

February 23, 2011

The Honorable Mike Kiegerl, Chairperson
House Committee on Children and Families
Statehouse, Room 173-W
Topeka, Kansas 66612

Dear Representative Kiegerl:

SUBJECT: Fiscal Note for HB 2137 by House Committee on Children and Families

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2137 is respectfully submitted to your committee.

HB 2137 would establish the Protective Parent Reform Act which would amend existing statutes governing custody and visitation orders concerning children under the jurisdiction of the court as children in need of care or custody and visitation orders relating to domestic relations disputes. This Act would:

1. Require the court to determine if an allegation of child abuse or neglect by the other parent has been made in good faith based on a reasonable belief supported by facts;
2. If the allegation has been made in good faith, prohibit the court from depriving the parent making the allegation of custody, visitation or contact based on the lawful actions the parent has taken to protect the child;
3. Prohibit ex parte communications between the court and any attorneys for the child or professionals participating in the proceedings;
4. Prohibit awarding custody, visitation or contact with a parent who is restrained by an order pursuant to the Protection From Abuse Act;
5. Require an attorney appointed to represent the child serve in the same manner as an attorney representing an adult;
6. Assure the parents are provided with access to all evaluations and have an opportunity to depose the professional who performed the evaluation;
7. Render inadmissible any expert opinion impugning the parent's motives for alleging abuse or neglect by the other parent unless the testimony meets certain standards;
8. Require an expert's opinion that a parent may flee with the child to be supported by independent evidence;

9. Prohibit court sponsored programs from making recommendations or reporting to the court unless both parents consent, and allow either parent to contest a recommendation;
10. Require a professional testifying as an expert on abuse or neglect to be qualified on the specific allegations at issue; and
11. Require admissible evidence to be considered by the court.

The bill would also amend the Revised Code for Care of Children to:

1. Limit interviews of alleged child victims to one, except when new information becomes available;
2. Limit videotaping sessions to one unless more are necessary;
3. Require the same interviewer, if more than one interview is necessary;
4. Preserve a recorded interview as evidence and make it available for discovery, pursuant to the rules for evidence in civil and criminal courts;
5. Require all videotaped interviews to be conducted with a clock visible on the wall behind the child; and
6. Require all videotaped interviews to include the full names of each person involved and the date and time of the interview.

HB 2137 also amends the law concerning investigations of suspected child abuse or neglect by requiring that the investigator be trained to conduct this type of investigation and that an interview by videotape be performed by a person who is trained to conduct this sort of interview. Preliminary inquiries by the Kansas Department of Social and Rehabilitation Services (SRS) to determine whether a child may be in need of care would be required to include criminal background checks of both parents and any other subject in investigations of suspected child abuse or neglect.

Estimated State Fiscal Effect				
	FY 2011 SGF	FY 2011 All Funds	FY 2012 SGF	FY 2012 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$751,625	\$751,625
FTE Pos.	--	--	--	--

Currently, criminal record checks are rarely purchased for maltreatment allegations. HB 2137 would require a record check for each of the parents or the alleged abusive or neglectful person implicated in this type of case. According to the Kansas Department of Social and Rehabilitation Services, approximately 17,865 reports are assigned for maltreatment each year. The cost of the record checks would be \$625,275, assuming two record checks per case at a cost of \$17.50 per record check (17,865 X 2 X \$17.50). In addition, if the person who must be

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checked has lived in another state, an out-of-state record check would be needed. Approximately 10.0 percent, or 1,786, of the reports are estimated to require an out-of-state criminal history check, at a cost of \$89,300, assuming two record checks per case and \$25 per check (1,786 X 2 X \$25). The total cost of the record checks would be \$714,575. Passage of the bill would also require the judicial districts to buy video equipment to record interviews. One digital video recorder per judicial district is estimated to cost \$17,050 (31 districts X \$550 per camera). The agency assumes that these cameras would have an average useful life of five years. The agency also estimates that its existing training program would be adequate to meet the training requirements of the bill. Costs for FY 2013 and FY 2014 are estimated to be \$735,258 and \$753,639, respectively.

According to the Office of Judicial Administration, passage of HB 2137 would change the role of the guardian ad litem in child in need of care cases. Currently, the guardian ad litem is to conduct an independent investigation of the case, determine the best interest of the child by considering certain relevant factors, and appear for and represent the best interest of the child at all hearings. Under HB 2137 the guardian ad litem would be limited to advocating for the child's desires and acting essentially as the child's attorney in the presentation of evidence and argument. Because this would constitute a major change in the guardian ad litem's role, training sessions would need to be conducted to educate judges, guardians ad litem, social workers, parents' and children's attorneys, CASA volunteers, and citizens review boards about this change. It is estimated that approximately \$20,000 would be spent by the Judicial Branch in conducting four regional training sessions concerning the change in the role of the guardian ad litem. The Office expects that passage of this bill could result in additional litigation concerning the consideration of certain evidence and the admissibility of certain expert testimony in child in need of care cases, as well as the training and competency of the person conducting a child abuse and neglect investigation and interview. This could result in additional time spent by district court and appellate court judicial and non-judicial personnel on child in need of care cases. Until the courts have had an opportunity to operate under the provisions of HB 2137, however, an accurate estimate of the fiscal effect of those provisions cannot be provided. Any fiscal effect associated with HB 2137 is not reflected in *The FY 2012 Governor's Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Dan Lewien, SRS
Mary Rinehart, Judiciary