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FRED C. PATTON  
50<sup>TH</sup> DISTRICT

April 25, 2019

Nancy Strouse, Executive Director  
Kansas Judicial Council  
301 SW 10<sup>th</sup> Avenue  
Topeka, Kansas 66612

Dear Nancy:

I am writing to request Judicial Council study of the impact of SB367 on youth who are at risk of being placed in CINC foster care as a result of offender behaviors and on youth in CINC foster care who are engaging in offender behaviors. As shorthand, these youth may be described as “crossover youth.”

The 2016 Legislature passed SB367, an expansive juvenile justice reform bill, based on the recommendations of a bipartisan work group appointed by leadership from all three branches of the state’s government. The law restricted the use of out-of-home placement including detention for juvenile offenders, and was projected to save millions of dollars to shift toward evidence-based services that would allow youth to be supervised safely while remaining at home. The law was phased in over three years, with the final implementation step set to occur in July of 2019. It appears that SB367 was designed to meet the needs of the broader juvenile offender population. However, it has come to the attention of legislators and other stakeholders that this reform may not be addressing the specific or unique challenges related to youth with offender behaviors at risk of being placed or placed in foster care.

Three key reports indicate a need to review the impact of SB367 on crossover youth.

First, the Juvenile Offender/Child in Need of Care Advisory Committee to the Judicial Council noted in its December 2017 report on Juvenile Crisis Intervention: “The Committee is concerned that SB367 eliminated resources like detention and youth residential centers but didn’t replace those resources with other options. While the bill contained language indicating that the cost savings from detaining fewer juveniles should be redirected to communities, it is not clear that funding is being redirected to communities in an effective way. ... [A] relatively small percentage of funds has actually been made available to develop community-based resources.”

Second, the Child Welfare System Task Force and three Working Groups met throughout the latter half of 2017 and 2018, submitting a report to the 2019 Legislature. The Child Welfare System Task Force report and Working Group B reports indicated concerns about juvenile offenders entering foster care. From the Working Group report: “The working group also heard

testimony on “criminogenic” CINC who are a rising and new population coming into care and may be the unintended result of juvenile justice reform. This bill added a uniform, state-wide Detention Risk Assessment Tool which sought to reduce the number of low-level offenders in juvenile detention—mainly crimes committed in the home. Prior to reform, these offenders were placed in detention, but post-reform the children are placed in out-of-home placement when parents will not accept the child back into the home. In 2018, year-to-date CINC filings have increased by 5 percent over 2017 as of August 20, 2018.”

And third, the Mental Health Task Force 2019 report to the Legislature recommended, “a formal joint report to Legislature by corrections, education and health and human services agencies on programs, coordinated efforts and any collective recommendations for populations identified in SB367.” The report indicated, “Juvenile justice system reform ... was intended to decrease the number of youth in the juvenile justice system by creating community-based alternatives to detention centers. The Task Force heard via testimony in 2018 that community-based alternatives have not been robust enough to serve all juvenile offenders released back into their communities, and the lack of community-based alternatives has led to an increase of children into the Kansas child welfare system. Lack of coordination between the behavioral health system and juvenile justice system also has exacerbated this issue.”

These reports raise important questions about the impact of SB367 on crossover youth at risk of placement or placed in CINC foster care engaging in offender-type conduct. Key questions raised in these reports include:

1. whether evidence-based corrections interventions from SB367 are reaching crossover youth either at home or when placed in foster care;
2. whether there are appropriate placement options for youth with offender behaviors placed in CINC foster care;
3. whether the Detention Risk Assessment Tool and detention override option is adequately taking into account repeat offender behaviors;
4. whether needed corrections services are being provided at the appropriate time and in the appropriate setting for crossover youth, particularly those youth who are repeatedly engaging in offender behaviors, escalating in offense level, or exhibiting extreme physical or sexual aggression; and
5. whether public safety, including safety of caregivers and providers, is being appropriately considered at all stages of corrections interventions.

With that background, I request the Judicial Council:

- study the impact of SB367 on crossover youth;
- identify needed modifications to relevant provisions of law to ensure the goals of SB367, the Juvenile Justice Code, and the Child in Need of Care Code can be met for crossover youth, specifically but not limited to the five questions above;
- consider data collection or information-sharing needs that would support evaluation of whether the goals of SB367, the Juvenile Justice Code, and the Child in Need of Care Code are being achieved for crossover youth; and
- consider whether or how components of the Georgetown Crossover Youth Practice Model or similar practice model might inform needed statutory changes to support the goals of SB367, the Juvenile Justice Code, and the Child in Need of Care Code.

Please let me know if I can provide any further information or answer any questions regarding this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Fred Patton", with a long horizontal flourish extending to the right.

Representative Fred Patton  
Chairman, House Committee on Judiciary