

SESSION OF 2016

SUPPLEMENTAL NOTE ON SENATE BILL NO. 418

As Amended by Senate Committee of the Whole

Brief*

SB 418 would create and amend law related to human trafficking, sexual exploitation of a child, children in need of care, and juvenile offenders.

The bill would enact new law in the Code for Care of Children (Child in Need of Care (CINC) Code) requiring the Secretary for Children and Families (Secretary) to report to law enforcement agencies of jurisdiction information that a child has been identified as a victim of human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child, immediately after receiving such information and in no case later than 24 hours after receiving such information. Similarly, immediately after receiving information that a child in the custody of the Secretary is missing, and in no case later than 24 hours after receiving such information, the Secretary would be required to report such information to the National Center for Missing and Exploited Children and the law enforcement agency in the jurisdiction from where the child is missing. The law enforcement agency would be required to report such information as soon as practical to the National Crime Information Center and Kansas Bureau of Investigation missing person systems.

The bill would establish the Juvenile Out-of-Home Placement Education Fund to be administered by the Secretary for Children and Families and expended for the purposes of providing for the education of children placed pursuant to the CINC Code or the Juvenile Justice Code. The

*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>

court would be required to notify a school district upon placement of a child under either code resulting in the child no longer attending school in the district. The district would then be required to remit to the Secretary for Children and Families, for any month during the current school year in which the child is not enrolled in the district as of the first day of the month, 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. This amount would be deposited to the credit of the Juvenile Out-of-Home Placement Education Fund. A student placed under either code but not enrolled in the district where the student resides under the placement would not be included in this calculation.

The district in which a child is enrolled following placement under either code, if different from the district in which the child was enrolled at the beginning of the current school year, would be paid by the Secretary for Children and Families a monthly amount that is calculated using the formula set forth above.

The bill would amend the definition of “child in need of care” in the CINC Code to include a person less than 18 years of age at the time of filing of the petition or issuance of an *ex parte* protective custody order who has been subjected to an act which would constitute human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child, or who has committed an act that, if committed by an adult, would constitute selling sexual relations. The bill also would add definitions for “reasonable and prudent parenting standard” and “runaway.” The definition of “sexual abuse” would be amended to clarify the list of crimes included is not exclusive, and the list of crimes would be expanded.

For the purpose of carrying out the responsibilities related to the Interstate Compact for Juveniles, the Interstate Compact for Juveniles compact administrator would be added to the following provisions:

- The list of persons and entities required to freely exchange information related to children alleged or adjudicated to be in need of care;
- The list of persons and entities to whom records of law enforcement officers and agencies and municipal courts concerning juvenile offenses may be disclosed; and
- The list of persons and entities to whom the head of any juvenile intake and assessment program may authorize disclosure of records, reports, and other information obtained as a part of the juvenile intake and assessment process.

A provision in the CINC Code requiring a law enforcement officer to take a child under 18 years of age into custody under certain circumstances would be amended to add probable cause that the child is a runaway as a permissible circumstance. A circumstance listed in existing law where there is probable cause that the child is a missing person and a verified missing person entry for the child can be found in the National Crime Information Center missing person system would be amended to allow either circumstance to justify taking the child into custody.

The CINC Code statute governing permanency planning would be amended to include consultation with the child, if the child is 14 years of age or older and is able, in preparing the permanency plan.

The CINC Code statute governing permanency hearings would be amended to limit other planned permanent arrangements to children 16 years of age or older. The permanency hearing requirements would be amended to

apply to every permanency hearing and to require the court to enter a finding as to whether the reasonable and prudent parenting standard (standard) has been met and whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities. The Secretary would be required to report the steps being taken to ensure the foster home or child care institution is following the standard and the child has the required opportunities. If the child is 14 years of age or older, the Secretary would be required to document efforts to help the child prepare for transition from custody to successful adulthood, including programs and services being provided to help accomplish this.

If the permanency goal at the time of the hearing is another planned permanent arrangement, the court would further be required to ask the child about the desired permanency outcome and document the intensive, ongoing, and unsuccessful (as of the hearing date) efforts by the Secretary to return the child home or secure a placement with a fit and willing relative, legal guardian, or adoptive parent. The Secretary would be required to report on these efforts, including utilization of search technology (including social media) to find biological family members. Finally, the court would be required to make a judicial determination explaining why (as of the hearing date) another planned permanent living arrangement is the best permanency plan for the child and provide compelling reasons why it continues to not be in the best interests of the child to return home, be placed for adoption, or be placed with a legal guardian or a fit and willing relative.

The CINC Code statute governing notice of the permanency hearing would be amended to require notice of the time and place be given to the child if 14 years of age or older. The notice would be required to request the child's participation by attendance or by report to the court.

The CINC Code statute containing provisions for children in custody who are victims of human trafficking-related crimes would be amended to broaden its application

to include situations where there is reason to believe a child has been subjected to an act that would constitute the crimes. The bill would clarify the assessment tool to be used to assess the child's needs and would specify that only a summary of the results of the assessment tool would be provided to the court. The bill would clarify a required DCF assessment is to determine "appropriate and timely" placement and "appropriate services to meet the immediate needs of the child." A requirement for use of a rapid response team would be removed.

The Juvenile Justice Code (Juvenile Code) definitions section would be amended to add definitions for "reasonable and prudent parenting standard" and "secretary."

The Juvenile Code statute governing permanency planning for juveniles in the custody of the Commissioner of Juvenile Justice, as well as other statutes throughout the bill, would be amended to replace references to the Commissioner of Juvenile Justice and the Juvenile Justice Authority with references to the Secretary of Corrections and the Department of Corrections to reflect the provisions of 2013 Executive Reorganization Order 42.

This statute also would be amended to include provisions nearly identical to those added to the CINC Code requiring permanency planning consultation with a juvenile 14 years of age or older, requiring certain information be provided and certain findings be made at the permanency hearing, and requiring notice of the hearing be given to a juvenile 14 years of age or older. A provision also would be added requiring the court to determine whether and, if applicable, when the juvenile will be reintegrated with the juvenile's parents; placed for adoption; placed with a permanent custodian; or, if the juvenile is 16 years of age or older and the Secretary of Corrections has documented compelling reasons why it would not be in the juvenile's best interests for one of the above placements, placed in another planned permanent arrangement.

The statute governing staff secure facilities would be amended to replace a requirement for 24-hour-a-day staff observation of facility entrances and exits with a requirement for staff monitoring of such entrances and exits. The bill would clarify the services to be provided to children in the facility are to be as appropriate and for the duration of the placement. A provision would be added to allow a staff secure facility to be on the same premises as another licensed facility. The Secretary for Children and Families would be required to promulgate rules and regulations to implement the section by January 1, 2017.

The statute governing the juvenile intake and assessment system would be amended to prohibit records, reports, and information obtained as a part of the juvenile intake and assessment process from being used in a juvenile offender proceeding, except in regard to the possible trafficking of a runaway. Such records, reports, and information would be made available to the appropriate county or district attorney and the court, to be used only for diagnostic and referral purposes.

Background

The bill was introduced by the Senate Committee on Corrections and Juvenile Justice at the request of the Kansas Department for Children and Families (DCF). In the hearing before the Senate Committee on Judiciary, a district court judge and representatives of the Office of Judicial Administration (OJA) and DCF testified in support of the bill. The proponents stated the bill was the product of a joint task force involving representatives of each branch of Kansas government and other stakeholders in response to the 2014 federal Preventing Sex Trafficking and Strengthening Families Act. Written testimony supporting the bill was submitted by an Assistant Attorney General, the interim Secretary of Corrections, and a KDOC representative. There was no neutral or opponent testimony.

The Senate Committee of the Whole adopted an amendment creating the Juvenile Out-of-Home Placement Fund and adding a mechanism for transfer of funds between school districts, *via* the Fund, based upon the districts that the child leaves and is enrolled in upon placement.

According to the fiscal note prepared by the Division of the Budget, the bill, as introduced, would have a fiscal effect on the Judicial Branch, creating additional work for OJA staff in reviewing journal entries, reviewing the CINC bench book, and conducting training for judges. The additional staff time would be absorbed by current staff and all expenditures would be paid from federal court improvement grants. While the bill would not require additional permanency hearings, the length of time of hearings could slightly increase due to the additional findings required by the bill. The bill would not have a fiscal effect on Judicial Branch revenues. Any fiscal effect is not reflected in *The FY 2017 Governor's Budget Report*.