

CONFERENCE COMMITTEE REPORT

MR. SPEAKER and MR. PRESIDENT: Your committee on conference on Senate amendments to **HB 2114** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee of the Whole amendments, as follows:

On page 1, in line 6, before "Section" by inserting "New"; in line 26, by striking "the ranking minority" and inserting "a"; in line 27, after "welfare" by inserting ", appointed by the minority leader of the senate";

On page 4, following line 5, by inserting:

"New Sec. 2. (a) The attorney general shall appoint a Kansas elder and dependent adult abuse multidisciplinary team coordinator and, within the limits of appropriations available therefor, such additional staff as necessary to support the coordinator. The coordinator shall facilitate the convening of an elder and dependent adult abuse multidisciplinary team in each judicial district.

(b) (1) Such teams shall be composed of the following individuals, or their designee:

- (A) The sheriff of each county within the judicial district;
- (B) the county or district attorney of each county within the judicial district;
- (C) the secretary for children and families;
- (D) the secretary for aging and disability services; and
- (E) the state long-term care ombudsman.

(2) Such teams may also include the following individuals:

(A) A representative from any law enforcement agency not included in subsection (b)

(1)(A);

- (B) a medical provider;
- (C) a legal services provider;
- (D) a housing provider or representative of elder or dependent adult housing facilities;
- (E) the district coroner or a medical examiner;
- (F) a representative of the financial services or banking industry;
- (G) a representative of the area agencies on aging; or
- (H) any other individual deemed necessary by the team.

(c) Such team:

(1) Shall coordinate investigations of elder and dependent adult abuse as defined by K.S.A. 21-5417, 39-1401 et seq. and 39-1430 et seq., and amendments thereto; and

(2) may identify opportunities within local jurisdictions to improve policies and procedures in the notification and response to abuse, neglect and exploitation of elder or dependent adults, within the limits of local resources.

(d) Such team shall determine the the manner and frequency of meetings, but shall not meet less than quarterly. The team may create and enter into memorandums of understanding with any governmental agency or private entity deemed necessary by the team.

(e) All documents, materials or other information obtained by or discussed by the team shall be confidential and privileged and not be subject to the provisions of the Kansas open records act as provided by K.S.A. 45-215 et seq., and amendments thereto. The provisions of this subsection shall expire on July 1, 2026, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2026.

(f) Meetings conducted pursuant to this section shall not be subject to the provisions of

the Kansas open meetings act as provided by K.S.A. 75-4317 et seq., and amendments thereto.

(g) On or before the first day of each regular session of the legislature, beginning with the 2022 regular session, the attorney general shall submit a report to the legislature on the implementation and use of the teams.

Sec. 3. K.S.A. 2020 Supp. 39-1430 is hereby amended to read as follows: 39-1430. As used in this act:

(a) "Act" means K.S.A. 39-1430 et seq., and amendments thereto.

(b) (1) "Adult" means ~~an individual~~ a person 18 years of age or older alleged to be unable to protect ~~their~~ such person's own interest and who is harmed or threatened with harm, whether financial, mental or physical in nature, through action or inaction by either another individual or through ~~their~~ such person's own action or inaction when:

(~~1~~)(A) Such person is residing in such person's own home, the home of a family member or the home of a friend;

(~~2~~)(B) such person resides in an adult family home as defined in K.S.A. 39-1501, and amendments thereto; or

(~~3~~)(C) such person is receiving services through;

(i) A provider of community services and affiliates thereof operated or funded by the Kansas department for children and families; or

(ii) the Kansas department for aging and disability services or a residential facility licensed pursuant to K.S.A. 2020 Supp. 39-2001 et seq., and amendments thereto.

~~Such term shall~~(2) "Adult" does not include persons to whom K.S.A. 39-1401 et seq., and amendments thereto, apply.

~~(b)~~(c) "Abuse" means any act or failure to act performed intentionally or recklessly that causes or is likely to cause harm to an adult, including:

- (1) Infliction of physical or mental injury;
- (2) any sexual act with an adult when the adult does not consent or when the other person knows or should know that the adult is incapable of resisting or declining consent to the sexual act due to mental deficiency or disease or due to fear of retribution or hardship;
- (3) unreasonable use of a physical restraint, isolation or medication that harms or is likely to harm an adult;
- (4) unreasonable use of a physical or chemical restraint, medication or isolation as punishment, for convenience, in conflict with a physician's orders or as a substitute for treatment, except where such conduct or physical restraint is in furtherance of the health and safety of the adult; or
- (5) a threat or menacing conduct directed toward an adult that results or might reasonably be expected to result in fear or emotional or mental distress to an adult;
- ~~(6) fiduciary abuse; or~~
- ~~(7) omission or deprivation by a caretaker or another person of goods or services that are necessary to avoid physical or mental harm or illness.~~

~~(e)~~(d) "Neglect" means the failure or omission by one's self, caretaker or another person with a duty to supply or provide goods or services that are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm or illness.

~~(d)~~(e) "Financial exploitation" means ~~misappropriation of an adult's property or intentionally taking unfair advantage of an adult's physical or financial resources for another~~

~~individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense by a caretaker or another person, 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. "Financial exploitation" includes, but is not limited to:~~

~~(1) 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;~~

~~(2) 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~~

~~(3) 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.~~

~~(e) "Fiduciary abuse" means a situation in which any person who is the caretaker of, or who stands in a position of trust to, an adult, takes, secretes or appropriates their money or property to any use or purpose not in the due and lawful execution of such person's trust or benefit.~~

~~(f) "In need of protective services" means that an adult is unable to provide for or obtain services that are necessary to maintain physical or mental health or both.~~

~~(g) "Services that are necessary to maintain physical or mental health or both" include,~~

but are not limited to, the provision of medical care for physical and mental health needs, the relocation of an adult to a facility or institution able to offer such care, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from maltreatment the result of which includes, but is not limited to, malnutrition, deprivation of necessities or physical punishment and transportation necessary to secure any of the above stated needs, except that this term shall not include taking such person into custody without consent except as provided in this act.

(h) "Protective services" means services provided by the state or other governmental agency or by private organizations or individuals that are necessary to prevent abuse, neglect or financial exploitation. Such protective services ~~shall~~ include, but ~~shall~~ are not ~~be~~ limited to, evaluation of the need for services, assistance in obtaining appropriate social services and assistance in securing medical and legal services.

(i) "Caretaker" means a person who has assumed the responsibility, whether legally or not, for an adult's care or financial management or both.

(j) "Secretary" means the secretary for children and families.

(k) "Report" means a description or accounting of an incident or incidents of abuse, neglect or financial exploitation under this act and, for the purposes of this act ~~shall~~ does not include any written assessment or findings.

(l) "Law enforcement" means the public office that is vested by law with the duty to maintain public order, make arrests for crimes, investigate criminal acts and file criminal charges, whether that duty extends to all crimes or is limited to specific crimes.

(m) "Involved adult" means the adult who is the subject of a report of abuse, neglect or

financial exploitation under this act.

(n) "Legal representative," "financial institution" and "governmental assistance provider" mean the same as defined in K.S.A. 39-1401, and amendments thereto.

No person shall be considered to be abused, neglected ~~or~~, financially exploited or in need of protective services for the sole reason that such person relies upon spiritual means through prayer alone for treatment in accordance with the tenets and practices of a recognized church or religious denomination in lieu of medical treatment.

Sec. 4. K.S.A. 2020 Supp. 39-1431 is hereby amended to read as follows: 39-1431. (a) ~~Any person who is licensed to practice any branch of the healing arts, a licensed psychologist, a licensed master level psychologist, a licensed clinical psychotherapist, the chief administrative officer of a medical care facility, a teacher, a licensed social worker, a licensed professional nurse, a licensed practical nurse, a licensed dentist, a licensed marriage and family therapist, a licensed clinical marriage and family therapist, licensed professional counselor, licensed clinical professional counselor, registered alcohol and drug abuse counselor, a law enforcement officer, an emergency medical service provider, a case manager, a rehabilitation counselor, a bank trust officer or any other officers of financial institutions, a legal representative, a governmental assistance provider, an owner or operator of a residential care facility, an independent living counselor and the chief administrative officer of a licensed home health agency, the chief administrative officer of an adult family home and the chief administrative officer of a provider of community services and affiliates thereof operated or funded by the Kansas department for aging and disability services or licensed under K.S.A. 2019 Supp. 39-2001 et seq., and amendments thereto, who has reasonable cause to believe that an adult is being or has been~~

~~abused, neglected or exploited or is in need of protective services shall report, immediately from receipt of the information, such information or cause a report of such information to be made in any reasonable manner.~~ (1) When any of the following persons has reasonable cause to suspect or believe that an adult is in need of protective services or being harmed as a result of abuse, neglect or financial exploitation, such person shall promptly report the matter as provided by the provisions of this section:

(A) Persons licensed to practice the healing arts;

(B) persons engaged in postgraduate training programs approved by the state board of healing arts;

(C) persons licensed by the Kansas dental board to engage in the practice of dentistry;

(D) persons licensed by the board of examiners in optometry to engage in the practice of optometry;

(E) persons licensed by the board of nursing to engage in the practice of nursing;

(F) chief administrative officers of medical care facilities;

(G) persons licensed by the behavioral sciences regulatory board to provide mental health services, including psychologists, masters level psychologists, bachelors level social workers, masters level social workers, clinical social workers, marriage and family therapists, clinical marriage and family therapists, professional counselors, clinical professional counselors, behavior analysts, addiction counselors and clinical addiction counselors;

(H) teachers, school administrators or other employees of any Kansas educational institution, as defined in K.S.A. 75-53,112, and amendments thereto, that the adult is attending;

(I) firefighters, law enforcement officers and emergency medical services personnel;

(J) court services officers, community corrections officers, case managers appointed under K.S.A. 23-3508, and amendments thereto, and mediators appointed under K.S.A. 23-3502, and amendments thereto;

(K) bank trust officers or any other officers of financial institutions;

(L) rehabilitation counselors;

(M) legal representatives;

(N) governmental assistance providers;

(O) independent living counselors;

(P) owners or operators of residential care facilities, as defined in K.S.A. 2020 Supp. 39-2002, and amendments thereto;

(Q) the chief administrative officer of a licensed home health agency, as defined in K.S.A. 65-5101, and amendments thereto;

(R) the chief administrative officer of an adult family home, as defined in K.S.A. 39-1501, and amendments thereto; and

(S) the chief administrative officer of any provider of community services and affiliates thereof operated or funded by the Kansas department for children and families or licensed under K.S.A. 39-2001 et seq., and amendments thereto.

(2) An employee of a domestic violence center shall not be required to report information or cause a report of information to be made under this subsection.

(b) Other state agencies receiving reports that are to be referred to the Kansas department for children and families and the appropriate law enforcement agency, shall submit the report to the department and agency within six hours, during normal work days, of receiving

the information. Reports shall be made to the Kansas department for children and families during the normal working week days and hours of operation. Reports shall be made to law enforcement agencies during the time the Kansas department for children and families is not in operation. Law enforcement shall submit the report and appropriate information to the Kansas department for children and families on the first working day that the Kansas department for children and families is in operation after receipt of such information.

~~(b)~~(c) The report made pursuant to ~~subsection (a)~~ this section shall contain the name and address of the person making the report and of the caretaker caring for the involved adult, the name and address of the involved adult, information regarding the nature and extent of the abuse, neglect or financial exploitation, the name of the next of kin of the involved adult, if known, and any other information that the person making the report believes might be helpful in the investigation of the case and the protection of the involved adult.

~~(e)~~(d) Any other person, not listed in subsection (a), ~~having who has~~ reasonable cause to suspect or believe that an adult is being or has been ~~abused, neglected or exploited or is in need of protective services~~ harmed as a result of abuse, neglect or financial exploitation may report such information to the Kansas department for children and families. Reports shall be made to law enforcement agencies during the time the Kansas department for children and families is not in operation.

~~(d)~~(e) A person making a report under subsection (a) shall not be required to make a report under K.S.A. 39-1401 through 39-1410, and amendments thereto.

~~(e)~~(f) Any person required to report information or cause a report of information to be made under subsection (a) who knowingly fails to make such report or ~~cause~~ knowingly causes

such report not to be made shall be guilty of a class B misdemeanor.

~~(f)~~(g) Notice of the requirements of this act and the department to which a report is to be made under this act shall be posted in a conspicuous public place in every adult family home as defined in K.S.A. 39-1501, and amendments thereto, and every provider of community services and affiliates thereof operated or funded by the Kansas department for aging and disability services or other facility licensed under K.S.A. 2020 Supp. 39-2001 et seq., and amendments thereto, and other institutions included in subsection (a).

Sec. 5. K.S.A. 2020 Supp. 39-1433 is hereby amended to read as follows: 39-1433. (a) The Kansas department for children and families, upon receiving a report that an adult is being, or has been ~~abused, neglected, or exploited or is in need of protective services,~~ harmed as a result of abuse, neglect or financial exploitation, shall:

(1) Immediately notify, in writing, the appropriate law enforcement agency when a criminal act has occurred or ~~has appeared~~ appears to have occurred, ~~immediately notify, in writing, the appropriate law enforcement agency;~~

(2) make a ~~personal~~ face-to-face visit with the involved adult:

(A) Within 24 hours when the information from the reporter indicates imminent danger to the health or welfare of the involved adult;

(B) within three working days for all reports of suspected abuse, when the information from the reporter indicates no imminent danger; and

(C) within five working days for all reports of neglect or financial exploitation when the information from the reporter indicates no imminent danger;:

(3) complete, within 30 working days of receiving a report of abuse or neglect and 60

working days of receiving a report of financial exploitation, a thorough investigation and evaluation to determine the situation relative to the condition of the involved adult and what action and services, if any, are required. The evaluation shall include, but not be limited to, consultation with those individuals having knowledge of the facts of the particular case. If conducting the investigation within the corresponding 30 or 60 working days would interfere with an ongoing criminal investigation, the time period for the investigation shall be extended, but the investigation and evaluation shall be completed within 90 working days. If a finding is made prior to the conclusion of the criminal investigation, the investigation and evaluation may be reopened and a new finding made based on any additional evidence provided as a result of the criminal investigation. If the alleged perpetrator is licensed, registered or otherwise regulated by a state agency, such state agency ~~also~~ shall be notified upon completion of the investigation or sooner if such notification does not compromise the investigation; and

(4) prepare, upon completion of the investigation of each case, a written assessment that shall include an analysis of whether there is or has been abuse, neglect or financial exploitation, recommended action, a determination of whether protective services are needed and any follow-up.

(b) The secretary for children and families shall forward any finding of abuse, neglect or financial exploitation alleged to have been committed by a provider of services licensed, registered or otherwise authorized to provide services in this state to the appropriate state regulatory authority that regulates such provider. ~~The appropriate state regulatory authority may consider the finding in any disciplinary action taken with respect to the provider of services under the jurisdiction of such authority.~~

(c) The secretary for children and families shall forward any substantiated finding of abuse, neglect or financial exploitation alleged to have been committed by a provider of services licensed, registered or otherwise authorized to provide services in this state to the appropriate state regulatory authority, and such authority may consider the finding in any disciplinary action taken with respect to such provider under the jurisdiction of such authority.

~~(d)~~ The Kansas department for children and families shall inform the complainant, upon request of the complainant, that an investigation has been made and if the allegations of abuse, neglect or exploitation have been substantiated, that corrective measures will be taken, upon completion of the investigation or sooner, if such measures do not jeopardize the investigation initiated.

~~(d)~~(e) The Kansas department for children and families ~~may~~ shall inform the chief administrative ~~officer~~ officers of community facilities licensed pursuant to K.S.A. 2020 Supp. 39-2001 et seq., and amendments thereto, and nursing facilities, nursing facilities for mental health, intermediate care facilities for people with intellectual disability, assisted living facilities, residential healthcare facilities and home plus as defined in K.S.A. 39-923, and amendments thereto, of confirmed substantiated findings of resident abuse, neglect or financial exploitation.

Sec. 6. K.S.A. 39-1438 is hereby amended to read as follows: 39-1438. If an involved adult does not ~~consent to the receipt of~~ agree to accept reasonable and necessary protective services, or if such adult ~~withdraws the consent~~ states during the course of service delivery that such adult does not want to proceed with such services, such services shall not be provided or continued.

Sec. 7. K.S.A. 39-1441 is hereby amended to read as follows: 39-1441. The authority of

the secretary under this act ~~shall include~~ includes, but is not limited to, the right to initiate or otherwise take those actions necessary to assure the health, safety and welfare of an involved adult, subject to any specific requirements for individual consent of the adult. The secretary may establish a toll-free telephone number for the reporting of instances of abuse, neglect or financial exploitation under this act.

Sec. 8. K.S.A. 2020 Supp. 39-1443 is hereby amended to read as follows: 39-1443. (a) ~~Investigation of adult abuse.~~ The Kansas department for children and families and law enforcement officers shall have the duty to receive and investigate reports of adult abuse, neglect, or financial exploitation ~~or fiduciary abuse~~ for the purpose of determining whether the report is valid and whether action is required to protect the adult from further abuse ~~or~~, neglect or financial exploitation. If the department and such officers determine that no action is necessary to protect the adult but that a criminal prosecution should be considered, the department and such law enforcement officers shall make a report of the case to the appropriate law enforcement agency.

(b) ~~Joint investigations.~~ (1) ~~When a report of adult neglect, adult abuse, neglect or financial exploitation or fiduciary abuse indicates:~~ (1) When a report of adult neglect, adult abuse, neglect or financial exploitation indicates: (1) that there is serious physical injury to or serious deterioration or sexual abuse or financial exploitation of the adult; and (2) that action may be required to protect the adult, the investigation may be conducted as a joint effort between the Kansas department for children and families and the appropriate law enforcement agency or agencies, with a free exchange of information between such agencies.

(2) Upon completion of the investigation by the law enforcement agency, a full report shall be provided to the Kansas department for children and families.

(c) ~~Coordination of investigations by county or district attorney.~~ If a dispute develops between agencies investigating a reported case of adult abuse, neglect, or financial exploitation ~~or fiduciary abuse~~, the appropriate county or district attorney shall take charge of, direct and coordinate the investigation.

(d) ~~Investigations concerning certain facilities.~~ Any investigation by a law enforcement agency involving a facility subject to licensing or regulation by the secretary of health and environment shall be reported promptly to the ~~state~~ secretary of health and environment, upon conclusion of the investigation or sooner if such report does not compromise the investigation.

(e) ~~Cooperation between agencies.~~ Law enforcement agencies and the Kansas department for children and families shall assist each other in taking action ~~which~~ that is necessary to protect the adult regardless of which party conducted the initial investigation.

Sec. 9. K.S.A. 75-723 is hereby amended to read as follows: 75-723. (a) There is hereby created in the office of the attorney general an abuse, neglect and exploitation of persons unit.

(b) Within the limits of available resources, the unit may, in the attorney general's discretion:

(1) Participate in the prevention, detection, review and prosecution of abuse, neglect and exploitation of persons, whether financial or physical;

(2) conduct investigations of suspected criminal abuse, neglect or exploitation of persons;

(3) coordinate with and assist other law enforcement agencies, or participate in task forces or joint operations, in the investigation of suspected criminal abuse, neglect or

exploitation of persons;

(4) coordinate with and assist the medicaid fraud and abuse division established by K.S.A. 75-725, and amendments thereto, in the prevention, detection and investigation of abuse, neglect and exploitation of persons;

(5) work with or participate in the Kansas internet crimes against children task force, and work with any exploited and missing child investigators and any other child crime investigators;

(6) assist in any investigation of child abuse or neglect conducted by a law enforcement agency pursuant to K.S.A. 2020 Supp. 38-2226, and amendments thereto;~~and~~

(7) assist in any investigation of adult abuse, neglect, exploitation or fiduciary abuse conducted by a law enforcement agency pursuant to K.S.A. 2020 Supp. 39-1443, and amendments thereto;and

(8) assist in any investigation or discussion of any elder and dependent adult abuse multidisciplinary team pursuant to section 1, and amendments thereto.

(c) The unit shall give priority to preventing, detecting and investigating abuse, neglect or exploitation of adults who are senior citizens, disabled or otherwise vulnerable to abuse, neglect or exploitation.

(d) Except as provided by subsection (k), the information obtained and the investigations conducted by the unit shall be confidential as required by state or federal law. Upon request of the unit, the unit shall have access to all records of reports, investigation documents and written reports of findings related to substantiated or affirmed cases of abuse, neglect or exploitation of persons or cases in which the attorney general has reasonable suspicion

to believe abuse, neglect or exploitation of persons has occurred which are received or generated by a state agency.

(e) Whenever a state agency reports a matter involving suspected abuse, neglect or exploitation of an adult to a law enforcement agency or a county or district attorney, such state agency shall simultaneously forward such report to the unit.

(f) Except for reports alleging only self-neglect, a state agency receiving reports of abuse, neglect or exploitation of adults shall forward to the unit:

(1) Within 10 days of substantiation, reports of findings concerning the substantiated abuse, neglect or exploitation of adults; and

(2) within 10 days of such denial, each report of an investigation in which such state agency was denied the opportunity or ability to conduct or complete a full investigation of abuse, neglect or exploitation of adults.

(g) On or before the first day of the regular legislative session each year, the unit shall submit to the legislature a written report of the unit's activities, investigations and findings for the preceding fiscal year.

(h) The attorney general shall adopt rules and regulations as deemed appropriate for the administration of this section.

(i) No state funds appropriated to support the provisions of the unit and expended to contract or enter into agreements with any third party shall be used by a third party to file any civil action against the state of Kansas or any agency of the state of Kansas. Nothing in this section shall prohibit the attorney general from initiating or participating in any civil action against any party.

(j) The attorney general may contract or enter into agreements with other agencies or organizations to provide services related to the attorney general's duties under this section or to the investigation or litigation of findings related to abuse, neglect or exploitation of persons.

(k) Notwithstanding any other provision of law, nothing shall prohibit the attorney general or the unit from distributing or utilizing only that information obtained pursuant to a confirmed case of abuse, neglect or exploitation or cases in which there is reasonable suspicion to believe abuse, neglect or exploitation has occurred pursuant to this section with any third party under contract or agreement with the attorney general to carry out the provisions of this section.

(l) As used in this section:

(1) "Adult" means any person 18 years of age or older; and

(2) "state agency" means the Kansas department for children and families, Kansas department for aging and disability services or Kansas department of health and environment.

Sec. 10. K.S.A. 39-1438, 39-1441 and 75-723 and K.S.A. 2020 Supp. 39-1430, 39-1431, 39-1433 and 39-1443 are hereby repealed.";

On page 15, in line 13, by striking "Kansas register" and inserting "statute book";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "the legislature" and inserting "elder and dependent persons; relating to the abuse thereof"; in line 2, after "force" by inserting ", a Kansas elder and dependent adult abuse multidisciplinary team coordinator and elder and dependent adult abuse multidisciplinary teams"; also in line 2 by striking "topics of study;"; and inserting "requirements for"; in line 3, after "report" by inserting "to the legislature; requiring additional persons to report abuse, neglect or financial exploitation of adults; directing the neglect and

exploitation of persons unit of the attorney general to assist in multidisciplinary team investigations; amending K.S.A. 39-1438, 39-1441 and 75-723 and K.S.A. 2020 Supp. 39-1430, 39-1431, 39-1433 and 39-1443 and repealing the existing sections";

And your committee on conference recommends the adoption of this report.

Conferees on part of House

Conferees on part of Senate