



To: Chairman Wilborn, Members, Senate Judiciary Committee
From: Rachel Monger, Director of Government Affairs
Date: February 9, 2017

Neutral Testimony for Senate Bill 72

Thank you, Chairman and Members of the Committee. I am Rachel Monger, Vice President of Government Affairs for LeadingAge Kansas, the state association for faith-based and nonprofit providers of aging services. We have 154 member organizations across Kansas, which include not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living, homes plus, housing, low-income housing, home health agencies, home and community based service programs, PACE and Meals on Wheels.

We are here to provide neutral testimony on Senate Bill 72, and to suggest what we believe is an important amendment to require The Department for Children and Families to inform both community facilities and adult care homes when Adult Protective Services substantiates findings of resident abuse, neglect or exploitation.

We understand that most of the changes made in Senate Bill 72 would be considered a "clean up" of older statutory language. However, there are several substantive changes being made to the Adult Protective Services program in this bill, including a restriction of the amount and type of information APS is required to provide regarding the outcome of an abuse investigation.

Under current statute, APS is allowed to inform a complainant (the person who called in a report of abuse) about whether abuse was confirmed in the APS investigation, and what corrective measure will be taken in response to the abuse. SB 72 would eliminate this information report, and would only require APS to inform the complainant of whether an investigation was initiated. No information as to whether abuse was actually found will be provided.

The only entity under SB 72 that would continue to be informed of substantiated abuse are "community facilities" which provide day services to people with intellectual disabilities. Even in this section of the statute, APS is not required to provide this information to community facilities. It is information that "may" be provided.

Despite the fact that adult care homes serve the largest amount of vulnerable adults in the state, are mandatory reporters to APS under federal regulations, and report an alarming amount of abuse of residents by their family members and powers of attorney, they are included nowhere in the APS statutes or in SB 72.

LeadingAge Kansas has spent many years telling anyone who will listen of the rampant problem of financial abuse of nursing home residents by their powers of attorney, friends and family members. In fact, the issue is so big, and the reports to APS so numerous, that APS staff worked to develop a special program and protocol to assist adult care homes in getting abuse reported and stopped through APS and law enforcement.

When abuse is substantiated against an adult care home resident, it only makes sense to require notice to the facility from APS. First, if a resident is being abused by someone in the community, the facility needs to be informed in order to protect the resident from any continuing abuse. Second, the report of suspected abuse is usually made by the facility itself. It is absurd to then withhold from them the results of the subsequent investigation. We believe that withholding such information creates a lack of transparency with the APS program, and hinders the ability of adult care homes to fully protect their residents.

Therefore, we respectfully request that the committee adopt an amendment to Senate Bill 72 to require The Department for Children and Families to inform both community facilities and adult care homes when Adult Protective Services substantiates findings of resident abuse, neglect or exploitation.

We thank the Committee for its time and attention to our issues, and are always available for questions.

1 (B) within three working days for all reports of suspected abuse,
2 when the information from the reporter indicates no imminent danger;

3 (C) within five working days for all reports of neglect or exploitation
4 when the information from the reporter indicates no imminent danger.

5 (3) Complete, within 30 working days of receiving a report, a
6 thorough investigation and evaluation to determine the situation relative to
7 the condition of the involved adult and what action and services, if any, are
8 required. The evaluation shall include, but not be limited to, consultation
9 with those individuals having knowledge of the facts of the particular case.
10 If conducting the investigation within 30 working days would interfere
11 with an ongoing criminal investigation, the time period for the
12 investigation shall be extended, but the investigation and evaluation shall
13 be completed within 90 working days. If a finding is made prior to the
14 conclusion of the criminal investigation, the investigation and evaluation
15 may be reopened and a new finding made based on any additional
16 evidence provided as a result of the criminal investigation. If the alleged
17 perpetrator is licensed, registered or otherwise regulated by a state agency,
18 such state agency also shall be notified upon completion of the
19 investigation or sooner if such notification does not compromise the
20 investigation.

21 (4) Prepare, upon completion of the investigation of each case, a
22 written assessment which shall include an analysis of whether there is or
23 has been abuse, neglect or exploitation, recommended action, a
24 determination of whether protective services are needed, and any follow-
25 up.

26 (b) The secretary for children and families shall forward any
27 *substantiated* finding of abuse, neglect or exploitation alleged to have been
28 committed by a provider of services licensed, registered or otherwise
29 authorized to provide services in this state to the appropriate state authority
30 which regulates such provider. The appropriate state regulatory authority
31 may consider the finding in any disciplinary action taken with respect to
32 the provider of services under the jurisdiction of such authority.

33 (c) The Kansas department for children and families shall inform the
34 complainant, upon request of the complainant, that an investigation has
35 been made and if the allegations of abuse, neglect or exploitation have
36 been ~~substantiated, that corrective measures will be taken, upon~~
37 ~~completion of the investigation or sooner, if such measures do not~~
38 ~~jeopardize the investigation initiated.~~

39 (d) The Kansas department for children and families may inform the
40 chief administrative officer of community facilities licensed pursuant to
41 K.S.A. 75-3307b, and amendments thereto, of ~~confirmed-substantiated~~
42 findings of resident abuse, neglect or exploitation.

43 Sec. 4. K.S.A. 2016 Supp. 39-1435 is hereby amended to read as

(d) The Kansas Department for children and families ~~may~~ shall inform the chief administrative officer of community facilities licensed pursuant to K.S.A. 75-3307b, and amendments thereto, and adult care homes as defined in K.S.A. 39-923, of confirmed *substantiated* findings of resident abuse, neglect or exploitation.