



The Kansas District Judges' Association



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February 16, 2023
3:30 p.m.

Chief Judge Nicholas St. Peter
Nineteenth Judicial District
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KDJA's NEUTRAL TESTIMONY REGARDING HB 2381

Thank you for the opportunity to present neutral testimony regarding HB 2381. This testimony is being presented by Nicholas St. Peter, Chief Judge of the Nineteenth Judicial District (Cowley County) on behalf of the Executive Committee of the Kansas District Judges Association (KDJA). For the past eighteen years, I have served as District Court Judge and have at all times been the presiding judge over a Child in Need of Care and Juvenile Offender docket. I also have been the presiding judge of the Cowley County Drug Court Program since 2009 and preside over an Assisted Outpatient Treatment docket in Care and Treatment cases.

KDJA wishes to highlight for the committee some procedural considerations that would stem from the proposed changes contained in HB 2381. Primarily, the mandatory requirement for the court to appoint independent counsel for a child who is subject to a child in need of care proceeding. It creates several issues.

Our organization supports efforts to improve outcomes for all children in Child in Need of Care cases. I think that all of us who work within the Kansas child welfare system believe that changes should be considered to help improve outcomes for children. We are concerned with some of the practical and legal implications of the proposed changes in this bill. We believe the remedies sought in this proposed legislation may likely delay outcomes for children. In addition, it will create a great deal of practical issues for district courts, especially in rural areas where



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there is a severe shortage of attorneys available to serve in child in need of care cases.

Rule 1.7 of the Kansas Rules of Professional Responsibility for Attorneys provides ethical rules for attorneys in cases where they may be representing concurrent clients in litigation. Essentially, an attorney cannot represent concurrent clients in the same litigation if the representation of one client will be directly averse to another.

When a child in need of care case is filed, the court is typically not in a position to determine if the interests of multiple children in the case would be averse to one another. As a result, the court would likely have to appoint a separate attorney for each child. If the court appointed one attorney for multiple children and there is an ethical conflict, then that attorney would have to withdraw from representation of all children and separate attorneys would have to be appointed. This would likely cause significant delay in the initial stages of the case to locate counsel for each child.

Rural and frontier judicial districts throughout our state face nearly impossible tasks of locating qualified attorneys who are willing to take on the challenges of CINC cases. In the 19th Judicial District, as with most rural districts, we have a severe shortage of attorneys. Presently, we have only six attorneys who accept appointments in CINC cases. A currently pending case involves a mother and three children from different fathers. I have appointed five attorneys, one for each parent and one Guardian Ad Litem.

In another case in our court, two attorneys represent the mother and father of six children. If it were required to appoint counsel for each child, it would be nearly impossible to find enough attorneys to be appointed. I would likely look outside of our judicial district, which would add delay in the adjudication phase of the cases. When required to seek counsel outside of our district, it may take several days to locate an attorney able to take on the case. Complying with the statutory time frame for the temporary custody hearings would be difficult.

Not only would this increase the time aspect of adjudicating the cases, it would add substantial expense to our local county budget for attorney's fees because we would be paying for additional attorneys in each case. At least for 2023, that is not an expense that I have budgeted for our court, especially with the cost of appointing attorneys outside of our district. Any in-person proceeding would require reimbursement of necessary travel expenses including time and mileage for attorneys outside our county.



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We encourage this committee to consider the practical effects of the suggested alterations to the procedural requirements for conducting CINC matters, which are some of the most critical issues brought before our courts every day in every region of the state.

Respectfully submitted,

Nicholas M. St. Peter, Chief Judge