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LEGISLATURE of THE STATE of KANSAS

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**MEMORANDUM**

To: The House Standing Committee on Children and Seniors

From: The Kansas Office of Revisor of Statutes

Date: February 20, 2020

Subject: Bill Brief on HB 2187

HB 2187 would establish the office of the child advocate for children's protection and services within the Kansas department of administration.

Section 1 is the definitions section of the bill and defines a few key terms used throughout the rest of the bill. References to the "office" would include both the child advocate and the child advocate's staff.

Section 2, subsection (a) would establish the Child advocate's office within the department of administration for the purpose of assuring that children receive adequate protection and care through services offered by the Kansas department for children and families (DCF) and the department of corrections (DoC). Subsection (b) would state that the child advocate would be appointed jointly by the governor and the chief justice of the Kansas supreme court with the advice and consent of the senate. The child advocate would hold office for a term of six years until a successor is appointed. The department of administration would be required to provide administrative support and staff to the office as deemed necessary. Subsection (c) would require the secretary of administration to include the budget estimates of the office of the child advocate in the department's budget estimates.

Section 3, subsection (a), would list the information that the office of the child advocate would have access to. This would include: 1.) the names and physical location of all children in protective services, treatment or other programs under the jurisdiction of DCF and DoC; 2.) all written reports of child abuse and neglect; and 3.) all current records required to be maintained

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pursuant to the revised Kansas code for care of children and the revised Kansas juvenile justice code. Subsection (b) would list the authority of the child advocate, which would include private communication with any child under protective services and anyone working with the child. It would also include access to relevant child records held by various entities. Subsection (c) would state that any information obtained by the child advocate from a state agency or entity would be subject to the same disclosure restrictions and confidentiality requirements that are applicable to the originating agency or entity.

Section 4 would require the office of the child advocate to establish and implement procedures for receiving, processing responding to and resolving complaints made by or on behalf of children who are recipients of the services of DCF and DoC. Subsection (e) would require the child advocate to inform children and parents of their legal rights through education materials. Subsection (f) would require the office to submit an annual report to the three branches of the Kansas government detailing the work of the child advocate, including the number of complaints received by the office, whether the complaints were resolved, the state entities named in such complaints and recommendations to reduce such complaints.

Section 5 would give the office of the child advocate the authority to conduct an independent review of any entity that has experienced three or more reports of abuse or neglect in a calendar year. The child advocate could submit findings and recommendations to DCF and DoC.

Section 6 would require DCF and DoC to enter into agreements with the office of the child advocate for the provision of financial assistance to the office from available state and federal funds. Subsection (b) would require those agencies to include that financial assistance in their budget estimates. This provision is almost identical to K.S.A. 75-7302, which requires the Kansas department for aging and disability services to give financial assistance to the long-term care ombudsman, which is similarly housed within the department of administration.

Section 7 would concern the protection and disclosure of information received by the office of the child advocate. Subsection (a) would state that the identity of any complainant or recipient shall not be disclosed by the child advocate unless consent is received or it is required by a court order. Subsection (b) would make statements made by the child advocate that are relevant to a complaint and those provided in good faith to the child advocate that concern a complaint

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privileged. Subsection (c) would make any knowing and willful disclosure of the name of any witness or any information received during the examination of a complaint a class A nonperson misdemeanor. Subsection (d) would state that the child advocate shall not be required to testify in any court with respect to matters held to be confidential under section 7, except as a court deems necessary to enforce the provisions of sections 1 through 8.

Section 8, subsection (a), would state that employees and unpaid volunteers of the office of the child advocate shall be immune from lawsuit for the good faith performance of their official duties. Subsection (b) would state that, with some exceptions, no reprisal or retaliatory action shall be taken against a recipient of services or an employee of DCF or DoC for any communication made to the office of the child advocate. A definition of “reprisal or retaliatory action” would be placed in subsection (c).

Sections 9, 10, and 11 would amend the revised Kansas code for care of children to add the office of the child advocate to the lists of entities that have access to the official court files, department files and law enforcement agency files for children in need of care.

Sections 12 and 13 would similarly amend the revised Kansas juvenile justice code to give the office of the child advocate access to court files and records of law enforcement officers, agencies and municipal courts under concerning offenses committed or alleged to have been committed by a juvenile under 14 years of age.

HB 2187 would become effective upon publication in the statute book, on July 1, 2020.