

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Stephen Morris at 10:30 a.m. on March 24, 2003, in Room 123-S, of the Capitol.

All members were present except: Senator Jim Barone - excused

Committee staff present:

Alan Conroy, Director, Kansas Legislative Research Department
J. G. Scott, Chief Fiscal Analyst, Kansas Legislative Research Department
Melissa Calderwood, Kansas Legislative Research Department
Julian Efir, Kansas Legislative Research Department
Amy Van House, Kansas Legislative Research Department
Debra Hollon, Kansas Legislative Research Department
Michael Corrigan, Assistant Revisor of Statutes
Judy Bromich, Administrative Analyst
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Ron Srajer, Chairman of the Board of Directors, Information Network of Kansas
Representative Dean Newton
John Badger, Chief Counsel, Kansas Department of Social and Rehabilitation Services
Paul Morrison, District Attorney, Johnson County
Stephen M. Howe, Assistant District Attorney, Johnson County (written testimony)
Kathleen S Lamm, Deputy Director, Johnson County Area Agency on Aging
Deanne Bacco, Executive Director, Kansas Advocates for Better Care
Debbie Collins, Director of Governmental Relations, Johnson County Developmental Supports
Sandy Barnett, Executive Director, Kansas Coalition Against Sexual and Domestic Violence
Dr. Ernie Pogge, Chair, Capitol Advocacy Group for AARP Kansas
Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association
Kathleen Taylor Olsen, Kansas Bankers Association, presented by Chuck Stones

Others attending: See attached list

Chairman Morris opened the public hearing on:

SB 261--Transfer the Information Network of Kansas to Kansas, Inc.

Staff briefed the committee on the bill.

Ron Srajer, Chair of the Board of Directors for the Information Network of Kansas, spoke regarding **SB 261** (Attachment 1). Mr. Srajer explained that the bill sustains the INK self-funded portal model and supports Kansas leadership in E-Government services to citizens and businesses. He also noted that **SB 261** reinforces their tie to economic development initiatives.

Committee questions and discussion followed. There being no further conferees to come before the meeting, the Chairman closed the public hearing on **SB 261**.

Senator Kerr moved, with a second by Senator Jackson, to recommend SB 261 favorable for passage. Motion carried on a roll call vote.

Chairman Morris opened the public hearing on:

HB 2254--Reporting of abuse, neglect and exploitation of dependent persons

Staff briefed the committee on the bill.

CONTINUATION SHEET

Representative Dean Newton testified in support of **HB 2254** (Attachment 2). Representative Newton explained that **HB 2254** is the product of extensive collaboration between law enforcement, service providers and individuals who advocate for the elderly and disabled. He noted that the main purpose of the legislation is to broaden the protections of dependant adults, including the elderly and those with physical and mental illness.

John Badger, Chief Counsel, Kansas Department of Social and Rehabilitation Services, testified in support of **HB 2254** (Attachment 3). Mr. Badger mentioned that **HB 2254** provides for several positive changes to the adult abuse, neglect and exploitation statutes.

Paul Morrison, Johnson County District Attorney, testified in support of **HB 2254** (Attachment 4). Mr. Morrison explained that over the last several years prosecutors and law enforcement officials across the state have seen a rise in the number of crimes being committed against the elderly or other disabled adults. He noted that this bill attempts to address this growing problem in a proactive way.

Written testimony was presented by Paul Morrison on behalf of Stephen M. Howe, Johnson County Assistant District Attorney in support of **HB 2254** (Attachment 5).

Kathleen Lamm, Deputy Director, Johnson County Human Services and Aging, testified in favor of **HB 2254** (Attachment 6). Ms. Lamm explained that they support the addition of reporting to local law enforcement during normal business hours, in addition to the current requirement for reporting to them when SRS offices are closed. She noted this will facilitate earlier intervention by law enforcement agencies and will provide clarity as well as consistency of instruction for mandated reporters.

Deanne Bacco, Executive Director, Kansas Advocates for Better Care, testified in support of **HB 2254** (Attachment 7). Ms. Bacco urged favorable attention to the bill and advance the cause of protecting vulnerable adults from abuse, neglect and exploitation.

Debbie Collins, Director of Governmental Relations, Johnson County Developmental Supports (JCDS), testified in support of **HB 2554** (Attachment 8). Ms. Collins explained that JCDS is supportive of the measures presented in HB 2254 that strengthens the ability of local law enforcement departments, including the District Attorney's office, to fully protect their population from abusive practices both in the community and in the state institutions.

Sandy Barnett, Executive Director, Kansas Coalition Against Sexual and Domestic Violence, testified in support of **HB 2254** (Attachment 9). Ms. Barnett noted in her testimony that **HB 2254** expands the definition of abuse to include financial exploitation and will require financial officers and guardians/conservators to report abuse.

Dr. Ernie Pogge, representing AARP Kansas, testified in favor of **HB 2254** (Attachment 10). Dr. Pogge urged favorable consideration to **HB 2254** and expand protections for vulnerable adults from abuse, neglect and exploitation.

Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association, testified in support of **HB 2254** (Attachment 11). Mr. Kaberline mentioned that one of the greatest roles that a government plays is to protect the rights of its most vulnerable citizens and believes this change in the Kansas abuse statute increases that protection.

Kathleen Taylor Olsen, Kansas Bankers Association, appeared before the committee as a neutral conferee regarding **HB 2254** (Attachment 12). Ms. Olsen expressed concern that a dilemma bankers face is whether, in so reporting suspected financial abuse, they are breaching the implied contract of confidentiality they have with their customers.

There being no further conferees to come before the committee, the Chairman closed the public hearing on **HB 2254**.

CONTINUATION SHEET

Senator Adkins moved, with a second by Senator Feleciano, to amend **HB 2254** with the technical balloon amendment proposed in the testimony of the Kansas Department of Social and Rehabilitation Services. Motion carried on a voice vote.

Senator Adkins moved, with a second by Senator Jordan, to recommend **HB 2254** favorable for passage as amended. Motion carried on a roll call vote.

Chairman Morris called the committee's attention to discussion of:

SB 257—Authority for the animal health department to increase certain fees

Senator Jackson moved, with a second by Senator Schodorf, to table **SB 257** and recommend an interim study to look at the fairness issue regarding the fee schedules. Committee questions and discussion followed. Senator Jackson withdrew his motion with the approval of the second to the motion, Senator Schodorf. The Department will prepare a schedule of fees to propose to the committee.

The meeting adjourned at 12:10 p.m. The next meeting is scheduled for March 25, 2003.

SENATE WAYS AND MEANS COMMITTEE
GUEST LIST

DATE march 24, 2003

NAME	REPRESENTING
Judy Lamm	Johnson County Area Agencies Aging
J. Chubb	SOS
J. Hallingworth	INK
Ken Scrajer	INK
Debra Duncan	KAHN
George Teagarden	KAHN
Eric King	Kansas Animal Owners Fed.
Marilynn Ault	KCSDV
Sandy Barnett	KCSDV
Scott Kinsford	Federico Consulting
SCOTT SCHNEIDER	CRISA
DEAN NEWTON	STATE REP. 21 ST DIST.
Eric Kutzly	AARP
Ernie Fogge	AARP
Robert Knapp	KIC - Network Manager
Lisa Counts	KIC - Network Manager
Kathy Demmon	Demmon & Assoc.
Nebbia Collins	JCDS
Paul Morrison	JS Co D. A.
Mildy Huttles	Ks. Govt. Consulting
Christy Lane	Ks Dept. on Aging
Pam Scott	Ks funeral Directors Assn

SENATE WAYS AND MEANS COMMITTEE
GUEST LIST

DATE March 24, 2003

NAME	REPRESENTING
Loretta Sacks	KAS
Susan Holland	Tapeha Coalition on Abuse & Abuse
Travis Barnhart	KNASW
Kathy Sochs	SOS
Julia Thomas	JOB
Craig Koberlin	KS AREA AGENCIES ON AGING ASSOC.
Christy Stovos	KBA
KENT HUPP	USA
Randall Allen	Ks. Assoc. of Counties
Mike Pepoon	Sedgewick County

Mr. Chairman and members of the Committee,

It is an honor for me to be with you today and to have the opportunity to speak to Senate Bill 261.

I am Ron Srajer, chair of the Board of Directors for the Information Network of Kansas. I joined the Board two years ago when I was asked as a member of the Independent Insurance Agents of Kansas to serve on the INK Board. Kansas' statute 74-9301 through 9308 established the Information Network of Kansas in 1991. The INK Board has ten members. I would like to share with you the backgrounds a few of the members.

For example, Todd Thompson is an attorney from Lawrence, appointed by the Governor from the Kansas Bar Association. Mr. Thompson is managing shareholder of Thompson and Associates P.A., and is on the executive board of the Kansas Association of Defense Counsel.

Janet Chubb, Assistant Secretary of State, is with us. She is representing the Secretary of State, Ron Thornburgh. Ron, Janet and other staff members of the Secretary of State, the Kansas Department of Revenue, and the Kansas Department of Transportation have devoted many tireless hours helping INK achieve the strategic goals of the 1991 legislation. Our national recognitions for E-Government are a direct reflection of our agency partnerships and their hard work and belief in the model.

Tom Winters sends with us his regrets to the Committee that he could not attend this morning's meetings because of prior commitments. Mr. Winters is a County Commissioner for Sedgwick County and was last year's Chair of the INK Board. Tom has participated on the Board of Directors for the past six years. He was selected from and represents on the Board the Kansas Association of Counties. Tom currently serves as the Vice Chair of the Board of Directors.

I also have with me Jim Hollingsworth. Jim is the Executive Director of the INK. Jim has an excellent understanding of our INK applications, technical operating environment and financials. We are very fortunate to have Jim's expertise and leadership.

The 1991 INK statute designates that the INK Board of Directors be made up of ten members. The INK Board members represent citizen and business user groups and state government leadership effectively putting together government service providers and representatives of the users of the services.

Kansas statute 74-9303 specifically identifies the members of the INK Board:

- The President of Kansas, Inc.
- The Secretary of State.

- Two members who are chief executive officers of agencies of the executive branch. Currently, the Secretaries of the Kansas Department of Transportation and the Kansas Department of Revenue serve in this capacity.
- One member from the Kansas Bar Association membership.
- Three members from other user associations of a statewide character.
- One member submitted by the President of the Kansas Public Libraries Association.
- The Director of DISC, who serves as a non-voting member.

As you can see, the 1991 legislation established a Board of Directors that currently represent broad-based expertise in Law, County Government, State Government, Technology, and Library Services to mention a few.

Since 1991 INK has created nationally recognized applications for Electronic Government. We have developed over 240 applications and services. These applications include fee for services as well as free applications and information. A large percentage of the 240 applications are free to citizens and businesses. We currently host access to over 380,000 pages of information and work with over 100 state agencies, commissions, associations, and county governments, coordinating the complex database connectivity issues across widely diverse and disparate systems.

In 1991, the legislature envisioned a self-funded portal that generated sufficient revenue to build, expand and maintain citizen and business applications. I am pleased to report that approximately 70% of all revenues generated by the portal are returned directly to the state agencies to fulfill their statutory requirements and assist in the further development of their own E-Government initiatives. The INK self-funded model has become the national model for funding electronic services. We contract with Kansas Information Consortium (KIC) to provide the electronic government services for Kansas. INK applications touch many local units of government as well as government to citizen, government to business, government to government and provide access to government to employee services.

Kansas was the first state in the nation to develop a self-funded portal. Currently, 17 other states use the self-funding model first introduced in Kansas. Under the direction of the INK Board of Directors, the hard work of KIC and state agency participation, Kansas is a nationally recognized leader in E-Government. For example, in 2002 Kansas received the number one ranking from the Center for Digital Government of Information Technology. In recent years, Kansas received top award for best portal web services in government. The award was received from Brown University. We have also received top honors from Governing Magazine, Government Technology Magazine, Syracuse University, Progress and Freedom Foundation and many other national associations with government and technology. These successes are a direct reflection of the leadership of the

INK Board of Directors, as well as the close relationship with our state agencies, universities, courts, and the quality of work received from our network manager.

Our success is directly related to the vision of the Kansas legislature when INK was first conceived. The vision included to important components:

1. Provide electronic access to government in order for citizens to access their government at anytime from any place
2. Build applications that cover a broad spectrum of government services that touch our economy

Economic development is an important part of the vision of INK. Senate Bill 261 reflects the importance of economic development and reflects a long-standing relationship we have enjoyed with Kansas Inc. Kansas Inc provides by statute, staffing assistance to the INK Board and the Executive Director. Clearly, Kansas Inc. is important to the Information Network of Kansas.

Although we have not completed our full analysis of Senate Bill 261, we noted that the bill sustains the INK self-funded portal model and supports Kansas leadership in E-Government services to citizens and businesses. The technology used to provide these services are state of the art and the INK operating environment is truly high-tech. Our Board of Directors has a strong appreciation and continued commitment to provide the technology needed to drive the applications. We are hopeful that the broad representation of the INK Board will be continued under any new legislation. Please know we believe strongly in economic development. Senate Bill 261 reinforces our tie to economic development initiatives. Today, in fact, INK covers \$60,000 dollars per year of Kansas Inc.'s annual budget for reimbursement of staffing resources.

Legislative Post Audit is currently conducting a review of INK operations. I understand that this review will be completed soon. The INK Board also conducts its own audits. We contract with an independent auditor to annually audit our financial records. And we have a separate independent auditing firm perform an annual contract compliance audit to ensure that the contracts held with state agencies and other partners are executed properly. We have provided Post Audit with copies of these annual reviews, as well as the latest annual audit performed on the Network Manager operations.

Again, it is an honor for me to be with you today and to have the opportunity to speak to Senate Bill 261. I would like to meet with you after the Post Audit report has been completed to discuss how INK can best support your policy directions and help further the state's E-Government initiatives.

This concludes my presentation. May we answer any questions?

DEAN NEWTON
 REPRESENTATIVE, 21ST DISTRICT
 4808 WEST 77TH TERRACE
 PRAIRIE VILLAGE, KS 66208
 (913) 384-0490
 dnewton@kc.rr.com

ROOM 115-S, STATEHOUSE
 TOPEKA, KANSAS 66612-1504
 (785) 296-7682
 newton@house.state.ks.us



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 MEMBER: APPROPRIATIONS
 EDUCATION AND LEGISLATIVE
 BUDGET
 JUDICIARY

March 24, 2003

The Honorable Steve Morris
 Chair, Senate Ways and Means Committee
 State Capitol, Room 120-S
 Topeka, KS 66612

Senator Morris and Members of the Ways and Means Committee:

Thank you for the opportunity to appear before you as a proponent of HB 2254. The legislation you have in front of you is the product of extensive collaboration between law enforcement, service providers and individuals who advocate for the elderly and disabled. The legislation passed the House 114-9. The main purpose of this legislation is to broaden the protections of dependent adults, including the elderly and those with physical and mental illness disabilities.

There are numerous cases where elderly victims are taken advantage of by various individuals, including family members, home health care workers, trustees and those with power of attorney. Most of the abuse is financial and is done through intimidation, manipulation and deception. Examples of recent abuse this legislation is addressing include:

- A case where five people worked together to steal over \$600,000 in a ten month period from an elderly victim. The victim was recently widowed and was diagnosed with a mental illness. Prior to her husband's death, the victim knew the five perpetrators as business clients of her late husband. Shortly after her husband's death, these individuals worked hard to gain her trust. They used this relationship to steal hundreds of thousands of dollars from the victim.
- An attorney who was assigned as trustee to liquidate the estate of one of his own family members stole over \$100,000 from the rest of his family.
- A home health care nurse who took advantage of a young victim with severe physical disabilities. The nurse placed numerous charges on the victim's credit card without her permission.

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 Attachment 2

- Home health care workers in a number of instances have stolen from elderly individuals that have major health problems at the time of the thefts. The thefts were accomplished a variety of ways including fraudulent use of a power of attorney and unauthorized use of the victim's credit cards and checks.

The legislation in front of you is an attempt to address these egregious examples. The key components of this legislation can be broken down into the following categories:

1. Expanding the list of mandatory reporters of adult abuse.

This legislation expands the list of mandatory reporters to include officers of financial institutions, trustees and legal representatives. Financial institutions and others can detect potential abuse early in the process and limit the financial damage done to the victim. *It is important to note that all mandatory reporters are immune from lawsuits for reporting possible abuse.* The sooner law enforcement knows about the fraud the easier it is to prosecute the case.

2. Requires reporting to Law Enforcement in addition to SRS.

The law currently requires that abuse be reported to SRS. This bill simply adds one small step and requires that abuse also be reported to law enforcement at the same time. There have been numerous occasions where law enforcement was notified long after abuse has occurred. This greatly impeded the ability of law enforcement to conduct an effective investigation because many victims' mental or physical health had deteriorated in a short period of time. Early law enforcement involvement can also reduce the amount of financial damage done to the victim by halting the flow of money out of their accounts through various law enforcement means. Finally, early law enforcement involvement can help avoid intimidation and manipulation of the victim by the suspect.

3. There is no fiscal note.

We made changes in the House so that there is no fiscal note attached to this legislation.

As I mentioned above, this legislation is a result of extensive collaboration between law enforcement, service providers and advocates for dependant adults and will substantially help protect these individuals from abuse and fraud. I urge you to pass H.B. 2254 favorably out of committee.

Kansas Department of

Social and Rehabilitation Services

Janet Schalansky, Secretary

Senate Ways and Means Committee
March 24, 2003

House Bill 2254 - Dependent Persons

John Badger, Chief Counsel

For additional information contact:
Office of Planning and Policy Coordination
Marianne Deagle, Director

Docking State Office Building
915 SW Harrison, 6th Floor North
Topeka, Kansas 66612-1570
phone: 785.296.3271
fax: 785.296.4685
www.srskansas.org

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3-24-03
Attachment 3

Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary

Senate Ways and Means Committee
March 24, 2003

HB 2254 - Concerning Dependent Persons

Mr. Chairman and members of the Committee, thank you for the opportunity to appear on HB 2254. My name is John Badger, Chief Counsel for the Department of Social and Rehabilitation Services. This legislation provides for several positive changes to the adult abuse, neglect, and exploitation statutes.

The Department provides adult protective services to adults ages 18 and over who are in need of protection from abuse, neglect, or exploitation. Abuse includes both mental and physical abuse and includes sexual and fiduciary abuse. Neglect covers personal neglect and neglect by a caretaker or other person. Exploitation can be of a physical as well as financial nature. Emergency support services as well as guardianship/conservatorship services are also provided. In FY 02, the Department responded to over 17,000 adult protective service reports.

SRS has worked with Rep. Newton in developing the current amended version of this bill. Amendments include language in new Section 1 to clarify that reports involve adult abuse, neglect, exploitation, and fiduciary abuse, removal of new Section 2 in its entirety, and additional amendments to K.S.A. 39-1408 and 39-1437 to reincorporate permissive language related to SRS involvement in petitioning for guardianship or conservator services when an individual refuses services and is found to lack capacity. This last amendment was found necessary because SRS is often not directly involved in petitioning for such services but relies on other resources including the Kansas Guardianship Program.

Additionally, an amendment was made to K.S.A. 39-1407 (m) which reincorporated the Department's investigative responsibility for adult abuse occurring in the SRS institutions for mental retardation, the Kansas Neurological Institute and Parsons State Hospital.

Finally, the Department noted a technical error in New Section 1(b) and requested the Revisor make the correction. The correction is attached to this testimony.

These amendments, in addition to the initial changes contained in the bill, are positive additions supported by the Department .

Thank you.

HOUSE BILL No. 2254

By Representative Newton

2-10

AN ACT concerning dependent persons; relating to the reporting of abuse, neglect or exploitation of such persons; amending K.S.A. 39-1401, 39-1403, 39-1404, 39-1405, 39-1406, 39-1407, 39-1408, 39-1409, 39-1430, 39-1432, 39-1433, 39-1436 and 39-1437 and K.S.A. 2002 Supp. 39-1402 and 39-1431 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) *Investigation of adult abuse.* The state department of social and rehabilitation services and law enforcement officers shall have the duty to receive and investigate reports of adult abuse or, neglect, **exploitation or fiduciary abuse** for the purpose of determining whether the report is valid and whether action is required to protect the adult from further abuse or neglect. If the department and such officers determine that no action is necessary to protect the adult but that a criminal prosecution should be considered, the department and such law enforcement officers shall make a report of the case to the appropriate law enforcement agency.

(b) *Joint investigations.* When a report of ~~adult financial, mental or physical abuse or neglect;~~ **adult abuse, exploitation or fiduciary abuse** } adult indicates (1) that there is serious physical injury to or serious deterioration or sexual abuse or **exploitation** of the adult and (2) that action may be required to protect the adult, the investigation may be conducted as a joint effort between the department of social and rehabilitation services and the appropriate law enforcement agency or agencies, with a free exchange of information between such agencies. Upon completion of the investigation by the law enforcement agency, a full report shall be provided to the department of social and rehabilitation services.

(c) *Coordination of investigations by county or district attorney.* If a dispute develops between agencies investigating a reported case of adult abuse or neglect, **neglect, exploitation or fiduciary abuse**, the appropriate county or district attorney shall take charge of, direct and coordinate the investigation.

(d) *Investigations concerning certain facilities.* Any investigation by a law enforcement agency involving a facility subject to licensing or

OFFICE OF DISTRICT ATTORNEY
PAUL J. MORRISON, DISTRICT ATTORNEY

Testimony in Support of House Bill 2254
March 24, 2003

Over the last several years prosecutors and law enforcement officials across the state have seen a rise in the number of crimes being committed against the elderly or other disabled adults. Unfortunately, I fear this trend will only grow as our population becomes older and more vulnerable. This bill attempts to address this growing problem in a proactive way.

Over the last several years a group of concerned public officials and citizens known as the Community Violence Action Counsel (COMVAC) has sought to address this problem by attempting to strengthen the existing laws that require reporting of this type of abuse. The amendments in this bill are the culmination of those efforts to strengthen the response and protect those adults who cannot protect themselves. These changes will cost little to the budgets of the affected agencies and speed up receipt of information by law enforcement.

The real strengths of this bill are two fold. First, a law enforcement agency is now charged with the duty to receive and investigate reports of adult abuse, neglect or exploitation. This should help relieve the burden on SRS, which is already spread too thin. Secondly, it broadens the list of mandated reporters to all officers of financial institutions that have reason to believe that this type of abuse is occurring.

These changes will assist those in the front lines in protecting our growing elderly population and other dependent adults.

STATE OF KANSAS
Tenth Judicial District

OFFICE OF DISTRICT ATTORNEY

PAUL J. MORRISON, DISTRICT ATTORNEY
Stephen M. Howe, Assistant District Attorney

March 21st, 2003

The Honorable Steve Morris
Chair, Ways and Means Committee
State Capital,
Topeka, Ks. 66612

The main purpose of the amendments contained in HB 2254 is to broaden the protections of dependant adults. This would protect those who are unable to protect themselves, including the elderly and those with physical or mental illness disabilities. The elderly population will be increasing over the next 10 years as the baby boomers hit retirement age. The current problems will only increase as our population gets older.

We have seen numerous cases where elderly victims are taken advantage of by various individuals. Many times it is family members who commit these abuses, but we have also seen home health care workers, trustees and those with power of attorney over the victim commit these abuses. Most of the abuse is financial and is done through intimidation, manipulation and deception. Here are some examples of the type of abuse we see.

- A case where 5 defendants, all family members, stole over \$600,000, in a 10 month period, from an elderly victim. This victim was a recently widowed and was diagnosed with a mental illness. Prior to her husband's death, the victim only knew the defendants as old business clients of her husband. Soon after her husband's death, these people endeared themselves to her. Through manipulation and deceit they gained her trust and obtained her money. They were charged with theft by deception and mistreatment of a dependant adult. Unfortunately, the mistreatment of dependant adult charge is a misdemeanor when it is financial abuse. This is something that should also be brought to light during these discussions. This charge should mirror that criminal theft statute, which enhances the severity level based on the extent of the theft.

-An attorney who was assigned as trustee to liquidate a family member's estate stole over \$100,000 from the rest of his family.

-We have had several instances of home health care workers stealing from elderly individuals. In most of these instances the victims have major health problems at the time of the thefts. On one of these occasions the defendant obtained power of attorney over the victim, which resulted in fraud. Because the home health care industry has little regulations or requirements, it has become a major source of fraud against dependant adults. The defendants made unauthorized credit card purchases on the victim's cards, wrote unauthorized checks and stole money.

-A young victim, who has severe physical disabilities, was taken advantage of by a home health care nurse. Numerous charges were placed on the victim's credit card without her permission.

-A victim who had severe physical problems and dementia lived in a nursing home. A family member of the victim, who had power of attorney, intercepted tens of thousands of dollars from Medicaid and Medicare that was to pay for the nursing home bills. Law enforcement was not contacted for several years. The statute of limitations had nearly run out which severely limited our ability to prosecute.

We see several reasons why these changes can benefit the people of Kansas. The key components of these amendments can be broken down into the following categories.

1. Expanding the list of mandatory reporters of adult abuse.

The financial institutions are on the front lines in detecting financial abuse. By making them mandatory reporters they are immune from lawsuits for reporting possible abuse. This will promote reporting. They can detect this abuse early on and thereby limit the damage done to the victim. The sooner law enforcement knows about the fraud the easier it is to prosecute the case.

By including power of attorney, trustees and other legal representatives, it helps eliminate a defense from criminal charges. This reporting obligation helps establish criminal intent by the suspect, by elevating their duty to protect the victim.

2. Require reporting to SRS and Law Enforcement

Because of limited resources of S.R.S. A.P.S., many incidents of reported abuse are not investigated in a timely or complete manner. Law enforcement is also better trained and equipped to recognize and stop the abuse. Many times law enforcement is brought in too late to do an effective investigation. We seen cases that have arrived so late to law enforcement

that the statute of limitations will soon run out or has already run out, precluding prosecution.

By reporting abuse to both SRS and law enforcement it can facilitate better cooperation. It is common to see the victim's mental health deteriorate in a short period of time. A victim developing dementia or other health problems can severely hamper the investigation. By requiring reporting to law enforcement, this will reduce the chance of the investigation coming in too late to effectively prosecute the case. It can also reduce the degree of damage done to the victim by stopping the flow of money out of their accounts, through various law enforcement means. Even when a victim is unable to assist in the investigation, early law enforcement involvement can overcome this problem. Early law enforcement involvement can also help avoid intimidation and manipulation of the victim by the suspect.

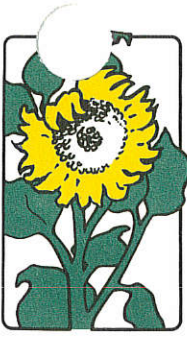
These reporting requirements go hand in hand with the amendments listed within KSA 39-1405 and KSA 39-1437. These changes give the authorities the ability to go before the court when there are suspicions of fraud by trustees, conservators, and power of attorneys. This is another avenue to protect those who cannot protect themselves. There are many times when people have power of attorney and abuse its authority in order to commit fraud.

We believe these amendments will provide a effective means to help combat the growing abuse of elder and dependant adults. This can be done without increasing the budgets of the affected agencies. Enhancing the communication between S.R.S. and law enforcement will go a long way in combating this abuse. Let me know if I can provide any additional assistance to you. We appreciate your help on this serious problem.

Respectfully submitted,

Stephen M. Howe
Assistant District Attorney

SMH



Johnson County Human Services & Aging

Main office:

11875 S. Sunset
Suite 200
Olathe, KS
66061
(913) 894-8811
894-8025/TDD
477-8025/Fax

**Area Agency
on Aging:**

Aging Services

- Information
- Case Management
- Health Promotion
- In-Home Services
- Special Events
- Client Assessment Referral & Evaluation (CARE)
(Fax: 477-8024)
- Nutrition Program
477-8035

March 20, 2003

Testimony in Support of House Bill 2254

For: Senate Ways and Means Committee

By: Kathleen S. Lamm,
Deputy Director, Johnson County Area Agency on Aging

Member, Elder Abuse Committee of Johnson County Community
Violence Action Council (COMVAC)

Mr. Chairman and members of the Senate Ways and Means Committee, I am here today to speak in favor of House Bill 2254. As Deputy Director of the Johnson County Area Agency on Aging, I supervise our Area Agency's geriatric care managers and assessors. In addition, I serve on the Johnson County Elder Abuse Committee, a committee of COMVAC. In that capacity, I, along with other members, have given input to the proposed revisions to the statute. Linda Wright, Director of the Area Agency on Aging, serves as Chair of the Elder Abuse Committee. She was unable to be here today, and asks that I represent the Area Agency on Aging and the Elder Abuse Committee. I am also here speaking from my own experiences especially related to clients served by our geriatric care managers.

The National Center on Elder Abuse estimates that only 1 in 14 incidents of elder abuse and neglect are reported to authorities. In our service area, Johnson County, the reports of adult abuse and neglect have increased from 152 in 1995, to 513 in 2001. This is a 338% increase. As more older adults live out their life in a community setting rather than an institutional setting, they are likely to become a victim of abuse that goes unnoted and unreported. We need to update our reporting statute to make those most likely to have contact with older adults mandated reporters of abuse, neglect and exploitation. This revision would require all legal representatives of adults, both those living in the community and those in a licensed institution, to report suspected abuse, neglect or exploitation. It also provides these representatives with immunity from liability for making a report. Often times the person who has the closest relationship with a

An innovative leader in meeting the human service needs of all generations.

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Attachment 6

vulnerable adult is the individual they have entrusted with durable power of attorney or health care power of attorney.

The inclusion of employees providing assistance funded by Medicaid, Medicare or the Kansas Senior Care Act, will strengthen and clarify the reporting requirement. In our work with providers funded through these programs, we find that, unlicensed in-home workers have the most frequent and intimate contact with the adult for whom they provide care. Older adults often develop a relationship of trust with their in-home workers. The observations by these workers and the information shared with them by the older adult can provide the first indications of abuse, neglect or exploitation. Because this level of in-home worker is unlicensed, there is no other authority mandating their reporting of abuse, neglect or exploitation. Our Area Agency's geriatric care managers commonly receive calls from in-home workers who are concerned, yet uncertain as to how to intervene. Although we will always follow up on any concerns of this nature, a direct report from the worker who observed or heard from the older adult would be more accurate and timely than a third party report.

Finally, we support the addition of reporting to local law enforcement during normal business hours, in addition to the current requirement for reporting to them when SRS offices are closed. This will facilitate earlier intervention by law enforcement agencies and will provide clarity as well as consistency of instruction for mandated reporters.

Thank you for this opportunity to comment. I would be happy to answer any questions.

913 Tennessee, Suite 2
Lawrence, KS 66044-6904
phone: (785) 842-3088
toll-free: (800) 525-1782
fax: (785) 749-0029
e-mail: info@kabc.org
website: www.kabc.org

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HB 2254
reporting abuse, neglect and exploitation
March 24, 2003

Honorable Chairman Morris and
Senate Ways and Means Committee Members

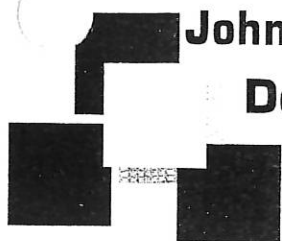
Kansas Advocates for Better Care has a long history of promoting quality long-term care and therefore strongly supports the concepts of this legislation for such improvements as:

- the reporting and investigating of adult abuse, neglect and exploitation (ANE) is proposed to include law enforcement entities (for both community settings and licensed care homes)
- the list of mandatory reporters of ANE is made to include: officers or employees or financial institutions, a legal representative, a governmental assistance provider
- the definition of "caretaker" is expanded to include those persons who have legal authority or not
- judges can issue an order enjoining caretakers or legal representatives from interfering with provision of services, when facts are provided showing withholding of services has been occurring
- reporting, investigating and safeguarding improvements are made for those vulnerable adults living in community settings who are at the mercy of their caretakers and service providers.

Improvements to KSA 39 have long been needed. We urge you to give favorable attention to this bill and advance the cause of protecting vulnerable adults from abuse, neglect and exploitation.

Thank you for this valuable opportunity to comment on HB 2254.
Deanne Bacco, Executive Director

Senate Ways and Means
3-24-03
Attachment 7



Johnson County

Developmental Supports

Building Resources for People with Disabilities

To: Representative Morris, Chair
Members, Ways and Means Committee

From: Debbie Collins, Director of Government Relations

Date: March 24, 2003

Re: HB 2254

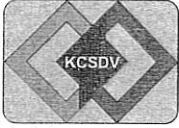
Thank you for this opportunity to offer support of HB 2254, concerning the reporting and investigation of adult abuse, neglect and exploitation.

Johnson County Developmental Supports (JCDS) is the Community Developmental Disability Organization (CDDO) for Johnson County. In our various roles, we provide or help arrange community-based services to nearly 1,000 men, women and children with mental retardation and other developmental disabilities in Johnson County. Additionally, we manage a county-wide waiting list of about 400 people who are currently either without any service or are under-served due to funding shortages.

The people that we support are among the most vulnerable citizens in Kansas. Many are not their own legal guardians and as such, they rely heavily upon family members, service providers, and other caretakers in the community to make decisions that are in their best interests. Clearly, this reliance upon others makes them "easy targets" for abuse, neglect and exploitation of physical, mental and financial means.

JCDS is supportive of the measures presented in HB 2254 that strengthens the ability of local law enforcement departments, including the District Attorney's office, to fully protect our population from abusive practices both in the community and in the state institutions. We offer our support of HB 2254 and thank Representative Newton for his advocacy efforts on behalf of vulnerable Kansans.

Thank you for your consideration of this measure. If you should have any questions, please feel free to contact me at (913) 492-6161 ex. 230.



UNITED AGAINST VIOLENCE

KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE

220 SW 33rd Street, Suite 100 Topeka, Kansas 66611
785-232-9784 • FAX 785-266-1874 • coalition@kcsdv.org

Senate Ways and Means Committee

March 24, 2003

House Bill 2254

Chairman Morris and Members of the committee:

Thank you for the opportunity to speak with you this morning about our support of HB 2254.

The Kansas Coalition Against Sexual and Domestic Violence is a private non-profit group representing victims of domestic and sexual violence and the advocacy programs serving them. The 27 member programs reported serving more than 1,000 sexual assault victims; 21,250 domestic violence victims; and sheltered 4,621 people during 2001. In the same time period, the program hotlines responded to more than 29,000 crisis calls. Domestic violence and sexual assault are just as much of an issue in Kansas as they are everywhere else in the United States.

Most people think of domestic violence and sexual assault as issues that affect the young but recent work by the National Clearinghouse on Abuse in Later Life indicate that domestic and sexual violence are perpetrated against the elderly in alarming numbers: most commonly by spouses and adult children.

More than 25% of the U.S. population is over 50 years old. In one prevalence study using a random sample survey (Podnicks, 1992): 2.5% of elders were materially abused; 1.4% were chronically verbally abused; .5% were physically abused; .4% were neglected; and, of those, 19% suffered multiple types of abuse. In Brownell's (1999) study of 401 abused elders; 54% of elders are psychologically abused, 51% financially abused, 28% physically abused, and 19% neglected (Brownell, et al, 1999). The National Elder Abuse Incidence Study (1998) (NCEA), which random sampled elders in 20 counties in 15 U.S. states, indicated that 62% suffered physical abuse; 60% emotional abuse; and 59% financial exploitation.

Who are these abusers? According to the NCEA:

- In physical abuse cases, 48.6% of abusers are adult children and 23.4% are spouses.
- In emotional/psychological abuse cases, 53.9% are adult children and 12.6% are spouses.
- In financial/material abuse cases, 60.4% are adult children and 4.9% are spouses. Adult children who financially exploit elders are most likely to be dependent on the victim for their own financial and housing support.

But, perpetration of abuse against an elder is rarely confined to one type of abuse, most frequently they co-occur - for example, financial abuse may co-occur with chronic neglect or physical abuse. Although reasons for reluctance to report abuse to health care workers, law

Member Programs Serve All 105 Counties in the State of Kansas

Senate Ways and Means
3-24-03
Attachment 9

enforcement, or other social services are similar regardless of age (shame, embarrassment, not wanting to create conflict within the family), elders are less likely than younger victims to report. Reluctance to report abuse is even greater for elder women who are financially abused by their adult children.

These studies and reports paint a dismal picture of life for many elderly citizens. Kansas like many other states has a history of trying to protect the most vulnerable amongst us: primarily the aged and those who cannot fend for themselves. Kansas already requires many professionals to report abuse to adult protective services, but it does not currently require financial officers and guardians/conservators to report. As you can see from the statistics above, financial exploitation is one of the most frequently occurring abuses of the elderly and may be one of the most difficult to identify because of lack of self reporting by victims. Financial officers and guardians/conservators are in an ideal position to identify financial exploitation. Identification of financial abuse will most likely lead to the identification of physical, sexual, and/or psychological abuse.

HB 2254 expands the definition of abuse to include financial exploitation and will require financial officers and guardians/conservators to report abuse.

KCSDV supports HB 2254 as amended by the House.

Testimony provided by:

Sandy Barnett
Executive Director, KCSDV
785/232-9784



KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE

220 SW 33rd Street, Suite 100 Topeka, Kansas 66611
785-232-9784 • FAX 785-266-1874 • coalition@kcsdv.org

HB 2254

Dear Chairman Morrison and Members of the Committee;

The Kansas Coalition Against Sexual and Domestic Violence is a private non-profit group representing victims of domestic and sexual violence and the advocacy programs serving them. The 27 member programs reported serving more than 1,000 sexual assault victims, 21,250 domestic violence victims and sheltering 4,621 people during 2001. In the same time period the program hotlines responded to more than 29,000 crisis calls. In 2001, law enforcement reported 19,870 incidents of domestic violence, of which 17,208 injuries that were sufficient enough to be noted by law enforcement officers were also reported. Law enforcement also responded to 988 sexual assault reports.

HB 2254 expands the definition of abuse to include financial exploitation and requires financial officers and guardians/conservators to report abuse.

But, on page 9, line 4, HB 2254 also amends K.S.A. 39-1430, and changes the definition of "adult" from vulnerable adults to all adults who are harmed by self or others. This definition of "adult" is also used to define the population of people who mandated reporters must report abuse against. The change in the definition of "adult" will require the reporting of all domestic violence regardless of whether the victims are "vulnerable" adults or able to "look out for their own interests," which will result in many thousands of additional reports each year.

This change in the definition of "adult" would mean that each of the 17,208 domestic violence and 988 sexual assault incidents that resulted in an injury reported to law enforcement would need to be reported to Adult Protective Services. This bill would also have a chilling effect on victims who confide in doctors, therapists, and others who have become part of the safety net for this population of adults.

Additionally, the reporting of abuse does not inherently translate into appropriate responses that enhance the victims' safety. Lack of an appropriate response in domestic violence cases is more than an inconvenience; it may be fatal. More women and children are injured or killed at the time of leaving an abuser than at any other time.

KCSDV requests that you leave the definition of "adult" as it exists in current statute.

DOMESTIC ABUSE IN LATER LIFE*

Types of Abuse

What are the forms of domestic abuse in later life? What tactics do perpetrators use? Understanding the forms of abuse helps criminal justice professionals identify potential crimes, such as assault or theft. Social service workers or advocates can learn what questions to ask to fully appreciate the victim's experience.

This paper will examine the forms of abuse identified by researchers. Since relatively little attention is paid to sexual abuse/assault or it is subsumed into other categories (see, for instance, Brownell, 1999 and Lithwick, 1999), this article will highlight it separately. Similarly, homicide/suicide is examined separately because while it is, by definition, the most lethal of types of domestic violence, it is not covered in any other broad studies of domestic abuse in later life.

In looking at research on types of abuse in later life, it is critical to understand that there is no consistent definition of abuse used by the studies. Not only did each study look at a different mixture of abuse types, but also those that studied the "same" abuse type often defined that abuse quite differently.

This series of papers[†] defines domestic abuse in later life as male and female victims, age 50 and older, abused by someone in a trusted, ongoing relationship like a spouse/partner, family member, or caregiver. The victims lived primarily in the community, not institutions (e.g., nursing homes). Studies from the United States and Canada were included.

ARTICLES REVIEWED: TYPES OF ABUSE

Eighteen articles published between 1988 and 1999 were reviewed for this article.

Author(s), Pub. Date	Sample size and demographics	Type(s) of abuse covered [‡]	Selected finding(s) (page number/s in parentheses)
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*This series of articles is dedicated to Dr. Rosalie Wolf, internationally renowned researcher on elder abuse and domestic abuse in later life. We miss her gentle guidance, wisdom, and dedication to elder victims.

[†] This article is one of a series of articles examining research on domestic abuse in later life. A link to the rest of the series can be found after the conclusion.

[‡] For a chart with a more detailed description of the different definitions of abuse, go to National Center on Elder Abuse website at www.elderabusecenter.org.

Brownell, et al 1999	401 cases of abuse of elders 60+ (with 404 identified abusers) known to Elderly Crime Victims Resource Center in New York City	Physical, psychological, financial abuse and neglect (one case of sexual abuse was counted as physical abuse)	<ul style="list-style-type: none"> • 54% of cases involved psychological abuse (86) • 51% of cases involved financial abuse (86) • 28% of cases involved physical abuse (86) • 19% of cases involved neglect (86)
Crichton et al 1999	50 Canadians age 60+ abused by adult child; 50 abused by spouse from Elder Abuse Resource Center in Winnipeg	Agency-substantiated cases of physical, psychological, and material abuse; neglect	<ul style="list-style-type: none"> • 41% of incidents were psychological abuse (123) • 27% of incidents were financial abuse (123) • 25% of incidents were physical abuse (123) • 7% of incidents were neglect (123) • "Financial abuse was more likely to be committed by an adult child (37 instances) than a spouse (13 instances);...no other relationship between types of abuse and whether the perpetrator was an adult child or a spouse was found." (124)
Lithwick and Beaulieu 1999	128 cases of mistreatment of adults aged 60+ brought to the attention of community service agencies in Quebec	Physical or sexual abuse; psychological abuse; financial and material exploitation; neglect (both active and passive) by family members and acquaintances	<ul style="list-style-type: none"> • Of cases perpetrated by a spouse: <ul style="list-style-type: none"> ○ 87% included psychological abuse; ○ 13% included financial exploitation; ○ 23% included neglect; and ○ 31% included physical abuse. (103) • Of cases perpetrated by an adult child: <ul style="list-style-type: none"> ○ 59% included psychological abuse; ○ 59% included financial exploitation; ○ 49% included neglect; and ○ 13% included physical abuse. (103) • Where there was physical abuse by spouse, it was always accompanied by psychological abuse. (102)
Sanchez 1999	62 individuals age 60+, Mexican immigrants or self-identified as Mexican-American, who participated in community centers in	Physical abuse, neglect, financial abuse, and denial of shelter	<ul style="list-style-type: none"> • Of the 20 respondents (33%) who knew of at least one incident of elder abuse in the Mexican American community, the types of mistreatment cited were: <ul style="list-style-type: none"> ○ 40.3% denial of shelter ○ 22.6% neglect ○ 12.9% financial abuse ○ 11.3% physical abuse (72)

	Detroit, Michigan, and Carson City, Nevada.		
Vladescu, et al 1999	26 abused elders (age limit unspecified) served between 1/1/97 and 1/1/99 by Seniors' Case Management program in Hamilton, Ontario	Physical, psychological, and financial abuse	<ul style="list-style-type: none"> • 73.1% of the cases involved psychological abuse (13) • 39.2% of cases involved financial exploitation (13) • 30.8% of cases involved physical abuse (13)
Anetzberger 1998	289 cases receiving protective services investigation in Cleveland from 1987 to 1995	Cases investigated by a Cleveland APS agency from 1987 to 1995, focusing particularly on psychological abuse and psychological neglect	<ul style="list-style-type: none"> • 10% of the cases included psychological abuse or neglect. (146) • In cases where there was psychological abuse or neglect, additional forms of abuse were present 89.7% of the time, including (in 50.0% of the cases) physical neglect and (in 46.2% of the cases) exploitation. (146)
NCEA National Elder Abuse Incidence Study 1998	APS reports and community "sentinel" reports of abused and neglected persons age 60+ from 20 counties in 15 states in U.S.	Physical abuse; sexual abuse; emotional or psychological abuse; neglect; abandonment; financial or material exploitation	<ul style="list-style-type: none"> • Types of abuse substantiated by APS agencies: <ul style="list-style-type: none"> ○ 48.7% neglect (43.2% of perpetrators were adult children; 30.3% spouses) ○ 35.4% emotional/psychological abuse (53.9% adult children; 12.6% spouses) ○ 30.2% financial/material exploitation (60.4% adult children; 4.9% spouses) ○ 25.6% physical abuse (48.6% adult children, 23.4% spouses) ○ 3.6% abandonment (79.5% adult children, 6.4% spouses) ○ 0.3% sexual abuse ○ 1.4% other (pages 4-7, 4-28, and 4-29)
Otiniano 1998	24,648 Hispanic elders referred to the Texas APS system	Cases referred to APS	<ul style="list-style-type: none"> • Caretaker neglect was present in 25.3% of cases. (194) • Abuse [undefined] was present in 16.2% of the cases. (194)

	from 1991-1995		<ul style="list-style-type: none"> • Exploitation was present in 11.4% of the cases. (194) • Self-neglect cases made up the remainder (47.1%). (194)
Lachs, et al 1997 (a)	2,812 adults 65 and older from a stratified sample of residence types in Connecticut; 47 were substantiated cases of abuse, neglect, or exploitation by someone else	Elder abuse; neglect; exploitation. Self-neglect cases were excluded.	<ul style="list-style-type: none"> • Of 47 cases: <ul style="list-style-type: none"> ○ 30 (64%) were neglect; ○ 9 (19%) were abuse; ○ 8 (17%) were exploitation. (471)
Le 1997	20 Vietnamese age 60+, living in a house headed by an adult child, at least somewhat dependent on child, in Southern California	Verbal, emotional, financial and physical abuse	<ul style="list-style-type: none"> • Only one case of financial abuse and no cases of physical abuse was detected. (55) • There were 13 cases where the elder was encouraged to leave the house if unhappy; 10 cases of coercion to stay in the house; 9 cases of insult, 1 case of eviction without advance notice. Researcher classed all of these as verbal abuse. (55) • There were 5 cases of harassment by daughter-in-law; 14 cases of silent treatment; 9 cases of avoidance. Researcher classed all of these as emotional abuse. (55)
Wolf and Pillemer 1997	73 abused women aged 60+ from New York City, San Francisco, Honolulu, and Madison, WI. 22 were abused by husband, 51 by children (review of written case assessment data)	Physical abuse, psychological abuse, neglect, financial exploitation	<ul style="list-style-type: none"> • 61.9% of spouse, 31.4% of parent abuse was primarily physical. (329) • 23.8% of spouse, 31.4% of parent abuse was primarily psychological. (329) • 0% of spouse, 21.6% of parent abuse was primarily financial exploitation. (329) • 14.3% of spouse, 15.7% of parent abuse was primarily neglect. (329)
Pittaway 1993	605 adults aged 55-100 who accessed health and social service	Physical abuse (including sexual abuse), chronic verbal aggression,	<ul style="list-style-type: none"> • 20% reported actual or attempted material abuse. (87) • 14.3% of sample had been physically abused since turning 55. (84) • 14% of the sample had been chronically

	organizations in London, Ontario during a 3-month period	material abuse (actual and attempted), and neglect (intentional and unintentional)	verbally abused. (84) <ul style="list-style-type: none"> • 13.8% had been intentionally or unintentionally neglected. (89)
Podnieks 1992 (a)	Random sample telephone survey of 2008 persons 65+ living in community settings in Canada	Physical abuse; neglect; psychological abuse; financial exploitation	Of the 2008 elders interviewed, <ul style="list-style-type: none"> • 2.5% of elders materially abused (41) • 1.4% of elders chronically verbally abused (41) • .5% of elders physically abused (41) • .4% of elders neglected (41) • 19% of victims were victims of more than one type of abuse. (41)
Podnieks 1992 (b)	42 elder abuse victims in Canada identified through Podnieks, 1992(a) study	See Podnieks, 1992(a)	Of the 42 elder abuse victims found from the random sample of 2008 persons, <ul style="list-style-type: none"> • 57.1% were materially abused (50% of men, 61.5% of women). (70) • 18.0% were physically abused (25% of men, 15.4% of women). (70) • 16.7% were verbally abused (25% of men, 11.5% of women). (70) • 7.1% were neglected (0% of men, 11.5% of women). (70)
Greenberg et al 1990	204 cases of abuse of person 60+ by adult child in Wisconsin	APS-substantiated cases of physical abuse, material abuse, and neglect	<ul style="list-style-type: none"> • 39% of cases physical abuse (77) • 20% material abuse (77) • 21% neglect (77) • 20% multiple forms of abuse (77)
Brown 1989	Random sample of 37 Southwest reservation-dwelling male and female Navajo aged 60+, and their family members; 22 cases of elder abuse found	5 types of neglect; 5 types of verbal/psychological abuse; 4 types of physical abuse; financial exploitation	<ul style="list-style-type: none"> • 45.9% of sample neglected (24) • 21.6% psychologically abused (24) • 21.6% financially exploited (24) • 16.2% physically abused (24)
Godkin, et al 1989	59 abused elders (60 years and older) compared to 49 non-abused elders,	Physical, psychological, and material abuse; active and passive	<ul style="list-style-type: none"> • Types of abuse perpetrated: <ul style="list-style-type: none"> ○ 72.9% included psychological abuse; ○ 57.7% involved neglect; ○ 44% included physical abuse; and ○ 39% included material abuse. (212)

	both served by a Massachusetts home care program	neglect by a caregiver	
Pillemer and Finkelhor 1988	Random sample of 2020 community dwelling people aged 65+ in Boston, Massachusetts; 63 cases of elder abuse found	Physical assault; psychological abuse; neglect	<ul style="list-style-type: none"> • Rate of physical violence: 20 per 1,000 (53) • Rate of chronic verbal aggression: 11 per 1,000 (53) • Rate of neglect: 4 per 1,000 (53)

GENERALIZED FINDINGS: TYPES OF ABUSE

A noteworthy finding is that in every study that allowed cases to be recorded in more than one category, a significant proportion of cases involved more than one type of abuse. For instance, Podnieks (1992a) found that 19% of her victims were abused or neglected in more than one way, and Greenberg's figure was 20% (1990). In Anetzberger's study of psychological abuse, 89.7% of the time the psychological abuse was accompanied by other types of abuse (1998).

Two articles [(Podnieks 1992 (a) and (b) used the same database, and one article (Anetzberger 1998)] focused on cases that involved psychological abuse. Thus, there were 14 articles that compared the frequency with which different types of abuse occur. Six of these found that verbal/psychological abuse was the most prevalent type (Brownell, 1999; Crichton, 1999; Lithwick, 1999; Vladescu, 1999; Le, 1997; Godkin, 1989). Another four studies found that neglect was the most prevalent type of abuse (NCEA, 1998; Otiniano, 1998; Lachs, 1997a; and Brown, 1989). Three studies found that physical abuse was the most prevalent type of abuse (Wolf, 1997; Greenberg, 1990; Pillemer, 1988). One study found that "denial of shelter" was the most common type (Sanchez, 1999) and two said financial abuse was the most prevalent type (with the Pittaway study also counting "attempted" financial abuse) (Pittaway, 1993; Podnieks, 1992).

Not all studies included all major types of abuse. For instance, four of the studies that did *not* find psychological abuse as the most common type did not appear to include that type within their scope of research (Sanchez, 1999; Otiniano, 1998; Lachs, 1997a; Greenberg, 1990).

It is also important to note that most of the studies included all types of family abusers. In the studies that compared spouse abuse to parent abuse, spouses were more likely than adult children to physically abuse and adult children were more likely than spouses to financially abuse (Lithwick, 1999; Wolf, 1997). Crichton likewise found that adult children were the more likely financial abusers, although they did *not* find a difference in how often spouses and adult

children physically abuse (1999). In contrast, the NEAIS found that adult children were the more frequent abusers in all types of abuse cases (1998).

ARTICLES REVIEWED: SEXUAL ABUSE

Eight articles published between 1991 and 2002 were reviewed for this article.

Author(s), Pub. Date	Sample size and demographics	Type(s) of abuse covered	Selected finding(s) (page number/s in parentheses)
Acierno, et al 2002	U.S. National Women's Study household probability sample of 4009 adult women randomly selected and interviewed by phone. Data used from women 18 –35 (n = 2669) and ages 55 – 89 (n = 549)	Physical assault and vaginal, anal, digital and oral sexual assault at any point in life	<ul style="list-style-type: none"> • “Although older and younger women evidenced great differences in reported prevalence of ...[rape] (6.2% vs. 17.4%), they did not report that the characteristics of their assault were hugely different.” (691) • “Statistically similar proportions of both groups reported that they had seen the perpetrators before, that the event was one in a series, that they or the perpetrator or both were under the influence of a substance, that they actually experienced injury and that they reported the assault to authorities.” (691) • “The average age of first rape for both older and younger adult victims was about 14 years.” (690) • Authors speculate the reasons for differences in victimization rates between ages may include reporting bias (older women may not perceive coerced sexual contact as rape, may blame themselves for the rape, or may believe the rape was a personal, private matter) and cohort effects (younger women live in a more violent society). (693)
Burgess, et al 2000	20 civil cases brought by/on behalf of a sexually assaulted nursing home resident; 2 were under age 55	Sexual assault of a nursing home resident	<ul style="list-style-type: none"> • Of the 20 victims, 18 were female. (12) • Five of the residents could ambulate on their own; the rest were bedridden or used a wheelchair. (13) • Twelve of the victims had a primary diagnosis of Alzheimer's disease or dementia. (13) • Ten of the victims told a family member (7) or a staff member (3) of the assault; 6 assaults were witnessed by staff; clues detected by staff or family led to identification of 4 assaults. (13) • Forensic examinations were made on 10 of the cases; 8 of these showed physical evidence of assault. (14)



Kansas

March 24, 2003

Chairman Morris
Chairman Senate Ways and Means

Good morning Chairman Morris and Members of the Senate Ways and Means Committee. My name Dr. Ernie Pogge and I am the Chair of the Capitol Advocacy Group for AARP Kansas. AARP Kansas represents the views of our more than 348,000 members in the state of Kansas. Thank you for this opportunity to express our support for HB 2254.

AARP believes that all Americans have the right to be free from discrimination, crime, and physical and emotional abuse, neglect, intimidation and financial exploitation.

The rapid increase in the number of older people needing care will require the development, improvement and expansion of a variety of protective services, ranging from simple household-chore services to money management, conservatorships and guardianships.

Elder abuse occurs without reference to race, religion, income, education, place of residence or living arrangement. Because abuse is not always reported, information on who is likely to suffer a particular type of abuse is unavailable.

AARP believes that states should:

- Expand community-based programs, which provide services such as counseling, information and referrals, and personal money management to help prevent and stop abuse.
- Develop public awareness programs, promote interagency coordination and expand in-home services, including respite care, to help identify, prevent and treat cases of elder abuse.
- Increase awareness among the general public and professionals, which could be an effective factor in identifying elder abuse, according to experts.
- Provide strong legal protections against and effective protective services addressing all forms of exploitation and abuse of incapacitated and vulnerable adults.

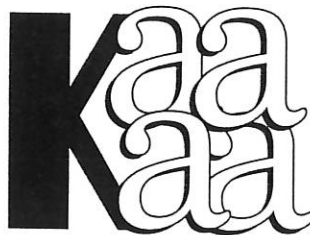
Additional and special efforts are sometimes necessary to protect vulnerable older adults. Therefore, we respectfully urge you to give favorable consideration to House Bill 2254 and expand protections for vulnerable adults from abuse, neglect and exploitation.

Thank you for your consideration in this matter.

Dr. Ernie Pogge
AARP Kansas

555 S. Kansas Avenue, Suite 201 | Topeka, KS 66603 | 785-232-4070 | 785-2328-8259 fax
Jim Parkel, President | William D. Novelli, Executive Director and CEO | www.aarp.org

Senate Ways and Means
3-24-03
Attachment 10



March 24, 2003

Senate Ways and Means Committee

Testimony in Support of House Bill 2254

Mr. Chairman and members of the Senate Ways and Means Committee, I am Craig Kaberline, Executive Director of the Kansas Area Agencies on Aging Association.

The Kansas Area Agencies on Aging Association (K4A) comprises eleven Area Agencies on Aging (AAA) and covers all of Kansas. These individual agencies are part of a national network of 648 AAAs, established by Congress in the Older Americans Act of 1965. Federally mandated as the "Leader" on aging issues at the local level, AAAs are the designated "Single Points of Entry" for services for seniors in Kansas. Eight AAAs are not-for-profit private corporations; three are part of county governmental units.

I appear before you today in support of House Bill 2254. There are several important roles that government plays in the lives of its citizens. One of its most important roles is looking out for and protecting the rights of its most vulnerable citizens.

A 2000 survey of APS investigations across the United States revealed a 61 percent increase over 1996 in the number of elder abuse allegations nationally – and a 300 percent increase since the first national survey in 1986.

The 1998 National Elder Abuse Incidence Study funded in part by the Administration on Aging found the following:

- 551,011 persons, aged 60 and over, experienced abuse, neglect, and/or self-neglect in a one-year period;
- Almost four times as many new incidents of abuse, neglect, and/or self-neglect were not reported as those that were reported to and substantiated by adult protective services agencies;
- Persons, aged 80 years and older, suffered abuse and neglect two to three times their proportion of the older population; and
- Among known perpetrators of abuse and neglect, the perpetrator was a family member in 90 percent of cases. Two-thirds of the perpetrators were adult children or spouses.

AREA AGENCIES ON AGING:

CENTRAL PLAINS • EAST CENTRAL KANSAS • JAYHAWK • JOHNSON COUNTY • NORTH CENTRAL –
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e-mail: k4aed@hotmail.com

Senate Ways and Means
3-24-03
Attachment 11

As an association of agencies responsible for coordinating the services of Kansas' aging population, we believe it is vitally important that the Kansas abuse statute include unlicensed in-home workers, officers of financial institutions and legal representatives as mandated reporters. These individuals are often the individuals that have regular contact with the vulnerable adult. Under Kansas' current statute, they are not mandated to report abuse, neglect, exploitation, or fiduciary abuse. We believe that they should become mandated reporters.

We also support the changes in the law that designates that both the Department of Social and Rehabilitation Services (SRS) and law enforcement officers have the duty to receive and investigate reports of abuse, neglect, exploitation, or fiduciary abuse to determine whether the report is valid and whether action is required to protect the adult from further abuse or neglect.

Again as I said before, I believe one of the greatest roles that a government plays is to protect the rights of its most vulnerable citizens. I believe this change in the Kansas abuse statute increases that protection. I ask that you support the passage of House Bill 2254.

Thank you for allowing me to appear before you today.



March 24, 2003

TO: Senate Committee on Ways and Means

FROM: Kathleen Taylor Olsen, Kansas Bankers Association

RE: HB 2254 - Reporting Adult Abuse

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today regarding **HB 2254**. Of interest to the banking community are the changes made by Section 4 of the bill, to K.S.A. 2002 Supp. 39-1402(a). This section lists the people, by profession, who must report the abuse or exploitation of an adult when they have a reasonable cause to believe an adult is or has been abused or exploited. As amended, the bill would broaden the list of people required to report such abuse to include officers including trust officers of financial institutions.

We at the KBA field many calls from bankers who care about their adult customers and who, when the banker suspects financial abuse is occurring, want to report what they are seeing to someone who can help that customer. The dilemma that bankers face, however, is whether, in so reporting, they are breaching the implied contract of confidentiality they have with their customers. In addition, since the enactment of the federal regulation governing customer privacy, the bankers are concerned that such a report would be in violation of the bank's own privacy policy.

Subsection (c) of K.S.A 39-1402, currently allows anyone having a reasonable cause to suspect that an adult is being abused or exploited to report that information to the proper authorities. As we field the calls of bankers wanting to voluntarily report their suspicions, we have used this provision of the law to encourage bankers to make those reports.

K.S.A. 39-1403, gives some peace of mind to bank officers and employees who suspect abuse is occurring with regard to a customer and who report it. This provision states that anyone making a report of suspected abuse under this act shall not be subject to any civil liability on account of such report, unless that person acted in bad faith or with malicious purpose. In addition, the federal privacy rules permit a bank to share some customer information in order to protect against actual or potential fraud, or to the extent specifically permitted or required under law.

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In conclusion, we believe that Kansas bankers want to help their customers and are doing so under the current provisions of the law which allow any person with a reasonable cause to suspect abuse or exploitation of an adult to report it. We question the need to make such reporting by bank officers mandatory.