

# DCF LEGISLATIVE TESTIMONY



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## **TESTIMONY OF**

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## **TESTIMONY ON**

HB 2150

**Chair**

Concannon

**Vice Chair**

Esau

**Ranking Member**

Ousley

**and**

**Members of the Committee**

## SUMMARY OF ISSUE & DCF POSITION

House Bill 2150 proposes changes to the statutes that regulate Kansas' Adult Protective Services (APS) program. DCF requested and introduced this legislation in order to modernize APS practices, improve agency definitions, and support comprehensive APS investigations. DCF strongly supports these client centered changes as they will allow for improved outcomes and service delivery for APS clients.

## CONTEXT & HISTORY

DCF administers Kansas' Adult Protective Services program. The role of the APS program is to protect adults 18 years or older alleged to be unable to protect their own interests. APS investigators receive and respond to reports of abuse, neglect, or exploitation of adults via the Kansas Protection Report Center. If needed, APS provides protective services to clients by building connections with family members, referring to community professionals, and providing preventative services. Through the course of their work APS investigators assess each client's unique need and develop plans to ensure safety while always respecting the adult's right of self-determination.

It is imperative that APS case findings are strong so that perpetrators are appropriately punished. Persons substantiated for the abuse, neglect, exploitation, or fiduciary abuse of vulnerable adults are placed on the Adult Abuse, Neglect, and Exploitation Central Registry. Community service providers such as mental health centers and independent living centers use this registry to perform background checks on potential employees.

The statutes that regulate Kansas' APS program have not been updated in years and do not reflect the reality that APS investigators see daily. DCF introduced 2020 HB 2700 last session to address these issues but the bill was unable to move forward as COVID altered the session's schedule. HB 2150 contains many of the same provisions proposed in 2020 HB 2700, however some changes were made from last session's iteration of the bill based on stakeholder feedback.

## EFFECT OF LEGISLATION

House Bill 2150 proposes changes to the definitions in KSA 39-1430 that specify different types of APS cases. These definitions are used internally by APS investigators to classify and assign investigations. Currently there are four classifications of case types in statute: "abuse", "neglect", "exploitation", and "fiduciary abuse".

Kansas is the only state in the country to separate financial allegation types into "fiduciary abuse" and "exploitation". The similarity between these two allegation types can make classifying and assigning case types difficult and misassigned cases can lead to worse outcomes for APS clients. HB 2150 collapses these two allegation types into a single allegation: "financial exploitation". Financial exploitation will include all those cases that previously would've fallen under fiduciary abuse or exploitation. This will align Kansas with the rest of the country and federally supported partners, as well as promote consistency in case assignment. Cases that are misassigned on the front-end, as happens occasionally due to confusion surrounding existing definitions in statute, lead to incomplete or easily overturnable case findings and investigation outcomes. This in turn ultimately leads to perpetrators escaping punishment.

The bill also proposes striking “omission and deprivation by caretaker” under abuse as this same language is utilized in the definition of neglect. This change also promotes consistency in case assignment.

HB 2150 further proposes changes to the list of APS mandated reporters in KSA 39-1431 so that this list is aligned with the list of mandated reporters for Child Protective Services. Mandated reporters are required to make a report should they have reasonable cause to believe abuse or neglect is occurring to an individual. HB 2150 also groups APS mandated reporters into categories to provide clarity and ease for those listed.

Another provision proposed in HB 2150 would extend the APS finding timeline in KSA 39-1433 to 60 working days for financial exploitation cases. The current timeline is 30 working days. This 30-day timeline would remain in place for abuse/neglect cases.

Adult Protective Services requires clear and convincing evidence to support a substantiated finding. Clear and convincing evidence is a higher standard of proof than a preponderance of the evidence. This burden of proof requires APS investigators to gather supplemental documentation, conduct interviews, and review casework with supervisors to assure strong case findings. Meeting the 30-day time limit can be especially challenging when investigating potential financial exploitation as bank records must be requested and reviewed. A 60-day timeframe for financial exploitation cases is consistent with APS programs across the country and would allow for stronger case findings that lead to better results for APS clients and appropriate punishment for perpetrators.

HB 2150 also proposes changes to the confidentiality requirements in KSA 39-1433(e). Confidentiality is one of the basic tenants of social work practice. The National Association of Adult Protective Services practice guidelines indicates APS staff must respect the adult’s right to keep personal information confidential. When a client feels they cannot trust an investigator, the quality of the investigation can suffer. HB 2150 proposes that, unless the client gives their express permission, DCF shall only inform the reporter that an investigation has been initiated. This ensures that a client’s confidentiality cannot be betrayed by a reporter requesting information on the outcome of an investigation. DCF believes this outcome information should only be shared with a reporter in instances where the client has consented, as is current DCF practice.

All these proposed changes align to improve services and outcomes for APS clients. Modernizing definitions, extending the timeline for financial exploitation cases, and adopting the other proposed technical changes will give DCF APS the tools it needs to build strong cases that ultimately lead to perpetrators being placed on the adult abuse registry and appropriately punished.

### FISCAL IMPACT OF LEGISLATION

DCF does not estimate any fiscal impact from this legislation. If passed, HB 2150 could cause an increase in reporting to the KPRC, but it is assumed that this unknown increase could be absorbed within the current budget. Additionally, KPRC’s computer system may need to be changed to account for the increased financial exploitation timeline, but this too could be absorbed within current resources.

### DCF POSITION

DCF asks for your support for House Bill 2150. The changes proposed by the bill will modernize APS practices in Kansas and ensure that investigators have the statutory tools they need to effectively carry out their duties and protect their clients.