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MEMORANDUM

To: Committee on Children and Seniors
From: Office of Revisor of Statutes
Date: February 3, 2021
Subject: House Bill 2150

HB 2150 would amend the statutes relating to the abuse, neglect and exploitation of dependent persons. Sections amended in the bill are the statutes that include definitions, the process of investigating and the reporting of such abuse, neglect or exploitation. The bill would change exploitation to financial exploitation throughout the statutes.

In Section 1, HB 2150 would change "exploitation" to "financial exploitation" and establish a new definition to be used in K.S.A. 39-1430 et seq. "Financial exploitation" would be defined as the unlawful or improper use, control or withholding of an adult's property or sources of income, not for the profit or advantage of the adult. The definition includes instances to be determined as financial exploitation, such as:

- (1) using deception or undue influence to obtain or use the adult's property for the person's own profit or advantage,
- (2) a breach of fiduciary duty, including the misuse of a power of attorney or conservatorship appointment related to the adult's property, or
- (3) obtaining or using the adult's property by a person who knows that adult cannot consent to the use of that property.

The definition of abuse would no longer include fiduciary abuse or the omission or deprivation of goods or services necessary to avoid physical or mental harm or illness to the adult. The bill would also remove the definition of fiduciary abuse.

In Section 2, the bill would amend K.S.A. 39-1431, the statute requiring the reporting of abuse, neglect or exploitation. Subsection (a) lists who shall report when they have reasonable cause or suspicion to believe an adult is need of protective services and being harmed as the result of abuse, neglect and, under this bill, financial exploitation. The bill would add persons who are engaged in postgraduate training approved by the board of healing arts and persons licensed by the board of examiners in optometry to the list of those required to report.

In Section 3, the bill would amend K.S.A. 39-1433, the statute related to the duties of the Kansas Department for Children and Families in instances of abuse, neglect or exploitation. The bill would change all references of exploitation to financial exploitation. The bill would require that when the department has received a report of abuse, neglect or financial exploitation, the department shall immediately notify, in writing, the appropriate law enforcement and meet face-to-face with the involved adult. The bill would give the department 60 working days for the investigation and evaluation of financial exploitation.

The bill would require that the department forward any substantiated finding of abuse, neglect or financial exploitation alleged to be committed by a provider of services to that provider's regulating authority for any potential disciplinary action under that authority's jurisdiction.

Section 4 would be amended to allow the adult the opportunity to refuse protective services during the delivery of such services. If the adult does not want to proceed with protective services, such services shall not be continued.

Section 5 and 6 would be amended to change exploitation to financial exploitation.

HB 2150 would become effective upon publication in the statute book.