

March 9, 2016

The Honorable John Barker, Chairman
House Judiciary Committee

Reference: SB 408 – Abuse, Neglect & Exploitation Reporting and Investigating

Good afternoon Chairman Barker and Members of the House Judiciary Committee. My name is Judy Davis-Cole and I am a member of the AARP Kansas Executive Council, Capital City Task Force and a retired registered nurse of 42 years. AARP is a nonprofit, nonpartisan organization that helps people to turn their goals and dreams into 'Real Possibilities' by changing the way America defines aging. Thank you for allowing us to submit our written comments in support of SB 408, dealing with abuse, neglect and exploitation and the duties and powers of the Kansas Attorney General.

Kansas elders should be free from exploitation and abuse through strong legal protections against, and effective protective services addressing, all forms of exploitation and abuse of incapacitated and vulnerable adults.

Elder abuse, like many other forms of domestic abuse, is an often hidden phenomenon that affects at least hundreds of thousands of older Americans. Elder abuse can be physical, financial, or psychological. Among the consequences of elder abuse are injuries, pain, poor nutrition, increased vulnerability to new illnesses, worsening of health conditions, and premature death. Other consequences include higher levels of distress and depression. Financial exploitation can also exhaust seniors' incomes, reduce their health care options, and leave them impoverished and even homeless.

Because no national registry of abusive workers exists, people who have a record of abuse or serious crimes in one state can simply travel to another state to find work. They can also move from working in nursing facilities to home health agencies or supportive

housing without ever undergoing a criminal background check. Policymakers should require nationwide criminal background checks prior to employment on all workers who provide long-term services or support (LTSS) or who are employed in LTSS settings. Background checks should not be required for parents, spouses, partners, close relatives, or close friends when hired through self-directed programs.

Individuals who have been convicted of burglary, larceny, violent crimes or crimes involving abuse or neglect of vulnerable individuals should be prohibited from employment in LTSS settings. The national background checks should be affordable and conducted in a timely manner prior to employment, and should include a fingerprint check.

States should require that providers notify appropriate state licensing or registration boards of all employees convicted of a felony, resident abuse, or having knowledge of but failing to report abuse. After due process the state board should consider suspending or revoking the employee's license, registration, or certification.

Prosecuting alleged abusers is difficult for numerous reasons, including that:

- Victims may be unable or unwilling to testify as a result of incapacity, fear, shame, or misguided loyalty, and
- Law enforcement staff and prosecutors may lack training, interest, and resources for these difficult cases.

However, states like Kansas are making significant progress in introducing and implementing new techniques for investigating and prosecuting abuse cases, increasing the chances for successful prosecutions.

AARP believes states should enact and implement adult protective services (APS) laws that apply in the community and long-term care settings and provide for:

- prompt investigation;
- access to the alleged victim by agency personnel, law enforcement, and other relevant entities;
- intervention in emergency and nonemergency situations of abuse, neglect, or exploitation of vulnerable individuals;
- use of the least-restrictive protective action that meets the specific needs of the vulnerable individual;

- a balancing of the individual's autonomy and self-determination with the state's need to protect those people who cannot protect themselves; and
- programs for abusive family members and caregivers aimed at curbing future abuse.

States also should work to ensure agencies are responsive to the particular needs of older abused spouses and partners.

States should enact and enforce laws that:

- make abuse, neglect or exploitation of a vulnerable individual a criminal offense, with enhanced penalties;
- provide victims and their legal representatives adequate civil procedures and remedies (including a shift in the burden of proof, award of attorney's fees and costs, expedited hearings, and posthumous recoveries for pain and suffering) against perpetrators of abuse, neglect, or exploitation; and
- enact laws making institutions liable for criminal and civil penalties for victimization of those in their care.

Additionally, states and local area agencies should develop public awareness programs and home and community-based services (HCBS) to help prevent, identify, and address cases of elder abuse and to instruct the public how and where to report elder abuse.

Thank you for this opportunity to express our support for SB 408.

Respectfully,
Judy Davis-Cole, R.N., M.N; retired

