February 26, 2013

Honorable Chair and Legislators of the Children and Seniors Committee

My name is Marlene Jones – I live in Wichita Kansas – Sedgwick County
Thank you for allowing me to speak before you today in favor of house bill 2233.
Protective parents who report abuse are losing custody of their children. Those children are being placed with their abusers.

My 8 ½ year old grandson made 2 reports of horrendous abuse by his father – the therapist he was seeing made 3 reports to SRS, his pediatrician and abuse specialist Dr Mary Boyce also made reports to SRS. My grandson's mother filed a Protection from Abuse Order, was ordered by the judge to report the abuse to law enforcement and SRS and because she did, she lost custody of her son.

The law enforcement officer knowingly made 3 false statements on the probable cause for the removal of my grandson – and 30 minutes later changed the reason for removal when placing him in the Wichita Children's Home. The social worker accompanying the law enforcement officer swore under oath in court that my daughter refused to bring my grandson in to be interviewed – not knowing that the call was being recorded. The same social worker falsified her court affidavits stating that my grandson was physically removed from his home 8 working days after he was actually removed from school by her and law enforcement and stated no knowledge of a PFA.

My grandson was detained and concealed, with his whereabouts unknown to his mother, in police custody for 11 days (9 working days) before the hearing in Juvenile Court, which was required by Kansas law within 72 hours of removal.

This 8 ½ year old boy was interrogated more than once, while in police custody, without his mother's approval or being read his Miranda rights. The SRS social worker interrogated him with leading questions, told him she hated his mother, threatened him with a judge, called him a liar, and restrained him when he tried to leave (which was recorded). The audio recorded interrogation of my grandson was stopped – it is unknown what was said or done to my grandson during that time. Hb2233's video recorder and clock on the wall will help to ensure the integrity of the interrogation and the rights of the child.

My grandson's father was interviewed and was told by the law enforcement officer that unless he confessed there would be no prosecution. The social worker told the father that my grandson couldn't be placed with him at this time because he was still saying that his father had abused him….the father was also told by the social worker and law enforcement officer how long it would take for him to get custody of my grandson. (which was recorded)

My daughter appealed the "substantiation" of emotional abuse. Judge Stephen E Good – judge of law for the state of Kansas reversed the finding - the report was false - no services needed – the "clear and convincing evidence" required by law was not met - the case was closed. Judge Stephen E Good stated that the mother did what she was supposed to do to protect her child.

My grandson should have been returned to his mother. The Sedgwick County ADA who represented the state, not the county, continued the case.
The CINC judge gave "sole custody" to the father that my grandson had said was hurting him and his mother was placed on "supervised visitation" for reporting the abuse.

My grandson went from 78% percentile height and weight when he was removed from his mother's custody down to 7% according to his doctors records after being placed with his father. Since the placement of my grandson with his father, there have been numerous reports of abuse – the state refuses to protect my grandson – even though the federal government requires it.

When a child reports abuse – that child should be protected
When the parent, the child's therapist, pediatrician, and an abuse specialist all report the abuse – that child should be protected. This was a child that never should have been removed from his mother's custody - but the father had a friend in law enforcement...favors…..favors on the tax payer's dime and at the expense of the child.

When these people break the law, they lose the uniform that they wear and become just like any citizen who commits a crime…only it should be worse for them – after all many of them take an oath to uphold the law. SRS/DCF receives federal funds and is required to protect the child. I am requesting that felony penalties be added to hb2233 for violations of interference with parental rights and the child's rights according to the law.

Regarding the Gal - KS.A. 38-2205 Child's right to counsel; guardian ad litem
http://www.kslegislature.org/li/b2013_14/statute/038_000_0000_chapter/038_022_0000_article/038_022_0005_section/038_022_0005_k/
38-2205 requires that the GAL, guardian ad litem, shall make an independent investigation of the facts upon which the petition is based and shall appear for and represent the best interests of the child. When the child's position is not consistent with the determination of the guardian ad litem as to the child's best interests, the GAL shall inform the court of the disagreement.

My grandson's GAL never spoke to his mother, me, family members, neighbors or school. When asked in court for her documentation, she was unable to produce the information regarding her independent investigation or even show that she had spoken to my grandson…The GAL did not state to the court my grandson's position, or that he did not want to live with his father because he hurts him. This GAL not only filed for federal grants but was also paid thru the court for her failure to do what was required by law.

I have included a link to my testimony regarding my grandson that was presented to congressional members in Washington DC on February 6-7, 2013, by Lawless America.
http://www.youtube.com/watch?v=floj9qWfEMI
Thank you for your time,

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If the child was removed involuntarily from the family home, the eligibility criterion requires a judicial determination that SRS/DCF made reasonable efforts of the type described in section 471 (a)(15) of the Social Security Act. Section 471 (a)(15) of the Act requires SRS/DCF to make reasonable efforts to prevent the child's removal from his/her home, to reunify the child and family, and to make and finalize an alternate permanent placement when the child and family cannot be reunited. The requirements for the judge's determinations regarding reasonable efforts are title IV-E eligibility criteria for federal funds. If the eligibility criteria are not satisfied, the child is not eligible for title IV-E funding.

The requirement for SRS/DCF to make reasonable efforts to prevent removals is a fundamental protection under the Social Security Act and one of several criteria used in establishing title IV-E eligibility. From both a practice and an eligibility perspective, it is impossible for the State to provide efforts to prevent the removal of a child from home after the fact.
The removal of a child from the home, even temporarily, makes a profound impact on a family that cannot be undone. If the child is returned after services have been delivered, or even immediately, the State has reunified the family, not prevented a removal.

Title IV-E eligibility is to be established at the time of a removal. If SRS/DCF does not make reasonable efforts to prevent a removal or fails to obtain a judicial determination with respect to such efforts, the child can never become eligible for title IV-E funding for that entire foster care episode because there is no opportunity to establish eligibility at a later date."

Plainly put, SRS/DCF is required to meet the requirements of the federal government and the law in the removal of the child in order for the state to receive federal funds to pay for foster care, administrative duties, employee training, Medicaid and any expense regarding the child. SRS/DCF along with law enforcement and the DA's office is required to follow the laws regarding the 72 hour hearing, which means that the social worker has to file an affidavit within 24 hours of the removal of the child – law enforcement has to document and file probable cause for the removal of the child – what LE observed – not that LE was told by the social worker to remove the child – and that the DA's office has to file the petition with the court within 48 hours of the REMOVAL of the child…the investigation by SRS/DCF of the allegations has to be done before the removal of the child.. reasonable efforts (services offered) to preserve and maintain the family has to be done before the removal of the child.. The"clear and convincing evidence" requirement has to be met by the DA who is representing the state – not the county - within 60 days of the removal of the child …OR THE CHILD IS TO BE RETURNED BACK TO THE ORIGINAL HOME FROM WHICH THE CHILD WAS REMOVED….
Anything other than this is not only a violation of law – but also non-compliance with the federal requirements for the state to receive social services block grants…

Parents are NOT being notified "upon point of contact" of complaints or allegations made against them. Social workers are not filing within 24 hours of removal of the child – reasonable efforts are not being made to preserve the family and the sworn affidavits are being falsified as to when the child was removed. Three years ago the Kansas Post Legislative Audit found that in the removal of children documents were being falsified and facts beneficial to parents were being deleted.

Child Welfare Information Gateway
How the Child Welfare System Works
https://www.childwelfare.gov/pubs/factsheets/cpswork.pdf
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CPS caseworkers, often called investigators, respond within a particular time period, which may be anywhere from a few hours to a few days, depending on the type of maltreatment alleged, the potential severity of the situation, and requirements under State law. An investigator's primary purpose is to determine whether the child is safe, whether abuse or neglect has occurred, and whether there is a risk of it occurring again.

Caseworkers typically make one of two findings—unsubstantiated (unfounded) or substantiated (founded). Typically, a finding of unsubstantiated means there is insufficient evidence for the worker to conclude that a child was abused or neglected, or what happened does not meet the legal definition of child abuse or neglect.

A finding of substantiated typically means that an incident of child abuse or neglect, as defined by State law, is believed to have occurred. The agency will initiate a court action if it determines that the authority of the juvenile court (through a child protection or dependency proceeding) is necessary to keep the child safe. To protect the child, the court can issue temporary orders placing the child in shelter care during the investigation, ordering services, or ordering certain individuals to have no contact with the child. At an adjudicatory hearing, the court hears evidence and decides whether maltreatment occurred and whether the child should be under the continuing jurisdiction of the court. The court then enters a disposition, either at that hearing or at a separate hearing, which may result in the court ordering a parent to comply with services necessary to alleviate the abuse or neglect. Orders can also contain provisions regarding visitation between the parent and the child, agency obligations to provide the parent with services, and services needed by the child.

42 U.S.C. § 5106a : US Code - Section 5106A: Grants to States for child abuse and neglect prevention and treatment programs

http://codes.lp.findlaw.com/uscode/42/67/I/5106a
(2) Coordination
A State plan submitted under paragraph (1) shall, to the maximum extent practicable, be coordinated with the State plan under part B of title IV of the Social Security Act [42 U.S.C.620 et seq.] relating to child welfare services and family preservation and family support services, and shall contain an outline of the activities that the State intends to carry out using amounts received under the grant to achieve the purposes of this subchapter, including -
(A) an assurance in the form of a certification by the chief executive officer of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a Statewide program, relating to child abuse and neglect that includes -
(vii) provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;

42 U.S.C. § 625 : US Code - Section 625: Definitions
http://codes.lp.findlaw.com/uscode/42/7/IV/B/1/625
(a)(1) For purposes of this subchapter, the term "child welfare services" means public social services which are directed toward the accomplishment of the following purposes: (A) protecting and promoting the welfare of all children, including handicapped, homeless, dependent, or neglected children; (B) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; (C) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible;

http://www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=353
2.1H CAPTA, Assurances and Requirements, Notification of Allegations

1.The provision at section 106(b)(2)(B)(xviii) of the Child Abuse Prevention and Treatment Act (CAPTA) requires the State to have provisions or procedures to advise the individual subject to a child abuse or neglect investigation of the complaints or allegations made against him or her at the time of the initial contact. Would a State be out of compliance with CAPTA if it implemented a rule to specify that "initial contact" in the CAPTA provision at section 106(b)(2)(B)(xviii) meant "face-to-face" contact only? **(Updated 09/27/2011)**

(Updated 09/27/2011)

1. Question: The provision at section 106(b)(2)(B)(xviii) of the Child Abuse Prevention and Treatment Act (CAPTA) requires the State to have provisions or procedures to advise the individual subject to a child abuse or neglect investigation of the complaints or allegations made against him or her at the time of the initial contact. Would a State be out of compliance with CAPTA if it implemented a rule to specify that "initial contact" in the CAPTA provision at section 106(b)(2)(B)(xviii) meant "face-to-face" contact only? *Show History*

Answer: Yes. The CAPTA provision requires that the State notify the individual of the complaints or allegations made against him or her at the initial time of contact regardless of how that contact is made. There may be Federal confidentiality restrictions for the State to consider when implementing this CAPTA provision.

> **Source/Date:** updated 9/27/11
> **Legal and Related References:** Child Abuse Prevention and Treatment Act (CAPTA), as amended (42 U.S.C. 5101 et seq.) – section 106(b)(2)(B)(xviii)

Parents are NOT being notified "upon point of contact" of complaints or allegations made against them. The state of Kansas is not in compliance with CAPTA requirements by the failure to ensure that the parent is notified of allegations upon point of contact

San Diego has taken steps and formed an MDT – multi-disciplinary task force - to address court failures and the abuse of children.

San Diego Task Force on Violence Against Children

http://www.sandiegotaskforce.com/
http://www.sandiegotaskforce.com/synopsis.html
http://www.sandiegotaskforce.com/pattern-cases-follow.html

Contributing Factors to the Problem of Children Being Placed with Assaulters http://www.sandiegotaskforce.com/contributing-factors.html

Judges have nearly absolute power and virtually no oversight or accountability
Judges are influenced by fathers' rights groups and campaign contributions
Judges routinely violate laws which were enacted to protect children & those advocating for them
Evidence of the crime is ignored, dismissed & suppressed by judges & court-appointed officials
Family Court officials are not trained in and do not base decisions on scientifically valid research and protocols
Family Court officials use outdated, discredited and flawed theories and practices
Judges often appoint biased, untrained, "insider" psychologists who "evaluate" (not investigate) the crime
Assaulted children and their mothers are deprived of their Constitutional right to due process and equal protection
Evaluators minimize the reported assaults, pathologize mothers, and recommend custody to the perpetrator
Mandated mediation puts abusers on an equal level with the victims, which enables them to manipulate the situation
Mediators minimize abuse, prioritizing everybody "getting along" and "putting abuse in the past"
Judges justify giving custody to abusers using the recommendations of the biased professionals s/he appointed
"Friendly parent" policies cause parents trying to protect their children to lose custody
The best interest standard is too broad and vague and can be used to justify giving children to perpetrators
CPS does poor investigations, labels abuse cases "custody disputes" and shunts them into Family Court
Minors' Counsels deny or minimize abuse and often advocate for the abuser rather than their client, the child
Court officials contend there is "not enough evidence" of abuse even when there is abundant evidence
The "beyond a reasonable doubt" burden is used rather than "preponderance of evidence"

(Kansas has "clear and convincing evidence" which is the strongest requirement to be met)

Family Court policy is to "reunify" even when assaults are substantiated, which ends in the abuser getting custody
Protective parents are bankrupted trying to protect their children which prevents them from continuing their efforts
NOT ONE MORE CHILD!