggravated robbery.
- A 13-year-old was first referred to out of home after criminal charges for trying to stab his father with a box knife. That youth is now 17 years old. On November 30, he was released off probation as the case length limit had expired. Fifteen days after being released off probation, the youth left a day program without permission, broke into his father's home with another crossover youth and stole a gun, then returned to the same day program with the gun where he ultimately was arrested for felony burglary and possession of a firearm. The youth pled to felony burglary and possession of a firearm with a recommendation for probation. This youth has been arrested and detained five previous times since coming into care for ongoing criminal behavior.

The intended purpose of recent juvenile justice reform was to reduce the number of youths being detained, open more evidence-based programs in the community, and focus on prevention of entry into the juvenile justice system itself. That reform has successfully reduced the number of detained youth and prevented children from entering the juvenile justice system. We agree these are important successes with benefits for many Kansas youth, especially those with lower-risk behaviors. We are here today to discuss the middle ground and the need for growth with our moderate to high-risk offending youth.

In our work with children and families, however, we have observed that more moderate to high risk level youth are not accessing needed supports to reduce recidivism. The lack of access and availability of evidence-based programs has led to an increase of referrals of criminogenic CINC cases, a decrease in access to KDOC placements in foster care homes and residential settings, and extreme frustration within our court system for an inability to provide immediate consequences for probation violations or contempt of court sanctions in CINC case when these offenders are not complying with court orders.

We support HB2021 as an important first step in addressing these gaps in our juvenile justice system.

HB 2021 will expand the use of statutory funds for evidenced-based programs as initially promised. It requires a memorandum of understanding (MOU) between DCF and KDOC to identify the needs of these youth, require engagement in an evidence-based program to prevent out-of-home placements in foster care or incarceration, and allow for appropriate interventions. Without appropriate evidence-based programs on the juvenile justice side itself, these youth will continue to be placed in the child welfare system as the only other option to detention, which we have now learned over the last 7 years, is not the appropriate service milieu for these youth.

HB2021 will give the Court an opportunity to extend jurisdiction beyond the time limit if the youth is engaged in an evidenced-based program and the delay is due to their behavior. Currently a juvenile can be placed on probation for 6, 9, or 12 months dependent upon their risk assessment score. Typically, the juvenile offender is placed on probation with terms and conditions based on their assessment. When a youth is not compliant with the conditions of probation, the parent or guardian can notify the court supervision officer (CSO). The CSO will make a determination per K.S.A. 38-2392 regarding the alleged violation. Upon review, the Court may find the youth is failing to engage in the conditions of probation or previously court ordered programs due to instability at home and place the child in foster care as an alternative to detention with a belief that the CINC side offers more access to programs. We recommend that the youth not be placed in foster care but focus efforts on connecting that youth with the appropriate program while remaining at home or consider swift sanctions as proposed in HB 2021.

HB2021 will increase the cumulative detention cap from 45 to 90 days. When a juvenile offender is struggling to complete the conditions of probation or is engaging in criminal behavior and is

violated for their actions, we see the case length detention limit exhausted before the youth ever engages in a rehabilitative program. Over the years, we have seen the need for an immediate and intermediate consequence imposed on crossover youth placed on probation repeatedly, who refuse to comply with the conditions of probation or engage in court ordered programs. If a juvenile offender on probation is struggling with a fentanyl addiction but does not engage in treatment or a treatment bed is not available for a significant amount of time, the CSO and the Court have limited options. Often, we see this crossover youth facing more and more criminal charges with an increase of severity fueled by an addiction. HB 2021 allows the Court to impose a graduated sanction of 24 hours for a 1st offense, 48 hours for a 2nd offense, and up to 15 days for a 3rd and subsequent offense. Our Courts need the authority to impose a sanction when youth violate the conditions of probation as a deterrent to continue reform. Currently, a youth placed on probation must have 3 technical violations prior to a probation violation being submitted. While we recognize that minor technical violations do not warrant the need for detention, major violations of probation that are technical in nature, as they do not rise to the level of a substantive violation since they are not charged with a new crime, do warrant a consequence. A real example of this would be, a 17-year-old youth placed on probation who gave a 12-year-old foster brother a gummy bear laced with fentanyl resulting in the child's hospitalization was not violated by his probation officer for a substantive violation because no new crime was charged. This example could be categorized as a technical violation by the probation officer and the youth would face no consequences until he reaches three technical violations. Commonly, we see the usage of drugs and alcohol categorized as technical violations since there is no evidence to test by law enforcement and new crime is charged rising to the level of a substantive violation of probation.

The continued placement of juvenile offenders in a child welfare system designed for families in need of assistance, as the court's only alternative solution to detention, is misguided. This continued cycle of not connecting youth with the appropriate EPB or not serving a consequence for their behaviors has led to a reduction in foster care placements. Many of our foster care homes, residential settings, congregate care placements have been impacted by the violent nature of our crossover youth in behavioral crisis without appropriate interventions, and therefore are forced to say no when requested to take placement.

The child welfare system has always served high acuity youth. However, recent referrals and the behaviors of moderate to high-level juvenile offenders have created additional challenges in the child welfare system. Those challenges are predicated by the behaviors described above that include threats and physical assaults of other children within the child welfare system, foster parents, and child welfare professionals. The impact of these threats and assaults upon child welfare professionals is significant.

Child welfare professionals are experiencing both first-hand and secondary trauma. Those experiences are contributing to long-tenured professionals leaving this critical work. These departures can be directly linked to the threats and assaults by juveniles. The current juvenile offender situation is impacting both employee turnover and the overall availability of

professionals – both a short-term and long-term concern. Given these challenges, one should also note that a lack of child welfare professionals ties directly to a lack of stability for abused and neglected youth - the same youth we are all diligently working to protect and assist.

The decrease in foster home availability can also be linked to these same type of juvenile offender threats and assaults as well – another significant concern. These behaviors naturally impact placement availability, stability, and sustainability and factor into staff morale and turnover. To better support the moderate to high-level juvenile offender population, another level of accountability is required. Interaction, support, and oversight from the legal community would provide incentives for cooperation and compliance with services and the ability to intervene timely if the youth is placing themselves in unsafe situations.

Saint Francis Ministries believes that HB2021 can have a positive impact on Kansas youth and improve public safety due to:

- Expansion of a juvenile’s access to evidenced-based programs regardless of being adjudicated as a juvenile offender or as a child in need of care will help us focus on prevention of youth crossing over.
- New grant opportunities for collaborative programs so cross-over youth have access to needed programs to complete the conditions of probation.
- The construction of Juvenile Crisis Intervention Centers would allow us to provide prevention services to the family while a juvenile is placed in a facility, so we can wrap services around families to reintegrate the youth back into his family verse placement in a foster care home.
- We need to have data systems to effectively coordinate and timely communicate the care of the children in our custody across all our counties.
- Cumulative cap moved to 90 days would ensure coordination of resources while the youth is in a stable placement. Often substance abuse treatment centers, mental health services, congregate care, or residential facilities have waitlists. We want to ensure youth receive the benefit of the rehabilitation service to reduce recidivism. Extended case length limits can help from a prevention view and assist a youth while in foster care which will reduce recidivism.
- Allows for an immediate and intermediate consequence for a juvenile offender experiencing a behavioral health crisis on probation. Our courts need to have the discretion to help these kids comply with the probation conditions to reduce their recidivism rate. We want youth with drug addictions to receive adequate treatment. We want a youth struggling with trauma to receive proper mental health treatment. We cannot provide those services to a youth if they do not want them.

Thank you for improving the care and expanding our resources for our children and families in Kansas.

Erica Case

Saint Francis Ministries

Providing Healing and Hope to Children and Families

