

SESSION OF 2016

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 410**

As Amended by Senate Committee of the Whole

**Brief\***

SB 410 would allow the Secretary for Children and Families to establish a category of foster care to be known as a CARE family, which the Kansas Department for Children and Families (DCF) could select and license only if:

- The family is composed of a lawfully married couple in a stable relationship, married for at least seven years; is actively, regularly, and socially involved in their local community; and provides the Secretary with at least three references from people familiar with the family;
- Both spouses submit to a background check and have attained at least a high school diploma or equivalent;
- At least one spouse does not work outside the home;
- No tobacco is used by anyone in the family's home;
- No history of unlawful drug use exists for the past seven years by anyone currently living in the family's home; and
- No alcoholic liquor or cereal malt beverages are present in the family's home.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The Secretary could adopt additional requirements and would be required to adopt rules and regulations on or before January 1, 2017, to implement the bill's provisions. Further, the bill would require the Secretary to [e]nsure each CARE family is highly trained with respect to child in need of care (CINC) issues, including legal and mental health concerns, and is supervised to verify the family is performing well as a CARE family. Continuing education and regular meetings with other CARE families could be used to provide ongoing training and counseling sessions. Additionally, the bill specifies CARE families would serve on a volunteer basis and would not receive payment or reimbursement for care of any child placed with the family.

The Secretary would be required to notify each CARE family that it has a right to submit a report on a form created and provided by DCF, and copies of the report would be available to parties and interested parties. Additionally, except as otherwise provided by law, the bill would require notice to the CARE family in all CINC proceedings, as well as a right to be heard.

The bill would require a CARE family, together with the court and the Secretary, to determine how best to meet the educational needs of a child placed with the family. The bill also would amend a statute in the Code for Care of Children governing the authority of persons to make educational decisions for the child. The bill would provide that if the Secretary has placed the child with a CARE family, the CARE family would become the education advocate for the child. Further, if the CARE family changes the placement of a pupil from one school district to another or to another school within the same district, the Secretary would be required to transfer or make provisions for the transfer of all school records of such pupil to the district or school to which the pupil is transferred.

If the CARE family does not enroll the child in a school district, the bill would require the CARE family to notify the Secretary regarding the school and curriculum being used to

educate such child. The Secretary would be required to reimburse the CARE family from the Juvenile Out-of-Home Placement Education Fund (Fund), a fund that would be established by the bill, for actual educational expenses incurred in an amount not to exceed the statewide average state aid per pupil. If there are insufficient funds, the requests for reimbursement would be considered in the order received when funds are available for such purpose.

If a child is enrolled in a school district by a CARE family different from the district in which the child was enrolled at the commencement of the current school year, the district in which the child is enrolled by the CARE family would be paid by the Secretary from the Fund an amount equal to the general fund budget of the district, excluding moneys held in the Special Education and Related Services Fund, the Special Retirement Contributions Fund, the Capital Outlay Fund, or the Bond and Interest Fund; the proceeds of any tax levied by the district that are directly deposited in a district fund; and any moneys received by the school district pursuant to federal law for the current school year divided by the total enrollment of the district for the current school year divided by 12. The district would be paid only for the months in which the child is enrolled as of the first day of the month, and payment would be made by the Secretary to the district on the first day of the month or as soon thereafter as sufficient moneys are available. The bill would require a district in which a child is no longer attending a school due to placement with a CARE family to submit an amount calculated using the formula above for any month during the school year in which the child is not enrolled as of the first day of the month to the Secretary to be remitted for deposit to the credit of the Fund.

The Secretary would be required to annually notify the State Board of Education of every child placed with a CARE family on or before July 1 who is not enrolled in a school district by the CARE family. Beginning July 1, 2017, and annually thereafter, the State Board of Education would multiply this number by the statewide average state aid per

pupil and certify this to the Director of Accounts and Reports, who would transfer this amount from the State General Fund to the Juvenile Out-of-Home Placement Education Fund.

The bill would define “statewide average state aid per pupil” and would prohibit a school district from counting any student placed with a CARE family and not enrolled in a school district as a pupil of school district.

The bill would prohibit the Secretary from removing a child from a CARE home except to achieve permanency or if the Secretary finds probable cause that:

- The child is likely to sustain harm if not immediately removed from the home, allowing the child to remain in the home is contrary to the welfare of the child, or immediate placement of the child is in the best interest of the child; and
- Reasonable efforts have been made to prevent the unnecessary removal of the child from the CARE family’s home or an emergency exists that threatens the safety of the child.

The provisions of the bill would expire July 1, 2022.

## **Background**

The bill was introduced in the Senate Committee on Judiciary at the request of Senator Knox. At the Senate Committee hearing on the bill, Senator Knox and a private citizen offered testimony in support of the bill. Representatives of Equality Kansas and DCF provided neutral testimony. There was no opponent testimony.

The Senate Committee adopted an amendment offered by Senator Knox to make establishment of the CARE family category discretionary; remove the distinction that CARE families were a “special” category of foster care; strike

language stating a CARE family home would not be considered a child care facility and would not be required to be licensed; require reimbursement of “actual” educational expenses; and rename the fund established for reimbursement of such expenses the “Juvenile Out-of-Home Placement” Education Fund, rather than the “CARE Family” Education Fund.

The Senate Committee of the Whole amended the bill to add a mechanism for transfer of funds between school districts, *via* the Juvenile Out-Of-Home Placement Education Fund, based upon the district that the child leaves upon placement with a CARE family and the district in which the child is enrolled by the CARE family.

The fiscal note prepared by the Division of the Budget for the bill, as introduced, indicates the receipt of approximately \$20.0 million of Title IV-E Foster Care funding could be suspended if the federal government finds the lack of payment to CARE families causes the State to be out of compliance with the federal requirement that DCF have one rate for each placement type. Additionally, DCF estimates the administration requirements of the bill would require an additional four FTE (one per region) to screen and monitor these families at a cost of \$214,332 for salaries and \$18,716 for other operating costs.

The Kansas State Department of Education is unable to estimate the number of children that would be placed in a CARE family home and not attend public schools. That number would be multiplied by the current statewide average annual state aid per pupil, \$4,102, and the total would be transferred to the CARE Family Education Fund (under the bill as amended, the Juvenile Out-of-Home Placement Education Fund).