SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2103

As Amended by Senate Committee of the Whole

Brief*

HB 2103 would amend the revised Kansas Code for the Care of Children and enact statutory provisions to enable the state to meet the requirements of the federal Family First Prevention Services Act (FFPSA). [*Note:* The FFPSA allows for an enhanced federal match rate toward the use of Social Security Act Title IV-E funds for certain child welfare system evidence-based prevention services and programs beginning October 1, 2019.] The bill would define a qualified residential treatment program (QRTP), establish notice and hearing requirements when a child is placed in a QRTP, require certain action to be taken by the court when QRTP placement occurs, and place additional documentation requirements on the court in a permanency hearing involving a child placed in a QRTP.

Further, the bill would amend the definition of a secure facility, require a child in need of care petition to have an attached copy of any existing prevention plan for a child, and make technical amendments.

Definitions

A QRTP would mean "a program designated by the Secretary for Children and Families [Secretary] as a qualified residential treatment program pursuant to federal law."

[*Note:* The bill also appears to amend the definition of a secure facility to exclude a juvenile detention facility.

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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

However, this change was made in 2018 legislation and the amendment here is to reconcile different versions of the statute.]

QRTP Placement Notice and Hearing Requirements

Placement Notice

The Secretary would be required to notify the court in writing within seven days of a child's placement in a QRTP. The bill would require written notice also to be given to the petitioner; the attorney for the parents, if any; each parent at the last known address; the child, if 12 years of age or older; the child's guardian *ad litem*; any other party or interested party; and the child's court-appointed special advocate.

Placement Hearing Requirements

Within 30 days after a child is placed in a QRTP, any person to whom written notice of such placement would be required would be allowed to request, in writing, the court conduct a hearing. The court would be required to conduct the hearing within 60 days of placement in a QRTP and to provide a notice of hearing to the persons who would be required to receive written notice of placement in a QRTP.

The Secretary would be required to provide the court with a written assessment and documentation of the need for QRTP placement.

Within 60 days of placement in a QRTP, the court would be required to:

- Consider the assessment and documentation provided by the Secretary;
- Determine whether the needs of the child could be met through placement in a foster family home or

whether QRTP placement provides the most effective and appropriate level of care for the child in the least restrictive environment and whether the QRTP placement is consistent with the short-term and long-term goals specified in the child's permanency plan; and

- Approve or disapprove QRTP placement.

Permanency Hearing Requirements for QRTP Placement

In addition to statutory findings and documentation requirements to be made by a court in a permanency hearing, the bill also would require the court to document the following in a permanency hearing involving a child placed in a QRTP:

- The ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement in a foster family home, QRTP placement provides the most effective and appropriate level of care for the child in the least restrictive environment, and the placement is consistent with the short-term and long-term goals specified in the child's permanency plan;

- The specific treatment or service needs that would be met for the child through QRTP placement and the expected length of time the child would need the treatment or services; and

- The Secretary's efforts to prepare the child to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent or in a foster family home.

Additionally, the bill would require the court to set a subsequent permanency hearing within 60 days of a finding that reasonable efforts had not been made by appropriate public or private agencies to rehabilitate the family and

achieve the permanency goal in place at the time of the hearing, or the reasonable and prudent parenting standard had not been met.

The bill would be in effect upon publication in the *Kansas Register.*

Background

The bill was introduced by the House Committee on Children and Seniors at the request of Representative Mastroni. In the House Committee hearing, a Wyandotte County District Court Judge and representatives of the Department for Children and Families (DCF) and St. Francis Ministries testified in support of the bill. The proponents stated a joint committee composed of members of the Kansas Supreme Court Task Force on Permanency Planning and the Kansas Judicial Council Juvenile Offender/Child in Need of Care Code Advisory Committee reviewed the FFPSA and identified the statutory revisions included in the bill as those needed for implementation of and compliance with the FFPSA. The proponents stated the bill was necessary to enable child welfare agencies to comply with all QRTP requirements under the FFPSA to receive federal funding reimbursement and to set out any court requirements in statute to ensure the courts make the necessary findings to maintain compliance with the FFPSA. The proponents noted the bill would advance the Child Welfare System Task Force recommendation to implement prevention funding opportunities under the FFPSA. No other testimony was provided.

In the Senate Committee on Public Health and Welfare hearing, representatives of DCF and St. Francis Ministries provided proponent testimony. The proponents generally stated the bill is the necessary implementing legislation to ensure Kansas compliance with the new federal guidelines under the Family FFPSA, including the new requirement for judicial review of the decision to place a child in a QRTP.

Written-only proponent testimony was provided by a Wyandotte County District Court Judge and a representative of the Kansas Chapter of the American Academy of Pediatrics. No other testimony was provided.

The Senate Committee of the Whole amended the effective date of the bill to be upon publication in the *Kansas Register*.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, DCF states enactment of the bill would allow the agency to take advantage of enhanced Social Security Act Title IV-E federal funding for prevention programs meeting FFPSA criteria. DCF could incur more costs associated with QRTPs, as these placements provide increased level of services. DCF anticipates the length of stay in foster care could decrease because of the enhanced level of care and the FFPSA prevention programs DCF would develop. DCF states the cost and savings of the bill could offset each other, but a precise fiscal effect cannot be determined. The Office of Judicial Administration (OJA) anticipates enactment of the bill could have a significant fiscal effect on the courts because it creates new requirements for the district courts. The bill would require district courts to conduct hearings upon request, district court clerks to send hearing notices, and judges to review documentation and issue rulings for each hearing. However, OJA indicates it is not possible to predict the number of additional hearings that would arise or how complex and time-consuming they would be and a precise fiscal effect cannot be determined. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report.*