



# Special Committee on Foster Care Adequacy

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## **Licensing Perspective**

Presented by:

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**Testimony of:**

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**Chairman Knox, Vice Chair O'Brien, and Members of the Committee:**

Thank you for the opportunity to present today, regarding family foster home licensing in Kansas. As Deputy General Counsel of the Kansas Department for Children and Families (DCF), I supervise the Child Placing Agency (CPA) and Residential Facilities Division. The CPA and Residential Facilities Division is the licensing authority for all Child Placement Agencies and 24-hour facilities providing residential care to children from birth to 16 years of age.<sup>1</sup>

The CPA and Residential Facilities Division was previously located within the Kansas Department of Health and Environment. Effective July 1, 2015, Executive Reorganization Order (ERO) No. 43, transferred the division to DCF.<sup>2</sup> The ERO was established to allow DCF to better monitor the entire foster care system and streamline services for Children in Need of Care, their families and foster parents. DCF is now responsible for all foster care-related activity in Kansas.

The division is currently housed within DCF's Topeka Service Center. Preparations are being made to incorporate these workers into the DCF Administration Building at 555 S. Kansas Ave. DCF Secretary Phyllis Gilmore has placed a strong emphasis on ensuring proper oversight of family foster home licensing. The division's location within the DCF Administration Building, will allow for greater management of this important function of the agency.

My position was created as a result of the ERO, and my top priority is foster care. DCF is fully committed to ensuring that foster homes in our state are safe and appropriate for every child who comes into the Secretary's care.

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<sup>1</sup> Licensed facilities regulated by the CPA and Residential Facilities Division of DCF include Family Foster Homes, Group Boarding Homes, Residential Centers, Attendant Care Facilities, Detention Centers, Secure Care Centers, Secure Residential Treatment Facilities, and Staff Secure Facilities.

<sup>2</sup> Executive Reorganization Order No. 43 provides that "all the powers, duties and functions of the department of health and environment, division of public health section for child placing agencies and residential facilities which, among other things, licenses and regulates foster care and other residential facilities are hereby transferred to and imposed upon the Kansas department for children and families and the secretary of the department for children and families."

According to K.A.R. § 28-4-311, a “Family Foster Home’ means a child care facility that is a private residence, including any adjacent grounds, in which a licensee provides care for 24 hours a day for one or more children in foster care and for which a license is required by K.A.R. § 28-4-801.”

Family foster homes, as child care facilities, are designed to be as home-like as possible. It is always the goal of DCF to minimize trauma of the children who come into foster care. By placing them in less restrictive, more family-like settings, we can offer them an environment that is comfortable and supports reintegration back into the children’s home. Children in family foster homes are able to experience and engage in healthy families. The system is intended to enable foster parents and foster children to interact in an honest, loving manner while providing for the proper care of children in the Secretary’s custody.

### **Becoming a Foster Parent**

Prospective foster parents first contact a Child Placing Agency (CPA) to receive sponsorship.<sup>3</sup> It is the CPA, working together with the prospective foster parents, that completes the application and prepares the home for inspection by the Licensing Division surveyor.

When examining the qualifications and expectations for foster parents in Kansas, there are statutory and regulatory requirements that center on addressing three issues— where the child will reside, identifying the individuals who will also be in the home, and the treatment of the child.

### **Safe and Healthy Home**

A critical function of the Licensing Division is to ensure that the physical environment of the home does not present a threat to the health, safety or welfare of any child in foster care. Ensuring compliance with this requirement is a core function of the division and is the source of many applicable statutes and regulations. For instance, when a surveyor from the Licensing Division visits a foster home, he/ she verifies that there is proper heating, plumbing, lighting and ventilation.<sup>4</sup> The division requires these systems, as well as water and sewage systems, be compliant with all applicable State and local laws.<sup>5</sup> The agency verifies the home is clean, in good repair and in compliance with fire codes.<sup>6</sup> Pets must be immunized and must be kept in a sanitary manner.<sup>7</sup> Children

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<sup>3</sup> K.A.R. § 28-4-802(f)

<sup>4</sup> K.S.A. § 65-508(a)(1)

<sup>5</sup> K.S.A. § 65-508(a)(2)

<sup>6</sup> K.S.A. § 65-508(b); K.A.R. § 28-4-820

must be protected from vicious animals.<sup>8</sup> Medications, household chemicals, and potentially dangerous sharp instruments or tools and firearms in the home must be safely stored.<sup>9</sup>

Adequate sleeping arrangements must be provided for each child in foster care, with requirements detailed in the regulations.<sup>10</sup> A bedroom with a door to ensure privacy and at least 70 square feet is required.<sup>11</sup> A child in foster care may share a room with another child; however, if the other child is five or older, he/she must be of the same gender and must generally be within three years of age.<sup>12</sup> The maximum number of foster children allowed in any one home is four. Exceptions can be made in certain instances, most commonly to allow for keeping larger groups of siblings together in the same home.<sup>13</sup>

Swimming pools and hot tubs in foster homes are closely regulated. A pool must be enclosed by a five feet fence with a self-locking gate.<sup>14</sup> Even the pH of the water in the swimming pool must be within an appropriate level.

### **Individuals in the Home**

Fundamental and basic requirements to be a foster parent include: the foster parent must be at least 21 years old,<sup>15</sup> must have sufficient income or resources to provide for the basic needs and financial obligations of the foster family and to maintain compliance with all regulations governing Family Foster Homes,<sup>16</sup> and must have access to safe transportation.<sup>17</sup>

A foster parent must complete required training.<sup>18</sup> Under our system, pre-licensure and continuing education training is offered by the CPAs and supportive partner organizations such as the Children's Alliance. The training curriculum is commonly referred to by the acronym PS-MAPP,<sup>19</sup> and consists of 30 hours of training conducted over a 10-week period.

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<sup>7</sup> K.A.R. § 28-4-131

<sup>8</sup> K.A.R. § 28-4-131

<sup>9</sup> K.A.R. § 28-4-818; 28-4-820

<sup>10</sup> K.A.R. § 28-4-821

<sup>11</sup> K.A.R. § 28-4-821(b)(1)&(4)

<sup>12</sup> K.A.R. § 28-4-821(m)

<sup>13</sup> K.A.R. § 28-4-804(a)(1)

<sup>14</sup> K.A.R. § 28-4-824(b)

<sup>15</sup> K.A.R. § 28-4-802(b)

<sup>16</sup> K.A.R. § 28-4-802(c)

<sup>17</sup> K.A.R. § 28-4-816

<sup>18</sup> K.A.R. § 28-4-802(e)

<sup>19</sup> Partnering for Safety and Permanence/Model Approach to Partnership in Parenting Program.

Any person who seeks to become a foster parent must pass a background check as well as any other person who is 10 or older and resides, works or regularly volunteers in the foster home.<sup>20</sup> The Kansas Legislature has identified approximately 100 criminal offenses for which a conviction will disqualify one from working, residing or regularly volunteering in in any child care facility, including a Family Foster Home.<sup>21</sup> A conviction of one of these offenses is referred to as a “prohibited offense”, and a person convicted of a prohibited offense is referred to as a “prohibited person”. No prohibited person is allowed to be a foster parent. One can be a prohibited person for reasons other than committing a prohibited offense. For instance, one is a prohibited person if he/she has committed an act of physical, mental or emotional abuse or neglect or sexual abuse and is listed on the child abuse and neglect registry maintained by the Secretary.<sup>22</sup> Individuals are also prohibited persons if their child has been removed from their home under a finding of a being a Child in Need of Care<sup>23</sup>, or if they have had their parental rights terminated.<sup>24</sup>

Finally, a foster parent must undergo a health assessment to demonstrate he/she is physically and mentally able to provide safe and healthy care for children in foster care.<sup>25</sup>

### **Treatment of the Child**

At all times, foster parents must conduct themselves in a way that is in the best interest of the health, safety and welfare of the children in care. Foster parents are expected to integrate a child into the day-to-day family life in an honest, loving manner and attempt to preserve as much normalcy for the child as possible. Thus, the values and routines of the foster family are shared with the child who can incorporate that stability into his/ her own life.<sup>26</sup> Foster parents must provide supervision that is appropriate to each child’s individual age, maturity, risk factors and developmental level.<sup>27</sup> Children’s physical and material needs must be met. Children must be provided an adequate supply of play equipment, materials and books.<sup>28</sup> Foster parents must provide children with nutritious food, clean clothing and bedding, and birthday and holiday gifts.<sup>29</sup> Foster parents must

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<sup>20</sup> K.A.R. § 28-4-805

<sup>21</sup> K.S.A. § 65-516

<sup>22</sup> K.S.A. § 65-516(a)(3)

<sup>23</sup> K.S.A. § 65-516(a)(4)

<sup>24</sup> K.S.A. § 65-516(a)(5)

<sup>25</sup> K.A.R. § 28-4-819(a)(3)

<sup>26</sup> K.A.R. § 28-4-814(a)

<sup>27</sup> K.A.R. § 28-4-811(b)

<sup>28</sup> K.A.R. § 28-4-813(c)

<sup>29</sup> K.A.R. § 28-4-132(c)(1)&(2); K.A.R. § 28-4-814(c); 28-4-817

be active participants in the child's case plan and implement the provisions assigned to the foster parents.<sup>30</sup>

With regard to discipline, foster parents must agree to a written policy indicating methods of guidance appropriate to the age of the child.<sup>31</sup> Prohibited punishments include corporal punishment, verbal abuse, derogatory remarks and withholding food.

Kansas foster parents must facilitate a child's education by ensuring school attendance.<sup>32</sup> Foster parents are also expected to serve a mentoring role to provide assistance to each child in learning basic life skills that allow him/her the opportunity to improve his/her self-concept and identity in preparation for life after foster care.<sup>33</sup> This is arguably one of the most important roles foster parents play, and the best foster parents do so with dedication and selfless love.

### **Denial of Applications**

Any denial of a foster care application or revocation of a license is a serious matter. The action taken must be by order of the Secretary and must state the specific reasons justifying the order. The person (whether it be an applicant or a licensee) then has the right to a hearing according to the provisions of the Kansas Administrative Procedures Act.<sup>34</sup> The decisions of the administrative law judge can overrule the determination made by the Secretary.

### **Conclusion**

DCF takes seriously its obligation to protect children. As we work to evaluate the licensing program and identify needed changes, we look forward to implementing those improvements to ensure that children in foster care come into loving, healthy homes that will support them and the birth parents as they work toward reintegration. Thank you very much for the opportunity to submit testimony today.

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<sup>30</sup> K.A.R. § 28-4-810(d)

<sup>31</sup> K.A.R. § 28-4-132

<sup>32</sup> K.A.R. § 28-4-813(d)(1)

<sup>33</sup> K.A.R. § 28-4-813(d)(2)

<sup>34</sup> K.S.A. § 65-504(c); K.S.A. § 77-512