

March 18, 2024

REVISED

The Honorable Susan Concannon, Chairperson
House Committee on Child Welfare and Foster Care
300 SW 10th Avenue, Room 152-S
Topeka, Kansas 66612

Dear Representative Concannon:

SUBJECT: Revised Fiscal Note for HB 2536 by House Committee on Child Welfare and Foster Care

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2536 is respectfully submitted to your committee.

HB 2536, as amended by the House Committee on Child Welfare and Foster Care, would define “Support, Opportunity, Unity, Legal relationships family permanency” (SOUL) and establish family legal permanency as a permanency option for children in need of care who are 16 years of age or older. The bill would allow courts to establish SOUL family legal permanency. A SOUL family legal permanency could be appointed for children 16 years of age and older if that child approves, the child’s parents’ consent unless their rights have been terminated, and court approval is set forth in a court order. Parental consent of a SOUL guardian would be in writing and acknowledged before a court or notary. This consent would not terminate their rights and the parent could still be involved in parenting if the court deems this to be in the best interest of the child. A parent’s consent would not terminate their rights to consent to an adoption for the child, inheritance rights would remain intact, and they would still be responsible for supporting the child. Parental rights would only be terminated under those cases in which an order terminating parental rights had already been issued. The court could order SOUL family legal permanency after a parent was found unfit, after termination of parental rights, or when determined to be in the best interests of a child 16 years of age or older.

Prior to a SOUL family legal permanency being ordered, the Department for Children and Families would observe the child in the home of the potential SOUL family and determine their ability to care for the child. The Department would also determine whether the names of any potential SOUL family legal permanency custodians appear on the Kansas Department for Children and Families’ child abuse and neglect registry and whether any potential custodians have been convicted of specific crimes. Prior to an order of a SOUL appointment, the Department

would submit a report stating their findings on the SOUL family background and emotional ties with the child and whether they believe this home to be in the best interest of the child. This report would also include the financial support, medical coverage, and educational support that would be needed should the SOUL family legal permanency be ordered by the court. The court would ensure the child has access to the maximum allowable benefits available under other permanency options.

The court would have the authority to appoint a relative or a nonrelative individual as a SOUL family legal permanent custodian. The court could appoint more than one SOUL guardian but would be required to designate one custodian as the primary custodian in the event disputes arise. The child would approve of the primary designation appointment. Upon appointment, the Secretary’s custody of the child would cease but the court’s jurisdiction would continue until it decides to terminate the same. If a dispute arises between the child and the SOUL custodian after termination of the case and prior to the child’s 18th birthday, the court could reinstate the child’s case. The court could order alternative dispute resolution.

A SOUL family legal permanency custodian would stand in loco parentis to the child and exercise all the rights and responsibilities of a parent but could not consent to an adoption of the child, be responsible for court-ordered child support or medical support for the child and would be subject to other limitations imposed by the court. In the event co- SOUL guardians divorce, the court would decide custody arrangements regarding the child.

The bill would permit courts and citizen review boards authority to hear permanency cases involving a SOUL custodian. It would also state that if reintegration could not be accomplished as previously approved by the court a SOUL family legal permanency custodian could be appointed if the parent consents. The bill would also allow for the appointment of a SOUL custodian prior to the hearing of a termination of parental rights. The consent of SOUL family legal permanency custodian would be in writing and the custodian would have all the rights and responsibilities of a permanent custodian.

Estimated State Fiscal Effect			
	FY 2024	FY 2025	FY 2026
Expenditures			
State General Fund	175,261	464,687	827,841
Fee Fund(s)	--	--	--
Federal Fund	--	--	--
Total Expenditures	\$175,261	\$464,687	\$827,841
Revenues			
State General Fund	--	--	--
Fee Fund(s)	--	--	--
Federal Fund	--	--	--
Total Revenues	--	--	--
FTE Positions	--	--	--

The Department for Children and Families (DCF) indicates that HB 2536, in any version, would have a fiscal effect on expenditures of the agency. DCF states that a reduction of the length of stay for a youth in foster care would make this program cost neutral. The average cost for a youth in foster care for six months is \$25,890. In year three (full implementation) of this program if at least 32 (23.0 percent) of the anticipated 135 youth have a shortened stay in foster care by six months, the foster care savings would make this program cost neutral to the state.

DCF worked in conjunction with the Annie E. Casey Foundation and Mainspring Consulting to develop the costs of implementing this new permanency option. Mainspring began by collecting trend data provided by DCF to project the number of young people who were likely to establish SOUL families. Based on that data, detailed cost assumptions were developed related to the benefits package designed by the stakeholder group. Mainspring used the following assumptions to calculate the costs of implementing the SOUL Family Permanency Program.

- 25.0 percent of youth who age out, and all youth ages 16 and over who currently exit to guardianship would establish SOUL families.
- Caregiver Benefits would be the same as provided in the current Adoption Support Program.
- All youth who are expected to establish SOUL family legal permanency would have formerly aged out of foster care making young adult subsidy, independent living start-up costs, and vehicle repair and maintenance cost budget neutral.
- 40.0 percent of youth who are expected to establish SOUL family legal permanency would be eligible to access state funded post-secondary educational benefits.
- Estimates 44 young people create a SOUL family in FY 2024, 91 in FY 2025, and full implementation with 135 young people choosing this option by FY 2026.

Benefits for Young People & Caregivers who have Established SOUL Families

	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
Caregiver Non-Recurring Expenses & One-Time Payments	\$ 36,917	\$ 73,833	\$110,861
Caregiver Subsidy	65,124	171,184	277,439
Young Adult Subsidy (Cost Neutral in DCF Budget)	--	--	--
Independent Living Start-Up Costs (Cost Neutral in DCF Budget)	--	--	--
Vehicle Repair & Maintenance Cost (Cost Neutral in DCF Budget)	--	--	--
Post-Secondary Educational Benefits Costs	<u>73,220</u>	<u>219,660</u>	<u>439,540</u>
Total SOUL Family Costs	\$175,261	\$464,687	\$827,841

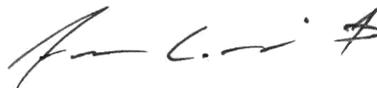
The Office of Judicial Administration indicates that HB 2536, in any version, would have a negligible fiscal effect on expenditures of the Judicial Branch and would not affect revenues. Any fiscal effect associated with HB 2536 is not reflected in *The FY 2025 Governor’s Budget Report*.

In the initial DCF fiscal note, DCF included the costs for two categories that in hindsight should be eliminated. The first was the inclusion of youth subsidy added to the Adoption Support Program, that should be a program policy change and any additional funding would be requested through an enhancement request as part of the state budget cycle at the appropriate time. The second category that DCF removed from the estimate are the annual medical costs. Initially the thought was that an amendment to the Medicaid State Plan would be needed for these youth to continue to be covered by the medical card. DCF now believes these youth would continue to be covered by the medical card without any change needed to the Medicaid State Plan. Originally, the total state costs were \$714,199 from the State General Fund for FY 2024, \$2.4 million from the State General Fund for FY 2025 and FY 2026.

The assumptions that were removed are:

- 75.0 percent of youth who are expected to establish SOUL family legal permanency would need to purchase insurance on the exchange for two years and that the Medicaid waiver will be in place by year three of implementation.
- Young people adopted at age 16 and over would all receive state funded benefits to match SOUL youth so as not to disincentivize adoption for older youth.

Sincerely,



Adam C. Proffitt
Director of the Budget

cc: Kim Holter, Department for Children & Families
Trisha Morrow, Judiciary