

## LIMITED-SCOPE AUDIT PROPOSAL

### Foster Care and Adoption in Kansas: Surveying Guardians ad Litem on the Treatment of Same-Sex Couples in Foster Care and Adoptive Placements

#### SOURCE

This audit proposal was requested by Representative Jarrod Ousley.

#### BACKGROUND

Kansas district courts, based on recommendations from the Department for Children and Families (DCF) and the state's foster care contractors, are responsible for a number of determinations concerning children involved in the state's foster care system. These determinations include whether a child should be declared a "child in need of care," who should have custody of the child, and whether adoption should be pursued. Additionally, under Kansas law, courts are responsible for appointing an attorney to serve as a guardian ad litem for a child who is the subject of proceedings under the Kansas Code for Care of Children.

A guardian ad litem is responsible for independently investigating the facts of the case and representing the best interests of the child. As an independent representative of the child, the guardian ad litem participates in court proceedings and makes recommendations regarding appropriate services for the child and the child's family. The guardian ad litem identifies the best interests of the child based on an independent investigation of social service, police, school, and health records, interviews with relevant parties, and ongoing contact with the child, and advocates for that position in court.

In recent years, a handful of same-sex couples reported DCF had discriminated against them in adoption cases because of their sexual orientation. For example, several news articles focused on a case in which a same-sex couple in Wichita was denied their request to adopt a child they had fostered, and alleged this was because DCF had discriminated against them because of their sexual orientation. Additionally, in a 2013 court ruling, a Johnson County District Court judge found DCF officials ignored a child's best interest when they chose to remove the child from the care of a non-traditional foster mother. The judge found "clear and compelling" evidence DCF's decision to remove the child was related to the couple's sexual orientation.

Legislators have expressed concern that non-traditional individuals or families are being treated differently than others when foster care or adoptive placement recommendations or decisions are made.

#### AUDIT OBJECTIVES AND TENTATIVE METHODOLOGY

*The audit objectives listed below represent the questions that we would answer through our audit work. The proposed steps for each objective are intended to convey the type of work we would do, but are subject to change as we learn more about the audit issues and are able to refine our methodology.*

**Objective 1: What did guardians ad litem report regarding the treatment of same-sex couples in foster care and adoptive placements?** Our tentative methodology would include the following:

- Work with the Office of Judicial Administration to obtain a list of active guardians ad litem in the state.
- Survey guardians ad litem to collect their responses to the following questions:
  - Have they either personally experienced or are they aware of instances where same-sex couples were treated differently than others in the foster care and adoption system?
  - Do they think the Legislature should further investigate this issue?
- Summarize the responses of guardians ad litem on these questions.
- Evaluate the generalizability of the survey responses based on the response rate and any other relevant factors.

#### **ESTIMATED RESOURCES**

We estimate this audit would require **100 staff hours** to complete.