



## House Judiciary Committee

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Testimony by:

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**Testimony of:**

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**Testimony on: SB 159 (as amended)**

**Chairman Barker, Vice Chair Macheers, Ranking Member Carmichael, and Members of the Committee:**

SB 159 as amended, New Sections 1-6, the “Safe Families Act,” codifies and expands in statute the practice that allows parents to execute a power of attorney to delegate to another person/family the care and custody of their child(ren) for a period of up to one year. Parents in Kansas already have this existing right, via established rules and regulations (K.A.R. 28-4-801) to execute a power of attorney to allow a relative or close friend to care for their child if the parent has such a need for a variety of different reasons. The regulation currently allows for this arrangement for a period of time up to 90 days as directed by the parent pursuant to the written documentation.

These respite relationships can serve to support and strengthen families who have, or may in the future have, contact with DCF. They may also assist in preventing the necessity of a contract with the agency. DCF strongly supports this concept and believes that these arrangements can further our mission to protect children, promote healthy families and encourage personal responsibility.

The “Safe Families Act” is named in connection with an organization bearing the same name. The organization “Safe Families” originated in Illinois. Safe Families, by its own report, is currently working in 28 different states to offer support for families needing some type of respite, assistance or care options for their children.

Safe Families is affiliated with a group, Lifeline Children’s Services, which has operated for the past approximately five years in Kansas, in the Shawnee County vicinity. Lifeline also serves as a licensed Child Placing Agency (CPA) in Kansas. The structure of Lifeline has been successful as a pilot project. This structure/process could be replicated throughout the state. DCF appreciates and values support from numerous organizations, corporations, faith-based groups and other entities and individuals statewide to assist children and families with whom we work and serve. SB 159, as amended, proposes that which is already in practice in connection with Safe Families be embodied and expanded in statute.

DCF recommends consideration of several concerns with the current language as drafted. Though the new legislation establishes what is called the “Safe Families Act”, the new law is not limited in application to the organization Safe Families. Our first goal is always to ensure the safety of children. It is DCF policy that when all else is equal, children should be cared for in the home of a parent; however, if out-of-home placement

is necessary, a relative or non-related kin placement is preferential to a third party placement. State and federal child welfare law also require placement of children out of home to be with relatives prior to others, and this preferential placement may need to be considered in your review of the "Safe Families Act." However, absent relative placement options, the "Safe Families Act" allows children who have not been removed from the home due to safety issues to be placed in the care of a third party, if circumstances arise that cause parents to need those supports on a temporary basis, up to a year.

Language in the bill properly states the delegation of powers shall not deprive the parent or legal custodian of any parental or legal authority regarding care and custody. However, the bill provides that if parents change their minds about placement, children shall be returned "as soon as reasonably possible." In reviewing the "Safe Families Act" a more definitive amount of time may need to be considered in order to protect the rights of the parents, regarding the care and control of their children.

The bill is unclear whether a form could be authorized/signed by only one parent. This could potentially interfere with the rights of the other parent, a parent residing outside of the home or the rights of a non-custodial parent if the new statutory form is signed by only one parent. In reviewing the "Safe Families Act," consent of both parents may need to be considered.

DCF endorses the concept of the "Safe Families Act" and requests consideration of the above issues as the legislature looks to codify and expand supports for families needing some type of respite or assistance or care options for their children. DCF would propose that the balloon amendment attached to this testimony be approved to address certain concerns.

New Section 8 of SB 159, as amended, revises K.S.A. 38-2231(b) by adding a provision that a law enforcement officer shall take a child under 18 years into custody when the officer "has probable cause to believe" that a violation of law involving controlled substances is occurring in the child's residence "and reasonably believes such violation threatens the safety of the child."

DCF and law enforcement officers are primarily concerned with the safety of children, and DCF supports law enforcement's ability statutorily to take into custody a child whenever such child's safety is threatened. 38-2231 (b)(1) currently provides that a child may be removed from the place or residence where the child is found if law enforcement reasonably believes the child will be harmed if not removed immediately. The scenario, as well as other fact scenarios (i.e. domestic violence in the home), set forth in the new proposed (b)(4), is covered by existing language in (b)(1). 38-2231 (b)(1) is in its current form written broadly. K.S.A. 38-2201(b) provides "the code shall be liberally construed to carry out the policies of the state which are to (1) consider the safety and welfare of a child to be paramount" among other additional and numerous considerations set forth in 38-2201(b).

Although already covered by existing language, this language change elevates these situations involving unsafe controlled substance crimes for law enforcement and may lead to an increase in out-of-home placements. DCF strives to avoid removal of a child from the child's home but will always support doing so when a child's safety is threatened.

DCF supports SB 159, as amended, with the balloon amendment provisions. Thank you for the opportunity to submit testimony about this proposed legislation.