



**Proponent Testimony on HB2700  
House Children and Seniors Committee  
February 16, 2022**

Chair Concannon, Vice Chair Esau, Ranking Member Ousley, and Members of the Committee, my name is Rachel Marsh, CEO of the Children's Alliance of Kansas. The Alliance is an association of 21 private, non-profit child welfare agencies that collectively provide a full array of services for children and families in child abuse and neglect prevention, family preservation, foster care, adoption, independent living, and parent, youth, and child skill-building, mental health, and substance use treatment. Thank you for the opportunity to share our perspective on HB2700.

Children's Alliance members work closely with youth and families to support them throughout the adoption process. While most children in child welfare are returned home with family members after reintegration services; approximately 25-27% of youth achieve permanency through adoption – usually with an extended family member or foster parent. Reintegration case managers prepare youth through the heartbreaking process of parental termination rights hearings and help youth manage their feelings of grief and loss in the months leading up to those hearings. Child placing agencies and kinship specialists support prospective adoptive parents through the emotional rollercoaster of the adoption process. Adoption case managers are experts in the foster-care-to-adoption process – including the steps required by DCF and our adoption code, the documentation needs of adoption attorneys, the preparation of children for pre-placement visits and placement changes, and the need for an appropriate adjustment period as child and family identities change from “temporary” to “permanent.” Our residential providers often serve older youth whose parents’ rights have been terminated but for whom no resource has been identified – these youth are the most at risk for negative outcomes in care because strong, positive adult connections are essential to emotional wellbeing. Alternatively, sometimes adoptions are finalized and later the families face challenges and need additional support. Our members support the Kansas Caregivers Support Network and the Kansas Post Adoption Resource Center. And prevention providers can serve adoptive families facing unique challenges with support services such as 1-800-Children, early childhood, and home visiting programs.

We appreciate the important concerns raised by HB2700:

- Whether and to what extent DCF is considering the importance of various child relationships and attachments fully in adoption proceedings
- How and when a child is placed in DCF custody for purposes of adoption, and whether we should consider more closely when termination of parental rights is the best course of action based on a child's needs
- What should the role of the courts be in ensuring that DCF reviews and considers these issues

Before we get focused on the specific language of HB2700, here is some context for these questions:

## DCF considering attachment as a matter of law

**DCF, currently as a matter of policy, does include a review of various types of attachment needs for Best Interest Staffing family selection decisions.** In recent years, DCF has updated the policy manual to reflect that children cannot just “switch” attachments from one caregiver to another without risk of long-term impact to the child – a clear recognition of the understanding of attachment theory. This update alone may be the critical change of policy sought herein; however, it is policy and not law. Moreover, policy that reflects and requires cultural change can take time to fully implement.

Kansas law around foster care and adoption is, honestly, a bit of a quagmire that would take a multi-page memo to untangle. Some of the issues raised in HB2700 were identified in the Child Welfare Systems Task Force recommendations from 2019, specifically when the question of adoption selection processes was recommended to go to the Judicial Council. For instance, the Code requires a judge to consider placing first with a relative, and then to a person that has a close relationship with a child –if the Judge goes that route (not through DCF), the selected adopted parent would lose access to federally supported adoptive family supports. As another example, applicable case law requires courts to consider whether DCF made an “individualized determination” that does not prefer “blood over bond” or “bond over blood.” It’s difficult to “prefer” relatives and make an individualized determination. In our opinion, all adoption decisions should be based on the individualized needs of the child and both relative ties and the child’s close emotional attachments should be considered, among many other factors. HB2700 attempts to rectify this lack of clarity in the statute and case law by requiring DCF to make an individualized determination, listing what we believe are critical factors. There are many other pieces of the law that are confusing for DCF, providers, attorneys, and courts to navigate that are relevant here and that should inform any changes to statute, particularly any amendments that may need to be offered by HB2700. Why mention this **delicate and challenging legal framework**? Any one change in the statute can add to, rather than reduce, confusion and delay for Kansas youth who need timely permanency through adoption and should be carefully vetted by practitioners across different communities.

## How and when children are placed in DCF custody for adoption

The current common practice for adoption is that parental rights are terminated, and then the court places a child in DCF custody for purposes of selecting an adoptive family. When the Secretary takes custody of the child for purposes of adoption, DCF completes a series of tasks and paperwork to prepare the child and potential families for an assessment and selection, including a Best Interest Staffing decision, that reflect the comprehensive attachment evaluation referenced in HB2700. The current statutory construct is deliberately pointed to giving the Secretary the authority to move forward, following their own policies and timely procedures to select a family and finalize an adoption. This is the most direct path to timely adoption because it removes crowded court dockets and hearing continuances from the process.

A wrinkle here is that many parents face termination hearings and simply make the very difficult decision to relinquish the child to DCF custody directly, eliminating the need for a termination of parental rights hearing. We must consider whether HB2700 would impact the current ability of parents to relinquish to the Secretary. Although an extremely difficult decision, some parents find this is preferable to a termination hearing which can be a brutal experience for parents. We need to make sure our Code does not interfere with relinquishment processes.

Another item worth considering is whether HB2700 is intended to require the Secretary to more fully analyze the needs of older youth related to parental rights termination. One possible strength of requiring an individualized attachment assessment at the time of parental rights termination would be avoiding terminating parental rights where a child lacks known positive adult connections and later experiences long term foster care as a result.

#### The role of the court in adoption review

A substantial majority of adoption placement decisions by DCF **are uncontested adoptions** with only one family seeking to adopt. The Alliance would urge caution not to require an additional level of reporting and judicial review for all adoption decisions – this will create delays not only for the youth involved in the cases, but all the other youth on Child in Need of Care dockets. Child in Need of Care dockets are already full; delays and continuations are not infrequent. Adding a possible additional hearing for 25-27% of cases for the court to review any DCF action would have a substantial impact on timely access to CINC courts.

#### **Our recommendations**

We appreciate and do support the central goal of HB2700: that child attachments are critical and essential considerations in adoptive family selection. We would be strong proponents of the bill language proposed in HB2700 in KSA 38-2270(c).

However, we are at this time concerned that automatic court review of this assessment would not benefit most children and would create delays in all CINC cases, especially for children waiting for adoption. If a court delay is desired by this Committee, we would need to look at the right time procedurally for this review.

We believe that amending the language of HB2700 to possibly create a clear, quick path to court review only in cases of contested adoptions and cases where the Secretary has not completed an adequate assessment would be something that could advance the goals of HB2700 with fewer unintended consequences. We are also interested in exploring if we need further protections for older youth who may not benefit from adoption through termination of parental rights.

We ask for further consideration of HB2700 to ensure the language of the bill reflects the goals intended. We are happy to work with Committee members to address and seek language that hopefully will ensure the best possible adoption placement decisions while keeping a focus on timely decision making and avoiding court docket delays.

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