To: House Committee on Judiciary

From: Michelle Ewert, Director of the Washburn Law Clinic

Date: January 28, 2026

Re: Support for HB 2480 (Creating an exception to certain mandatory reporting obligations for licensed social workers when working under the supervision of an attorney)

I write this honorable committee to express my strong support for HB 2480. I am a Professor of Law at the Washburn University School of Law and Director of the Washburn Law Clinic. My students and I provide free legal services to low-income Kansans who would not otherwise have access to counsel. I previously served as staff attorney and housing law supervisor at the Homeless Persons Representation Project in Baltimore, Maryland, and as staff attorney for HOPE Fair Housing Center in Wheaton, Illinois, and Central California Legal Services in Visalia, California. In each of these positions, I have represented low-income individuals who were struggling to overcome very significant barriers to moving out of poverty.

An attorney's duty of confidentiality is the cornerstone of the attorney-client relationship. Knowing that their attorney will keep what they tell them confidential makes it easier for the client to be completely open about the facts of their legal matter. This enables the attorney to accurately assess the client's options and provide the best legal advice.

Attorneys frequently utilize the services of other professionals as they work on cases. These non-lawyers could be inside or outside the firm. For example, an attorney might ask an accountant to analyze financial records since they have expertise the lawyer doesn't have. The Kansas Rules of Professional Conduct are clear that the lawyer has an obligation to ensure that the non-lawyer's services are provided in a way that is consistent with the lawyer's professional responsibilities—including maintaining confidentiality. See Kansas Rule of Professional Conduct 5.3, comments 2 and 3.[1]

In the cases that I have worked on over the years, I frequently benefitted from the assistance of social workers. Their training helps them understand mental health, trauma, and behavioral health more broadly. They also are familiar with community resources for a range of social and economic needs. Studies have documented the positive impact of case workers' involvement in legal cases.[2]

[1] Available at https://kscourts.gov/Rules-Orders/Rules/5-3-Law-Firms-and-Associations-Responsibilities-Re.

[2] See, Assessing a Social Worker Model of Public Defense (March 2021), available at https://www.urban.org/sites/default/files/publication/103811/assessing-a-social-work-model-of-public-defense_1.pdf; Criminal Justice Interventions for Offenders with Mental Illness: Evaluation of Mental Health Courts in Bronx and Brooklyn, New York (February 2012), available at https://www.urban.org/research/publication/criminal-justice-interventions-offenders-mental-illness-evaluation-mental-health-courts-bronx-and-brooklyn-new-york. For a discussion of the benefits of attorney-social worker collaborations and recommendations regarding a mandated reporting exemption for social workers working under an attorney, see Professional Ethics in Interdisciplinary Collaboratives: Zeal, Paternalism and Mandated Reporting (Spring 2007), available at https://ssrn.com/abstract=921590.

However, social workers' mandated reporting duties for suspected child abuse and neglect are at odds with attorneys' duty of confidentiality. HB 2480 would address this conflict. Social workers would generally retain their mandated reporting duties. However, social workers embedded in law offices or retained for outside assistance on cases would not be required to report suspected abuse or neglect learned about through the course of the legal representation. Thus, the attorneys would gain the benefit of the social worker's expertise without compromising confidentiality.

Other jurisdictions have already implemented this solution to exempt social worker mandated reporters working for an attorney.[3] Kansas should do the same. I ask you to vote in favor of HB 2480.

The ideas expressed in this statement are mine as an individual faculty member at the law school and do not represent Washburn University or Washburn University School of Law.

[3] Code of the District of Columbia § 4–1321.02(b)(2)(B) (mandated reporters, including social services workers, are exempted if they are "[e]mployed or supervised by a lawyer with whom a prospective client is seeking representation in a criminal, civil, including family law, or delinquency matter, and the basis for the belief arises solely in the course of seeking that representation"); Cal. Penal Code § 11165.7(a)(18) (mandated reporters include "[a] district attorney investigator, inspector, or local child support agency caseworker, unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor"); Ky. Rev. Stat. Ann. § 31.100(6) (non-lawyer assistants shall "[b]e subject to the Rules of Professional Conduct and the Rules of Evidence as they relate to client confidentiality, attorney-client communications, and attorney-client privilege. All non-lawyer assistants hired by the [Department of Public Advocacy] who are independently licensed or certified shall practice under the attorney-client privilege, irrespective of other obligations or duties arising with their independent licenses or certifications.").