

**PRELIMINARY
MINUTES**

JOINT COMMITTEE ON CHILD WELFARE SYSTEM OVERSIGHT

October 26, 2022
Room 144-S—Statehouse

Members Present

Representative Susan Concannon, Chairperson
Representative Jared Ousley, Ranking Minority Member
Senator Molly Baumgardner
Senator Oletha Faust-Goudeau
Senator Beverly Gossage
Senator Cindy Holscher
Senator Kristen O'Shea
Representative Suzi Carlson
Representative Charlotte Esau
Representative Susan Humphries
Representative Timothy Johnson
Representative Susan Ruiz

Members Absent

Senator Richard Hilderbrand, Vice-chairperson

Staff Present

Natalie Nelson, Kansas Legislative Research Department
Jessie Pringle, Office of Revisor of Statutes
Nick Myers, Office of Revisor of Statutes
Connie Bahner, Committee Assistant

Conferees

Laura Howard, Secretary for Children and Families
Tanya Keys, Deputy Secretary for Children and Families
Marc Altenbernt, General Counsel, Department for Children and Families
Merideth Rose, President and Chief Executive Officer, Cornerstones of Care
Justin Horton, Chief Programs and Innovation Officer, Cornerstones of Care
Dr. George Williams, Deputy Director of Kansas Permanency Services, Cornerstones of Care
Amanda Showalter, Attorney, Cornerstones of Care
Rachel Spaethe, Attorney, Cornerstones of Care
Patricia Oduor, Assistant Director, Kansas Permanency Services, Cornerstones of Care
Kendra Duncan, Manager of Permanency Services, Cornerstones of Care
Patty Markley
Nicole DeHaven

John DeHaven
Gretchen Meitler
Kerrie Lonard, Child Advocate, Division of the Child Advocate, Kansas Office of Public
Advocates
Jeff Leiker, Attorney
Jaclyn Schooler

WEDNESDAY, OCTOBER 26 MORNING SESSION

Welcome

The meeting was called to order by Chairperson Concannon at 9:08 a.m.

Representative Esau moved to recess this open meeting for a closed meeting pursuant to KSA 75-4319(a) to discuss matters under the justification listed in KSA 75-4319(b)(8), relating to the care of children permitted to be discussed in a closed meeting pursuant to KSA 38-2212(d)(1) because discussion of such matters in an open meeting would jeopardize the confidentiality of records concerning such children; to resume the open meeting in Room 144-S at 11:00 a.m.; and to record this motion, if adopted, as a part of the Committee's permanent records. Representative Johnson seconded the motion. The motion carried.

The Committee entered executive session at 9:10 a.m.

The designated personnel present in addition to the Committee members in this executive session were Laura Howard, Secretary for Children and Families; Tanya Keys, Deputy Secretary for Children and Families; Marc Altenbernt, General Counsel, Department for Children and Families (DCF); Merideth Rose, President and Chief Executive Officer, Cornerstones of Care; Justin Horton, Chief Programs and Innovation Officer, Cornerstones of Care; Dr. George Williams, Deputy Director of Kansas Permanency Services, Cornerstones of Care; Amanda Showalter, Attorney, Cornerstones of Care; Rachel Spaethe, Attorney, Cornerstones of Care; Patricia Oduor, Assistant Director of Permanency Services, Cornerstones of Care; Kendra Duncan, Manager of Permanency Services, Cornerstones of Care; Patty Markley; Nicole DeHaven; John DeHaven; Gretchen Meitler; Kerrie Lonard, Child Advocate; Jeff Leiker, attorney; and Jaclyn Schooler.

Discussion of DeHaven Foster Family Case

At 11:01 a.m., the Committee reconvened the open meeting.

Representative Esau moved to continue to recess this open meeting for a closed meeting pursuant to KSA 75-4319(a) to discuss matters under the justification listed in KSA 75-4319(b)(8), relating to the care of children permitted to be discussed in a closed meeting pursuant to KSA 38-2212(d)(1) because discussion of such matters in an open meeting would jeopardize the confidentiality of records concerning such children; to resume the open meeting in Room 144-S at 12:00 p.m.; and to record this motion, if adopted, as a part of the Committee's permanent records. Representative Timothy Johnson seconded the motion. The motion carried.

The Committee recessed into executive session at 11:03 a.m.

The designated personnel present in addition to the Committee members in this executive session were Secretary Howard, Deputy Secretary Keys, and Mr. Altenbernt, DCF; Ms. Rose, Mr. Horton, Dr. Williams, Ms. Showalter; Ms. Spaethe, Ms. Oduor, and Ms. Duncan, Cornerstones of Care; Ms. Markley; Mrs. DeHaven; Mr. DeHaven; Ms. Meitler; Ms. Lonard; Mr. Leiker; and Ms. Schooler.

At 12:03 p.m., the Committee reconvened the open meeting.

Representative Esau moved to continue to recess this open meeting for a closed meeting pursuant to KSA 75-4319(a) to discuss matters under the justification listed in KSA 75-4319(b)(8), relating to the care of children permitted to be discussed in a closed meeting pursuant to KSA 38-2212(d)(1) because discussion of such matters in an open meeting would jeopardize the confidentiality of records concerning such children; to resume the open meeting in Room 144-S at 12:30 p.m.; and to record this motion, if adopted, as a part of the Committee's permanent records. Representative Carlson seconded the motion. The motion carried.

The Committee recessed into executive session at 12:06 p.m.

The designated personnel present in addition to the Committee members in this executive session were Secretary Howard, Deputy Secretary Keys, and Mr. Altenbernt, DCF; Ms. Rose, Mr. Horton, Dr. Williams, Ms. Showalter; Ms. Spaethe, Ms. Oduor, and Ms. Duncan, Cornerstones of Care; Ms. Markley; Mrs. DeHaven; Mr. DeHaven; Ms. Meitler; Ms. Lonard; Mr. Leiker; and Ms. Schooler.

At 12:32 p.m., the Committee reconvened the open meeting and the Chairperson announced the Committee would recess for lunch until 1:10 p.m.

The Committee reconvened the open meeting at 1:12 p.m.

Representative Esau moved to continue to recess this open meeting for a closed meeting pursuant to KSA 75-4319(a) to discuss matters under the justification listed in KSA 75-4319(b)(8), relating to the care of children permitted to be discussed in a closed meeting pursuant to KSA 38-2212(d)(1) because discussion of such matters in an open meeting would jeopardize the confidentiality of records concerning such children; to resume the open meeting in Room 144-S at 2:30 p.m.; and to record this motion, if adopted, as a part of the Committee's permanent records. Representative Johnson seconded the motion. The motion carried.

The Committee recessed into executive session at 1:13 p.m.

The designated personnel present in addition to the Committee members in this executive session were Secretary Howard, Deputy Secretary Keys, and Mr. Altenbernt, DCF; Ms. Rose, Mr. Horton, Dr. Williams, Ms. Showalter; Ms. Spaethe, Ms. Oduor, and Ms. Duncan, Cornerstones of Care; Ms. Markley; Mrs. DeHaven; Mr. DeHaven; Ms. Meitler; Ms. Lonard; Mr. Leiker; and Ms. Schooler.

At 2:31 p.m., the Committee reconvened the open meeting.

Representative Esau moved to continue to recess this open meeting for a closed meeting pursuant to KSA 75-4319(a) to discuss matters under the justification listed in KSA 75-

4319(b)(8), relating to the care of children permitted to be discussed in a closed meeting pursuant to KSA 38-2212(d)(1) because discussion of such matters in an open meeting would jeopardize the confidentiality of records concerning such children; to resume the open meeting in Room 144-S at 3:30 p.m.; and to record this motion, if adopted, as a part of the Committee's permanent records. Representative Humphries seconded the motion. The motion carried.

The Committee recessed into executive session at 2:32 p.m.

The designated personnel present in addition to the Committee members in this executive session were Secretary Howard, Deputy Secretary Keys, and Mr. Altenbernt, DCF; Ms. Rose, Mr. Horton, Dr. Williams, Ms. Showalter; Ms. Spaethe, Ms. Oduor, and Ms. Duncan, Cornerstones of Care; Ms. Markley; Mrs. DeHaven; Mr. DeHaven; Ms. Meitler; Ms. Lonard; Mr. Leiker; and Ms. Schooler.

At 3:32 p.m., the Committee reconvened the open meeting.

Representative Esau moved to continue to recess this open meeting for a closed meeting pursuant to KSA 75-4319(a) to discuss matters under the justification listed in KSA 75-4319(b)(8), relating to the care of children permitted to be discussed in a closed meeting pursuant to KSA 38-2212(d)(1) because discussion of such matters in an open meeting would jeopardize the confidentiality of records concerning such children; to resume the open meeting in Room 144-S at 4:30 p.m.; and to record this motion, if adopted, as a part of the Committee's permanent records. Representative Carlson seconded the motion. The motion carried.

The Committee recessed into executive session at 3:34 p.m.

The designated personnel present in addition to the Committee members in this executive session were Secretary Howard, Deputy Secretary Keys, and Mr. Altenbernt, DCF; Ms. Rose, Mr. Horton, Dr. Williams, Ms. Showalter; Ms. Spaethe, Ms. Oduor, and Ms. Duncan, Cornerstones of Care; Ms. Markley; Mrs. DeHaven; Mr. DeHaven; Ms. Meitler; Ms. Lonard; Mr. Leiker; and Ms. Schooler.

The Committee reconvened the open meeting at 4:32 p.m.

Representative Esau moved to continue to recess this open meeting for a closed meeting pursuant to KSA 75-4319(a) to discuss matters under the justification listed in KSA 75-4319(b)(8), relating to the care of children permitted to be discussed in a closed meeting pursuant to KSA 38-2212(d)(1) because discussion of such matters in an open meeting would jeopardize the confidentiality of records concerning such children; to resume the open meeting in Room 144-S at 5:00 p.m.; and to record this motion, if adopted, as a part of the Committee's permanent records. Representative Humphries seconded the motion. The motion carried.

The designated personnel present in addition to the Committee members in this executive session were Secretary Howard, Deputy Secretary Keys, and Mr. Altenbernt, DCF; Ms. Rose, Mr. Horton, Dr. Williams, Ms. Showalter; Ms. Spaethe, Ms. Oduor, and Ms. Duncan, Cornerstones of Care; Ms. Markley; Mrs. DeHaven; Mr. DeHaven; Ms. Meitler; Ms. Lonard; Mr. Leiker; and Ms. Schooler.

The Committee recessed into executive session at 4:33 p.m.

The designated personnel present in addition to the Committee members in this executive session were Secretary Howard, Deputy Secretary Keys, and Mr. Altenbernt, DCF; Ms. Rose, Mr. Horton, Dr. Williams, Ms. Showalter; Ms. Spaethe, Ms. Oduor, and Ms. Duncan, Cornerstones of Care; Ms. Markley; Mrs. DeHaven; Mr. DeHaven; Ms. Meitler; Ms. Lonard; Mr. Leiker; and Ms. Schooler.

The Committee reconvened the open meeting at 5:02 p.m.

Representative Esau moved to continue to recess this open meeting for a closed meeting pursuant to KSA 75-4319(a) to discuss matters under the justification listed in KSA 75-4319(b)(8), relating to the care of children permitted to be discussed in a closed meeting pursuant to KSA 38-2212(d)(1) because discussion of such matters in an open meeting would jeopardize the confidentiality of records concerning such children; to resume the open meeting in Room 144-S at 5:30 p.m.; and to record this motion, if adopted, as a part of the Committee's permanent records. Representative Johnson seconded the motion. The motion carried.

The Committee recessed into executive session at 5:03 p.m.

The designated personnel present in addition to the Committee members in this executive session were Secretary Howard, Deputy Secretary Keys, and Mr. Altenbernt, DCF; Ms. Rose, Mr. Horton, Dr. Williams, Ms. Showalter; Ms. Spaethe, Ms. Oduor, and Ms. Duncan, Cornerstones of Care; Ms. Markley; Mrs. DeHaven; Mr. DeHaven; Ms. Meitler; Ms. Lonard; Mr. Leiker; and Ms. Schooler.

The Committee reconvened the open meeting at 5:30 p.m.

Representative Esau moved to continue to recess this open meeting for a closed meeting pursuant to KSA 75-4319(a) to discuss matters under the justification listed in KSA 75-4319(b)(8), relating to the care of children permitted to be discussed in a closed meeting pursuant to KSA 38-2212(d)(1) because discussion of such matters in an open meeting would jeopardize the confidentiality of records concerning such children; to resume the open meeting in Room 144-S at 6:00 p.m.; and to record this motion, if adopted, as a part of the Committee's permanent records. Representative Humphries seconded the motion. The motion carried.

The Committee recessed into executive session at 5:33 p.m.

The designated personnel present in addition to the Committee members in this executive session were Secretary Howard, Deputy Secretary Keys, and Mr. Altenbernt, DCF; Ms. Rose, Mr. Horton, Dr. Williams, Ms. Showalter; Ms. Spaethe, Ms. Oduor, and Ms. Duncan, Cornerstones of Care; Ms. Markley; Mrs. DeHaven; Mr. DeHaven; Ms. Meitler; Ms. Lonard; Mr. Leiker; and Ms. Schooler.

Committee Comments and Recommendations

The Committee reconvened the open meeting at 6:01 p.m.

The Chairperson opened the floor for discussion.

Senator Gossage asked whether the Governor could intervene in an adoption, and Representative Humphries asked whether the Attorney General could intervene as well. Staff indicated they would have to review the statutes before providing an answer.

Senator Baumgardner stated the Committee still has not received any information from DCF or Cornerstones of Care with regard to the funding that goes to Cornerstones of Care for those children remaining in foster care as opposed to being adopted.

Representative Ruiz asked for a status update on HB 2700 from the 2022 Session. Representative Humphries stated the bill was passed out of committee but was never brought above the line on General Orders. Representative Humphries shared that she and Chairperson Concannon recommended the issue be studied by the Judicial Council following the 2022 Legislative Session. According to Representative Humphries, a committee has been convened, and it has been working on recommendations.

Representative Esau provided a list of policy changes or possible legislation that could be considered at the next committee meeting:

- A statute that requires bonding assessments any time a permanent placement takes longer than 12 months or involves a child who was in State care within 6 months of birth;
- A requirement that a foster family have an equal voice when a child in its care has a hearing regarding temporary or permanent placement;
- A statute that would define the best interests of a child, and to include attachment to foster care providers as equal to considering sibling placement when a young child has been in care for a long period of time;
- A DNA requirement for sibling placements;
- A requirement for the court to see all documents including any bonding assessments before making permanent placement decisions;
- A requirement to provide a bonding assessment in relation to biological siblings when considering giving priority to sibling placement over foster family placement;
- A requirement that no photos of a child in foster care can be placed on social media; and
- A change in policy or statute that would consider the timing of sibling removal from the home before a child is born, in that a child who has lived with a foster family since birth should not be removed from the foster family to be placed with a sibling with whom they do not have a personal connection.

Senator Baumgardner stated Colorado has had a longstanding law that the foster family is given first priority in adopting a child if there is no family member for that child to go to; she requested information about this law, as well as similar laws in other states. She stated the

Committee heard repeatedly that sibling placement must be a priority in placement, but in the matter heard today, the four siblings have never been together. She further stated this is not a requirement that has been put in place by the Kansas Legislature; it is a policy of DCF. She stated her belief that there should be a requirement in a best-interest staffing (BIS) that the meeting not occur unless the guardians *ad litem* are participating and there is appropriate representation. She also stated in the case heard today, the Committee believed it was the court that mandated the siblings should be together but instead, they learned it is in the hands of DCF to make that recommendation, and DCF planned to follow the recommendation of Cornerstones of Care.

Senator Baumgardner moved that the Committee issue a vote of no confidence in the transition plan provided by Cornerstones of Care and DCF, seconded by Senator Gossage.

Senator Baumgardner stated the reasoning behind her motion is that the bonding assessments were completed, but were never considered, and the guardian *ad litem* was never able to participate in the BIS decision. She stated there has been little flexibility with regard to the transition plan, and since the Committee cannot mandate DCF reverse course, what they can do as a legislative committee is to state that they are not confident this the correct path for each of these four individual children.

Discussion ensued.

Following discussion, *Senator Baumgardner moved her motion. Roll call was requested and taken. The motion passed by a vote of seven in favor and two opposed.*

The meeting was adjourned at 6:30 p.m.

Prepared by Connie Bahner

Edited by Natalie Nelson and Jessa Farmer

Approved by the Committee on:

(Date)