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Testimony to the House Children and Seniors Committee in Opposition to HB2149
January 30, 2021

Chairman Concannon, Vice Chair Esau, and Members of the Committee:

The Johnson County Sheriff's Office opposes HB2149. Licensing of childcare facilities is ostensibly done to make sure that children are in a safe environment while being cared for. Part of that licensing procedure is to ensure that those with certain criminal convictions in their past are not placed in proximity to children. HB2149 would remove public trust in the licensing system.

The latitude this bill will afford to an appointed secretary is unprecedented. We can find no circumstance in our review of the K.S.A. that allows an unelected official to unilaterally make waiver decisions of this magnitude.

Allowing a facility to be licensed with a person who "resides, works, or regularly volunteers" and has a serious criminal record is not in the best interest of a child or of public safety. The severity of some of the crimes the secretary could waive is great. For example, a waiver could be granted for any person felony. See page 1, lines 13 to 15, "Has been convicted of a crime that is classified as a person felony under the Kansas criminal code or similar statutes of any other state or the federal government." This could mean anything from Capital Murder to Stalking. Person felonies are serious in nature and without exception place a victim at risk for serious bodily harm or death. We fail to see how having a person with this type of criminal history around children is, as the bill states, "in the best interests of a child in the custody of the secretary who is or will be under the care of such child care facility; and (2) does not present a safety concern."

The list of offenses that could be waived includes all sex offenses, any crime covered under Chapter 21, Article 56 – Affecting Family Relationships and Children, and any drug felony. We do not feel that persons with these convictions should have access to children.

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Multiple scientific, evidence-based studies show that both rapist and child molesters remain at risk to reoffend long after their discharge, in some cases 15-20 years after discharge.¹ A recent study shows that released sex offenders were more than three times as likely as other released prisoners to be arrested (again) for rape or sexual assault.² We are concerned that the bill has no methodology for evidence-based scientific assessment of the risk for reoffending and that the secretary will be making a public safety policy decision based on a gut feeling. One would hope that the secretary, whoever he or she may be, now or in the future, would not waive a person for these most serious crimes but that is not the best way to protect the public safety of vulnerable children.

There are validated scientific risk assessment tools that are in use in the criminal justice system.³ However, to use these with any accuracy requires extensive training and a knowledge of the hierarchy of crimes in the criminal justice system. These are not, to our knowledge, skills that a department secretary for children and families is normally trained in. Even if that were the case, the bill is silent on what methodology would be used to decide.

The Johnson County Sheriff's Office encourages you not to pass the bill. At the very least, if the committee does decide to advance this bill, the types of crimes subject to waiver should be narrowed considerably, an assessment tool should be used to make the decision with the appropriate training, and a public record should be made as to why the waiver was in the best interest of the child and public safety.

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¹ Prentky RA, Lee AF, Knight RA, Cerce D. Recidivism rates among child molesters and rapists: a methodological analysis. *Law Hum Behav.* 1997 Dec;21(6):635-59. doi: 10.1023/a:1024860714738. PMID: 9418384.

² Alper, Mariel, Ph.D., Durose, Matthew, Recidivism of Sex Offenders Released from State Prison: A 9-Year Follow-Up (2005-14), U.S. Department of Justice, Bureau of Justice Statistics, May 2019.

³ Ruth J. Tully, Shihning Chou, Kevin D. Browne, A systematic review on the effectiveness of sex offender risk assessment tools in predicting sexual recidivism of adult male sex offenders, *Clinical Psychology Review*, Volume 33, Issue 2, 2013, Pages 287-316, ISSN 0272-7358, <https://doi.org/10.1016/j.cpr.2012.12.002>.