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Testimony in Support of SB 408 House Committee on Judiciary March 9, 2016

Chairman Barker and members of the Committee:

My name is Rocky Nichols. I am the Executive Director at the Disability Rights Center of Kansas (DRC). DRC is a public interest legal advocacy organization that is part of a national network of federally mandated organizations empowered to advocate for Kansans with disabilities. DRC is the officially designated protection and advocacy system in Kansas. DRC is a private, 501(c)(3) nonprofit corporation, organizationally independent of state government and whose sole interest is the protection of the legal rights of Kansas with disabilities.

Thank you for the opportunity to testify in support of Senate Bill 408, amending the statute regarding the Abuse Neglect and Exploitation (ANE) Unit contained in the Office of the Kansas Attorney General. This bill is a very positive step forward to refocus the ANE Unit to be even more effective and more like the original vision when this Unit was created in the wake of the Kaufman House tragedy. We want to commend Attorney General Schmidt for bringing focus to this issue and bringing forth amendments to the law to better respond to the needs of Kansas seniors and adults with disabilities who are the victims of abuse, neglect and exploitation. General Schmidt is working hard to ensure that the ANE Unit can better respond to the needs of Kansas adults who are vulnerable to abuse, neglect and exploitation. SB 408 is a great step forward in this regard, and helps refocus the ANE Unit back to its original vision.

The Kaufman House is a dark stain on the history of our great State. For those who may not be familiar, Arlan and Linda Kaufman operated a group home in Newton Kansas for people with mental illness. For over 20 years the Kaufmans got away with perpetrating horrific abuses because of systemic gaps. The people with mental illness who resided at the Kaufman house were subjected to a “house of horrors” that included forced slavery, forced seclusion in a bare room where the windows were boarded up, using a bucket for a toilet, being forced to walk around the house and farm in the nude, being forced to conduct sexual acts on themselves and others, all while Mr. Kaufman video taped these atrocities, billed the taxpayers through Medicare and bilked the residents for these so-called “therapy services.”

Over a 20 year period, there were at least 12 reports of the atrocities happening at the Kaufman House to State investigative agencies (11 reports to the Department of Social and Rehabilitation Services (SRS), one to the Kansas Department of Health and Environment. Four of those reports were from former residents or their family members. From 1984 to 2004 the State did not get any residents out of the Kaufman House. None of the 12 allegations of ANE were confirmed by state government, even though four of the allegations came from those with first-hand accounts of the atrocities. SRS even paid the Kaufmans \$75,000 to settle a lawsuit brought by Arlan Kaufman when the State attempted to investigate the allegations. The focus from the State appeared to be myopic. The state agencies focused solely on trying to get the Kaufman House licensed, while ignoring the injustices occurring to the victims. The Kaufmans avoided licensure and used their power and authority as the “caregivers” to thwart state government investigations. Nothing happened.

All of that changed in 2004 when the Office of the Kansas Attorney General contacted the Disability Rights Center of Kansas and reported the abuses occurring at the Kaufman House. DRC Kansas worked closely with the Office of the Attorney General in conducting its investigation. DRC used its authorities under the federal Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act to conduct an investigation and gain unaccompanied access to interview residents at the Kaufman House. One of the abused residents, Barb, was shaking and terrified when DRC interviewed her. She told the Disability Rights Center: “I don’t want to be naked anymore. Get me out of here.” Barb hired DRC’s attorneys to represent her. DRC used various civil and legal methods to free Barb from that house of horrors. Prosecutors at the U.S. Department of Justice, U.S. Attorney’s Office and the Kansas Attorney General’s office had their first witness free from the Kaufman’s influence. Shortly thereafter, the Kaufman House was finally closed down for good. Thankfully the Kaufmans were found guilty on over 60 counts, including involuntary slavery of people with mental illness under their care.

At the time, the state government controlled investigation systems did not appear to work with each other and there was no coordination. What was lacking was a centralized Unit where such complaints were both processed and resources were available to conduct effective independent investigations, to bring perpetrators to justice through criminal prosecution and to also provide justice to the victims through civil legal representation and victim services. The ANE Unit was created to fill these glaring holes and address these systemic problems.

Regarding reporting of confirmed cases of ANE to the Unit, the focus was always intended to be on reports of adults with disabilities and seniors. The original ANE Unit law said reports of ANE for all “persons” would be forwarded to the Unit in the Attorney General’s office. However, the original focus was on the adult population, because children already had a robust investigatory system. Victims of ANE rightfully called for

an equally robust investigatory system and the resources to focus on both prosecution and civil legal just for adult victims of ANE who are seniors and people with disabilities.

Therefore, making amendments to the ANE Unit law to change it from reports of ANE involving all “persons” to just “adults” makes sense and follows the original vision of the Unit. Additionally, the changes at the Department of Children and Families and pending potential crush of a dramatic increase in the numbers of reports of somewhat forces this issue. We think the Legislature should either increase funding to the Kansas Attorney General’s office to fully respond to the pending large increase in the number of reports, or you should pass this bill to refocus efforts on adults with disabilities and seniors.

Disability advocates and Kaufman House survivors argued back in 2006 that the two most important components and the focus of the ANE Unit needed to be on:

1. increasing the authority and funding at the Attorney General’s office to greatly enhance the criminal prosecution of perpetrators of abuse, neglect and exploitation against people with disabilities, and
2. providing state funding so that the AG could contract with an outside agency to provide much needed civil legal representation and victims services so that the victims of ANE control the justice they receive, as well as conducting effective independent investigation of ANE.

Unfortunately, due to Legislative budget cuts, nearly 10 years later the focus is not currently on the areas disability advocates, Kaufman house survivors and the Attorney General’s Office envisioned – criminal prosecution and civil justice/victim services/investigations. Instead, the focus is on the Unit receiving confirmed complaints of ANE and processing paperwork. Although the Attorney General’s office does a excellent job of processing and analyzing this paperwork in the form of confirmed cases of ANE, SB 408 helps refocus the Unit on the original vision.

We are incredibly supportive and excited to see the changes in Section 3 with refocuses the ANE Unit on things like preventing, detecting, investigating and prosecuting perpetrators of ANE with a clear priority for ANE that is perpetrated against seniors, people with disabilities, and others who are more vulnerable to ANE. This is consistent with and helps refocus the ANE Unit on the original vision. Again, we want to commend the Attorney General in working to make the ANE Unit more effective and focused towards the original vision.

Although the second component of the ANE Unit – the civil legal representation and services to enable the victim to define justice – has not yet been fully realized, we are hopeful that this too can be addressed in the near future.

We look forward to working with the Kansas Legislature and the Kansas Attorney General’s office to refocus the ANE Unit on the things that victims want and need –

criminal prosecution, independent investigation, victim's services and obtaining justice through advocacy and civil legal representation. SB 408 is a very positive step in the right direction towards that effort.

I would stand for questions.