

SESSION OF 2024

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2300

As Recommended by House Committee on
Judiciary

Brief*

HB 2300 would amend law regarding mandated reporters of child abuse or neglect to include duly ordained ministers of religion as mandated reporters. Under continuing law in the Revised Kansas Code for Care of Children, when a person listed as a mandated reporter has reason to suspect that a child has been harmed as a result of physical, mental, or emotional abuse or neglect or sexual abuse, the person is required to promptly report the matter. A violation of these reporting requirements is classified as a class B misdemeanor.

Under continuing law in the Kansas Rules of Evidence, the term “duly ordained minister of religion” is defined to mean a person who has been ordained, in accordance with the ceremonial ritual or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines, and practices of a religious character, to preach and to teach the doctrines of such church, sect, or organization and to administer its rites and ceremonies in public worship, and who as his or her regular and customary vocation preaches and teaches the principles of religion and administers the ordinances of public worship as embodied in the creed or principles of such church, sect, or organization.

*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>

Penitential Communication Exception

A duly ordained minister of religion who suspects abuse or neglect based on a penitential communication would not be required to violate the penitential communication privilege provided in the Kansas Rules of Evidence by disclosing such communication.

[*Note:* Under the Kansas Rules of Evidence in continuing law, the term “penitential communication” is defined to mean any communication between a penitent and a regular or duly ordained minister of religion which the penitent intends to be kept secret and confidential, and which pertains to advice or assistance in determining or discharging the penitent’s moral obligations, or to obtaining God’s mercy or forgiveness for past culpable conduct.

Furthermore, pursuant to the Kansas Rules of Evidence, a person, whether or not a party, has a privilege to refuse to disclose, and to prevent a witness from disclosing a communication if he or she claims the privilege and the judge finds that:

- The communication was a penitential communication;
- The witness is the penitent or the minister; and
- The claimant is the penitent, or the minister making the claim on behalf of an absent penitent.]

Background

The bill was introduced by the House Committee on Federal and State Affairs at the request of Representative Schlingensiepen.

House Committee on Judiciary

In the House Committee hearing, **proponent** testimony was provided by Senator Holscher, a representative of Family Guidance Center, and four private citizens. The proponents stated the bill is needed to ensure reports are being made of suspected abuse or neglect.

Written-only proponent testimony was provided by Representative Haskins and representatives of Grace United Methodist Church, Kansas Catholic Conference, Mainstream Coalition, Unitarian Universalist Fellowship of Manhattan, and the Wichita United Church of Christ.

Written-only opponent testimony was provided by a representative of the Evangelical Lutheran Church of America, Central States Synod.

Written-only neutral testimony was provided by representatives of the Kansas Coalition Against Sexual and Domestic Violence, the Lutheran Church-Missouri Synod, and St. John's Lutheran Church.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, the Department for Children and Families (DCF) indicates enactment of the bill would increase the volume of reports to the Kansas Protection Report Center, resulting in an increase of \$74,569 in expenditures from the State General Fund to fund 1.00 FTE Protection Specialist position. DCF stated it assumes the bill may increase the workload of its child investigative staff. However, it is anticipated that many of these calls would duplicate other calls or may need investigation by law enforcement. DCF stated it believes an increase in assigned investigations may not be significant and could be absorbed within existing resources. Additionally, if reporting clergy is intended as a

separate group within the reporting system, system updates would be necessary and result in unknown costs.

The Office of Judicial Administration indicates enactment of the bill could result in an increased number of cases filed in district courts because it would expand the list of mandatory reporters. This would increase the time spent by district court personnel in processing, researching, and hearing cases. Additionally, the new crime under the bill could also result in more supervision of offenders by Court Services Officers. Finally, the bill could result in the collection of docket fees, supervision fees, and fines assessed in these cases. However, it is not possible to estimate the number of additional cases, or how complex and time-consuming they would be. Therefore, a fiscal effect cannot be determined.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Reporting; child abuse; neglect; ministers; clergy; penitential communication; privilege