

SESSION OF 2021

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2114**

As Agreed to April 8, 2021

Brief*

HB 2114 would create the Kansas Senior Care Task Force, create and amend law regarding elder and dependent adult abuse multidisciplinary teams, and amend law regarding abuse, neglect, or financial exploitation of adults.

Kansas Senior Care Task Force

The bill would establish the Kansas Senior Care Task Force (Task Force). The bill would outline the topics to be studied by the Task Force, provide for the appointment and compensation of Task Force members, establish the frequency and location of meetings, require a preliminary and a final report to the Legislature, and require the Kansas Department for Aging and Disability Services (KDADS) to provide the Task Force with data and information that is not prohibited or restricted from disclosure by state and federal law.

The Task Force would sunset on June 30, 2023.

Task Force Study Topics

The Task Force would be required to study the following topics:

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

- Provision of care for Kansas seniors who suffer from Alzheimer's disease, dementia, or other age-related mental health conditions;
- Administration of antipsychotic medication to adult care home residents;
- Safeguards to prevent abuse, neglect, and exploitation of seniors in the state;
- Adult care home surveys and fines;
- Funding and implementation of the Senior Care Act;
- Senior daycare resources in the state; and
- Rebalancing of home and community-based services.

Organization of Task Force

Membership. The Task Force would consist of the following 22 members:

- The chairperson of the Senate Committee on Public Health and Welfare;
- A member of the Senate Committee on Public Health and Welfare, appointed by the President of the Senate;
- A member of the Senate Committee on Public Health and Welfare, appointed by the Minority Leader of the Senate;
- The chairperson and ranking minority member of the House Committee on Children and Seniors;

- A member of the House Committee on Children and Seniors, appointed by the Speaker of the House;
- One representative from KDADS appointed by the Secretary for Aging and Disability Services;
- One representative from the Department of Health and Environment appointed by the Secretary of Health and Environment;
- The state long-term care ombudsman or the state long-term care ombudsman's designee;
- An elder law attorney, appointed by the Governor;
- One representative of the Area Agencies on Aging, appointed by the Secretary for Aging and Disability Services;
- One representative of the Kansas Adult Care Executives Association, appointed by the Governor;
- One representative of LeadingAge Kansas, appointed by LeadingAge Kansas;
- One representative of the Kansas Health Care Association, appointed by the Kansas Health Care Association;
- One representative of Kansas Advocates for Better Care, appointed by Kansas Advocates for Better Care;
- One representative of the Kansas Hospital Association, appointed by the Kansas Hospital Association;

- One representative of community mental health centers, appointed by the Association of Community Mental Health Centers of Kansas;
- One representative of an adult care home, appointed by the Secretary for Aging and Disability Services;
- One representative of the American Association of Retired Persons (AARP), appointed by AARP;
- One representative from the home and community-based services community, appointed by InterHab;
- One representative of the Alzheimer's Association, appointed by the Alzheimer's Association; and
- A consumer of Kansas senior services, appointed by the Speaker of the Silver Haired Legislature.

The bill would require the first members of the Task Force to be appointed on or before August 1, 2021. The appointing authorities would be required to provide notice of the appointments to the Secretary for Aging and Disability Services on the date of such appointment.

Vacancies on the Task Force would be filled by appointment and accompanied by notice to the Secretary for Aging and Disability Services in the manner provided for the original appointment.

Task force leadership and public records custodian. The chairperson of the House Committee on Children and Seniors would serve as the first Task Force chairperson, and the chairperson of the Senate Committee on Public Health and Welfare would serve as the first vice-chairperson. The chairperson and vice-chairperson roles would alternate annually at the first meeting of the Task Force in each calendar year.

The chairperson of the Task Force would serve as the official custodian of the public records of the Task Force.

Compensation. If approved by the Legislative Coordinating Council, Task Force members attending meetings authorized by the Task Force would receive compensation as provided under KSA 75-3223(e), except Task Force members employed by a state agency would be reimbursed by such state agency.

Meetings. The Task Force would be authorized to meet in an open meeting at any time and at any place in the state upon the call of the chairperson. A majority of the voting members would constitute a quorum. Any action by the Task Force would require a motion adopted by a majority of voting members present when there is a quorum.

Support services. The bill would require the staff of the Office of Revisor of Statutes, the Kansas Legislative Research Department, and the Division of Legislative Administrative Services to provide assistance as requested by the Task Force.

Data and Information Provided

KDADS, upon the request of the Task Force, would be required to provide data and information on senior services in the state that are not prohibited or restricted from disclosure by state or federal law, including conditions imposed by federal law or rules and regulations for participation in federal programs administered by the Secretary for Aging and Disability Services.

Annual Report

On or before the beginning of the 2022 Legislative Session, the Task Force would be required to submit a preliminary progress report to the Legislature detailing the

Task Force's study. A final report of the Task Force's study would be due to the Legislature on or before the beginning of the 2023 Legislative Session. The bill would require the report to include recommended improvements regarding well-being of Kansas seniors, including recommended changes to state statutes, rules and regulations, policies, and programs.

Elder and Dependent Adult Abuse Multidisciplinary Teams

The bill would create and amend law regarding elder and dependent adult abuse multidisciplinary teams.

The bill would require the Attorney General to appoint a Kansas elder and dependent abuse multidisciplinary team coordinator (coordinator) and, within limits of available appropriations, appoint such additional staff as necessary to support the coordinator. The coordinator would be required to facilitate the convening of an elder and dependent adult abuse multidisciplinary team (team) in each judicial district.

Each team would be composed of the following individuals, or their designees:

- The sheriff of each county within the judicial district;
- The county or district attorney of each county within the judicial district;
- The Secretary for Children and Families;
- The Secretary for Aging and Disability Services; and
- The State Long-Term Care Ombudsman.

The bill would allow each team to also include the following individuals:

- A representative from any law enforcement agency not already included;
- A medical provider;
- A legal services provider;
- A housing provider or representative of elder or dependent adult housing facilities;
- The district coroner or a medical examiner;
- A representative of the financial services or banking industry;
- A representative of the Area Agencies on Aging; or
- Any other individual deemed necessary by the team.

Each team would be required to coordinate investigations of elder and dependent adult abuse, as defined by the relevant statutes, and would be authorized to identify opportunities within local jurisdictions to improve policies and procedures in the notification of and response to abuse, neglect, and exploitation of elder or dependent adults, within the limits of local resources.

Each team would determine the manner and frequency of meetings and would be required to meet at least quarterly. Meetings would not be subject to the provisions of the Kansas Open Meetings Act.

Each team could create and enter into memorandums of understanding with any governmental agency or private entity deemed necessary by the team.

All documents, materials, and other information obtained by or discussed by a team would be confidential and privileged and not subject to the Kansas Open Records Act.

This records provision would expire on July 1, 2026, unless the Legislature reviews and reenacts the provision prior to that date.

Beginning in 2022, the Attorney General would be required to submit a report to the Legislature on or before the first day of each regular legislative session regarding the implementation and use of the teams.

The statute creating the Abuse, Neglect, and Exploitation of Persons Unit (Unit) in the Office of the Attorney General (OAG) would be amended to allow the Unit to assist in any investigation or discussion of any elder and dependent adult abuse multidisciplinary team, pursuant to the bill.

Abuse, Neglect, or Financial Exploitation of Adults

The bill 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, 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 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 statute 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 Duties Upon Report;
Authority of Secretary*

The bill would amend the statute governing the Department for Children and Families' (DCF) 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.

Conference Committee Action

The Conference Committee agreed to HB 2114 as passed by the Senate, creating the Kansas Senior Care Task Force, modified to allow the Senate Minority Leader to appoint a member of the Senate Committee on Public Health and Welfare to the Task Force instead of making the ranking minority member of that committee a member. The Conference Committee also agreed to add the contents of:

- HB 2151, as amended by Senate Committee, regarding elder and dependent adult abuse multidisciplinary teams; and
- HB 2150, as passed by the House, regarding abuse, neglect, or financial exploitation of adults.

Background

HB 2114 (Kansas Senior Care Task Force)

HB 2114 was introduced by the House Committee on Children and Seniors at the request of Representative Concannon.

House Committee on Children and Seniors

In the House Committee hearing on January 28, 2021, representatives of AARP Kansas, Kansas Health Care Association/Kansas Center for Assisted Living, and LeadingAge Kansas, and a private citizen testified as **proponents** of the bill. The proponents stated support for the

creation of the Task Force to address the future needs of Kansas elders.

Neutral testimony was provided by the State Long-Term Care Ombudsman and by representatives of the Alzheimer's Association and Kansas Advocates for Better Care. The neutral conferees generally were supportive of the Task Force but indicated the need for additional consumer-specific representation and recommended the addition of representatives of organizations and specific populations to the Task Force. No other testimony was provided.

On February 8, 2021, the House Committee amended the bill to add a representative of the Alzheimer's Association and a consumer of Kansas senior services to the Task Force membership. [*Note:* This amendment was retained by the Conference Committee.]

House Committee of the Whole

On February 18, 2021, the House Committee of the Whole amended the bill to adjust the due dates for the reports required by the bill. [*Note:* This amendment was retained by the Conference Committee.]

Senate Committee on Public Health and Welfare

In the Senate Committee hearing, representatives of AARP Kansas, the Alzheimer's Association, Kansas Advocates for Better Care, LeadingAge Kansas, and Oral Health Kansas provided **proponent** testimony.

Written-only **proponent** testimony was provided by the Kansas Association of Area Agencies on Aging and Disabilities.

No other testimony was provided.

The Senate Committee amended the bill to add the rebalancing of home and community-based services as a study topic. [Note: This amendment was retained by the Conference Committee.]

Senate Committee of the Whole

The Senate Committee of the Whole amended the bill to change the membership and appointment authority for certain Task Force members. The Task Force positions previously to be filled by the vice-chairperson of the Senate Committee on Public Health and Welfare and the vice-chairperson of the House Committee on Children and Seniors were changed to be filled by a member of each of these committees, appointed by the President of the Senate and the Speaker of the House, respectively. The entity with authority to appoint the representative of community mental health centers was changed from the Secretary for Aging and Disability Services to the Association of Community Health Centers of Kansas. The entity with authority to appoint the representative from the home and community-based services community was changed from the Secretary for Aging and Disability Services to InterHab. [Note: These amendments were retained by the Conference Committee.]

Fiscal Information

According to the fiscal note provided by the Division of the Budget on HB 2114, as introduced, KDADS indicates enactment of the bill would increase expenditures for the travel and meal costs of an agency member of the Task Force to attend meetings, but these costs could be absorbed within existing resources. The Legislative Coordinating Council indicates enactment of the bill would increase salary, subsistence, and other costs by approximately \$34,027 from the State General Fund in FY 2022. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2022 Governor's Budget Report*.

***HB 2151 (Elder and Dependent Adult Abuse
Multidisciplinary Teams)***

HB 2151 was introduced by the House Committee on Children and Seniors at the request of a representative of the OAG.

House Committee on Children and Seniors

In the House Committee hearing, representatives of the OAG and DCF provided **proponent** testimony on the bill, stating it would facilitate communication and investigation of complex cases of adult abuse, neglect, and exploitation. Representatives of AARP Kansas, Disability Rights Center of Kansas, Kansas Bankers Association, Kansas Coalition Against Sexual and Domestic Violence, KDADS, and the Kansas Department of Health and Environment submitted written-only **proponent** testimony.

No other testimony was provided.

Senate Committee on Public Health and Welfare

In the Senate Committee hearing, representatives of Kansas Advocates for Better Care, Kansas Council on Developmental Disabilities, and the OAG provided **proponent** testimony. Proponents stated the bill originates from the Elder and Dependent Adult Abuse Prevention Council, and the bill would allow multidisciplinary teams to meet and discuss complex cases and maintain confidentiality when necessary for investigations.

Written-only **proponent** testimony was provided by representatives of AARP Kansas, Kansas Association of Area Agencies on Aging and Disabilities, Kansas Bankers Association, Kansas Coalition Against Sexual and Domestic Violence, KDADS, DCF, and Disability Rights Center of Kansas. No other testimony was provided.

The Senate Committee amended the bill to include a representative of the Area Agencies on Aging as a person who may be added to the multidisciplinary team. [*Note:* This amendment was retained by the Conference Committee.]

Fiscal Information

According to the fiscal note provided by the Division of the Budget on HB 2151, as introduced, the OAG indicates enactment of the bill would increase expenditures by \$97,077 from the State General Fund for FY 2022, including salary and benefits of \$67,232 for 1.0 FTE position (the coordinator) and other operating expenses of \$29,845.

DCF, KDADS, and the Kansas Association of Counties indicate enactment of the bill would have no fiscal effect on the agencies or counties.

Enactment of the bill could potentially increase the number of cases filed in district courts and could result in collection of additional docket fees. If it does, the Office of Judicial Administration indicates there would be a fiscal effect on the operations of the court system. However, a fiscal effect cannot be determined, because it is not possible to estimate the number of additional court cases that would arise or how complex and time-consuming they would be.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2022 Governor's Budget Report*.

HB 2150 (Abuse, Neglect, or Financial Exploitation of Adults)

HB 2150 was introduced by the House Committee on Children and Seniors at the request of a representative of DCF.

House Committee on Children and Seniors

In the House Committee 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 other testimony was provided.

On February 9, 2021, the House Committee 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. [*Note: This amendment was retained by the Conference Committee.*]

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 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 other 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 provided by the Division of the Budget on HB 2150, 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*.

Kansas Senior Care Task Force; establishment; elder and dependent abuse; multidisciplinary team coordinator; multidisciplinary teams; Attorney General; Department for Children and Families; adult protective services; mandatory reporters; financial exploitation

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