

UPDATED
SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2150

As Amended by House Committee on Children
and Seniors

Brief*

HB 2150, as amended, would amend law related to the abuse, neglect, or financial exploitation of adults, as follows.

Definitions

The bill would amend definitions related to the abuse, neglect, or exploitation of certain adults to remove the definition of “fiduciary abuse,” remove references to fiduciary abuse and omission or deprivation of goods or services in the definition of “abuse,” rename “exploitation” to “financial exploitation,” and redefine “financial exploitation” as the unlawful or improper use, control, or withholding of an adult’s property, income, resources, or trust funds by any other person or entity in a manner that is not for the profit of or to the advantage of the adult, which would include, but not be limited to:

- The use of deception, intimidation, coercion, extortion, or undue influence by a person or entity to obtain or use an adult’s property, income, resources, or trust funds in a manner for the profit of or to the advantage of such person or entity;
- The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship or conservatorship appointment,

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

as it relates to the property, income, resources, or trust funds of the adult; or

- The obtainment or use of an adult's property, income, resources, or trust funds, without lawful authority, by a person or entity who knows or clearly should know that the adult lacks the capacity to consent to the release or use of such adult's property, income, resources, or trust funds.

The bill would define "act" to refer to this and following statutes.

Technical amendments would be made in this section to reflect the changes in terminology made by the bill and to ensure consistency in statutory organization and phrasing.

Mandatory Reporters

The bill would amend the statute governing mandatory reporters of adult abuse, neglect, or exploitation to re-organize the list of mandatory reporters, update the titles of some mandatory reporters, and add the following to the list of mandatory reporters:

- Persons engaged in postgraduate training programs approved by the State Board of Healing Arts;
- Persons licensed by the Board of Examiners in Optometry to engage in the practice of optometry;
- School administrators or other employees of any Kansas educational institution that the adult is attending;
- Firefighters; and
- Court services officers, community corrections officers, and mediators.

The circumstances under which a mandatory reporter is required to report, and under which other persons may report, would be amended to reflect changes in terminology made elsewhere in the bill.

Department for Children and Families (DCF) Duties Upon Report; Authority of Secretary

The bill would amend the statute governing DCF's duties upon receiving a report of adult abuse, neglect, or exploitation to increase from 30 to 60 working days the time DCF would have to complete a thorough investigation and evaluation upon receiving a report of financial exploitation. [Note: The deadline for investigation and evaluation of reports of abuse or neglect would remain at 30 working days.]

DCF's duty to make a personal visit with the involved adult upon receiving a report would be changed to require a face-to-face visit.

The bill would add a provision requiring the Secretary for Children and Families to forward any substantiated finding of abuse, neglect, or financial exploitation alleged to have been committed by a provider or services licensed, registered, or otherwise authorized to provide services in Kansas to the appropriate state regulatory authority. Language allowing such authority to consider this finding in any disciplinary action taken with respect to such provider would be moved from a continuing provision regarding forwarding of findings to this provision regarding forwarding of substantiated findings.

A provision requiring DCF to inform the complainant, upon request of the complainant, that an investigation has been made and, if the allegations were substantiated, that corrective measures will be taken, would be amended to instead require DCF to inform the complainant, upon request of the complainant, that an investigation has been initiated.

A provision allowing DCF to inform the chief administrative officer of community facilities of confirmed findings of resident abuse, neglect, or exploitation would be amended to require DCF to inform such officer, as well as chief administrative officers of nursing facilities, nursing facilities for mental health, intermediate care facilities for people with intellectual disability, assisted living facilities, residential health care facilities, and home plus, of substantiated findings of resident abuse, neglect, or financial exploitation.

This section, and a section addressing the authority of the Secretary for Children and Families under the act, would be amended to reflect changes in terminology made by the bill and to ensure consistency in statutory phrasing.

Protective Services

The bill would amend the statute governing when protective services are not provided to clarify language regarding consent and withdrawal of consent to such services.

Investigation of Adult Abuse; Agency Coordination and Cooperation

The bill would amend a statute regarding investigation of adult abuse and agency coordination and cooperation regarding the same to reflect changes in terminology made by the bill and to ensure consistency in statutory organization and phrasing.

Background

The bill was introduced by the House Committee on Children and Seniors at the request of DCF.

House Committee on Children and Seniors

In the House Committee on Children and Seniors hearing on February 3, 2021, representatives of DCF and the Disability Rights Center of Kansas testified as **proponents** of the bill, stating the bill would update statutes related to adult protective services. Representatives of AARP Kansas and InterHab submitted written-only **proponent** testimony. A representative of LeadingAge Kansas testified as a neutral conferee, with a suggested amendment. No **opponent** testimony was provided.

On February 9, 2021, the House Committee on Children and Seniors adopted an amendment based on the suggestion by LeadingAge Kansas, adding chief administrative officers of various facilities to the list of those to be informed of substantiated findings of resident abuse, neglect, or financial exploitation.

House Committee on Judiciary

On March 5, 2021, the bill was referred to the House Committee on Appropriations. On March 10, 2021, the bill was referred to the House Committee on Judiciary.

In the House Committee on Judiciary hearing on March 17, 2021, representatives of DCF and the Kansas Coalition Against Sexual and Domestic Violence testified as **proponents** of the bill. Representatives of Disability Rights Center of Kansas, InterHab, and Kansas Advocates for Better Care submitted written-only proponent testimony.

A representative of the Office of the Attorney General submitted written-only neutral testimony.

No **opponent** testimony was provided.

On March 18, 2021, the House Committee on Judiciary recommended the bill be passed favorably, as amended by the House Committee on Children and Seniors.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, DCF states enactment of the bill could increase reports to the Kansas Protection Report Center (KPRC). The increase in the number of working days allowed to complete an investigation would require a change to the computer system used by the KPRC. DCF indicates any additional expenses associated with reporting or changes to the computer system would not require additional resources. The Department for Aging and Disability Services indicates enactment of the bill would have no fiscal effect on the agency. Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Department for Children and Seniors; adult protective services; mandatory reporters; financial exploitation