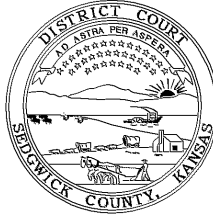


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House Committee on Children and Families
February 26, 2013
Testimony in Opposition to HB 2233

Timothy H Henderson
Presiding Judge Juvenile Department
18th Judicial District
Sedgwick County Kansas

Thank you for the opportunity to testify in opposition to house Bill 2233. My name is Tim Henderson and I am the presiding judge of the Sedgwick County Juvenile Department.

I first want to incorporate and concur with the testimony of Mark Gleeson with the Office of Judicial Administration. I will not repeat the same concerns he has raised in his testimony. I wish to address the committee on my concerns as an attorney and judge working in child welfare since 1992. I first want to comment that I understand the intention behind this bill. I also wish to comment that I do not disagree with that intention. Courts and juries have agonized for years seeking the truth concerning allegations of child abuse. The nature of the crime is such that there are usually no witnesses thereby making the protection of our children very difficult.

I had the opportunity this last year to work on the attorney general's Human Trafficking Bill. With that legislation we have greatly increased our ability to protect our children. This bill dismantles that good work. After a child has been placed in protective custody by law enforcement the next step is to seek an ex parte order from the court in order to protect a child prior to temporary custody hearing under the Kansas code for the care of children. New Section 1(b)(3) would prohibit that ex parte order currently allowed under Kansas law since the court would be speaking, as required by law, to the parties set forth in KSA 38-2242. Any other ex parte communications are already prohibited. The only affect would be to prevent the protection of abused and neglected children.

The proposed language of New Section 1(b)(4) is very troubling. Sadly, all those that have worked in this area of the law have talked to children who want to go back to their abuser. Personally I've had victims of sexual abuse tell me "daddy loves me in a very special way." If you require the attorney to advocate for what a child wants you are requiring them to advocate sending the child back to be abused. This is particularly difficult in human trafficking. Speak to any expert in the area of human trafficking and they will tell you many times the victim wants to get back to the pimp. They believe they are in love with the pimp. This language would require an attorney to advocate for returning the victim of human trafficking back to the pimp under those circumstances.

New Section 1 (b)(11) creates an interesting irony. Protection from abuse orders, in this proposal, are not to be violated as set forth in the proposed amendment. Yet, protection from abuse orders usually begin as an ex parte order that you prohibit in subsection (b)(3). There are many more statutory safeguards in the Kansas code for the care of children and the domestic code than there are provided in the protection from abuse act.

New Section 4(a) potentially nullifies one of the greatest obligations any parent has to their children. That is an obligation to protect. Sedgwick County recently had a horrible case where a mother from Kansas City brought her daughters to Wichita to be molested. While this case gathered a lot of attention it is one of many cases where a parent does not perpetrate the abuse but knowingly allows it to occur. Under this proposed language the Dist. Atty./County attorney would be required to leave that child in the home of the parent who failed to protect. One would think that the children would be safe since the perpetrator has been removed. Yet time and time again I have had cases where the non-protective parent moves from one abusive relationship to another where the children are again abused. This language would permit that to occur.

There is much about this bill that needs to be discussed. The desire to improve the quality of investigations and interviews of children is admirable. I would strongly recommend this bill be sent to an interim committee or the Judicial Council for further consideration.

Thank you.