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Senate Judiciary Committee
February 11, 2025

SB 128

Proponent Testimony
Noel O'Neill, Licensed Social Worker
Kansas Federal Public Defender's Office

Chairperson Warren and Members of the Committee:

I write to explain how the proposed SB 128, which would create an exception to mandated reporting requirements for social workers operating within legal defense teams, would be more effective and efficient for social workers and their clients.

Background:

I have worked at the intersection of social work and the criminal legal system since 2017. During this time, I have worked extensively in problem-solving courts, including drug court and mental health court, where my role was to identify underlying issues leading to criminal behavior and provide interventions to decrease the chance of recidivism.

In 2022, I became the first social worker hired by the Kansas Federal Public Defender's Office, marking a significant step toward improving holistic defense services. A critical aspect of my role is sentencing mitigation—the process of thoroughly investigating and presenting the life circumstances, traumas, mental health challenges, and other factors that have contributed to a person's involvement in the criminal legal system. It's important to note that mitigation work does not seek to excuse criminal conduct or exempt individuals from consequences. Rather, it provides courts with crucial background information necessary to craft more just and effective sentences.

Another key component of my work involves providing social work services to clients who are reentering the community, in an effort to reduce recidivism. I support clients who are at risk of further judicial intervention in successfully completing post-incarceration supervision by connecting them with appropriate services, including mental health treatment, substance use support, housing

assistance, and other critical resources. This comprehensive support promotes successful reintegration into the community. Since integrating social workers into our defense teams, our office has seen significant improvements in client outcomes.

Current Issue:

The primary mission of social work is to enhance human well-being and help meet the basic needs of all people, with particular attention to vulnerable populations. While mandated reporting requirements were

established to protect vulnerable populations, creating an exception for social workers on legal defense teams protects a forgotten vulnerable group: those facing prosecution and possible incarceration. These clients require the full protection of attorney-client privilege to receive effective representation and support.

In my role, I have the opportunity to hear clients share their stories—stories that are often painful and complex. This work fundamentally depends on client trust—the foundation of effective social work practice. When clients fear their disclosures may extend beyond their legal team, it undermines the therapeutic relationship and hinders our ability to gather the information necessary to provide appropriate treatment recommendations and intervention strategies.

Licensed social workers have extensive training and valuable skillsets. This training allows for social workers in legal settings to conduct comprehensive biopsychosocial assessments, identify how systemic factors and personal trauma impact decision-making, and develop intervention strategies and treatment plans to solve the issues that led our clients to the legal system in the first place. We cannot fully utilize these skills under current law.

For example, when conducting biopsychosocial assessments, clients may need to discuss historical family trauma or ongoing situations involving substance use. Under current law, these disclosures could trigger mandatory reporting requirements, even when they are essential to developing an effective treatment plan to avoid recidivating. This creates an impossible choice: either limit our ability to gather crucial information, or risk breaching the trust that makes effective representation possible.

Conclusion:

The proposed modification would create a narrow, specific exception that applies only when two conditions are met: (1) when social workers are supervised by an attorney who is providing representation in a criminal, civil, domestic, or juvenile matter, and (2) when the information that would require reporting arises solely through that representation.

This carefully crafted exception ensures that social workers can fully integrate with legal teams while maintaining their ethical obligations. Creating this exception would not eliminate our professional judgment. Rather, it would enable us to address concerning situations collaboratively with attorneys to determine the most appropriate course of action, while maintaining the confidentiality essential to effective representation.

Respectfully submitted,

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