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House Committee on Judiciary

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Testimony of
Karen Leve, Assistant Director of Special Projects
Kansas State Board of Indigents' Defense Services

Chair Humphries, Vice-Chair Williams, Members of the Committee and Legislative Staff,

Thank you for the opportunity to testify in support of HB 2480, a bill which will allow licensed social workers to be better advocate on behalf of their clients and more fully assist clients in addressing the underlying issues that brought them in contact with the criminal legal system.

Currently, licensed social workers fall under provisions in the law that require them to report to the state when they have reason to suspect that a child has been harmed as a result of physical, mental, emotional abuse/neglect, or sexual abuse, or that an adult is being or has been abused, neglected or exploited. While this provision of law is noble, it fails to take into account the unique role of the social worker on the legal defense team.

By way of background, I hold a law degree and a masters in social work. I practiced as a social worker in a legal environment for three years before becoming a public defender. Prior to moving to Kansas, I practiced as an attorney and supervising attorney at the Bronx Defenders—a public defense organization committed to the principles of holistic defense. This model is founded on the idea that every client is connected to an interdisciplinary team of advocates made up of criminal defense attorneys, civil attorneys, and non-legal advocates, including investigators and social workers. Holistic defense is often seen as highly effective approach to the work for its ability to address underlying social and economic factors that can help lead to better outcomes and lower rates of recidivism.

Social workers on these teams are integrated members of the legal team and do not provide any independent social work services. All of their work is done in furtherance of the legal strategy of the case and closely coordinated with the attorneys on the case.

I know firsthand that having a social worker on the legal team is indispensable in providing clients with meaningful and zealous representation. Social workers have skills that lawyers do not. Social workers are skilled at empathic interviewing and communication. They approach the work with a level of cultural competency and use critical thinking to help identify service, programs,

and support structures that support our clients and ultimately help them meet their legal objectives. Social workers bring a deeper understanding of addiction and mental health and importantly, social workers are strong client advocates both in and out of the courtroom, providing additional support to clients in ways that simply does not exist in the traditional attorney-client relationship.

HB 2480 would allow social workers to operate more fully as a member of the legal team. One of the first things you learn as a new public defender is the importance of cultivating trust with your client. Social workers play a large role in building this trust. Trust is built in their time spent at jail visits, client interviews, and sometimes in the moments before the case is called to the bench. Current mandated reporting requirements can hamper a social worker's ability to build trust and instead, put them in the cross-hairs of attorney-client privilege and their duty under current law to report.

The attorney-client privilege exists to encourage full disclosure from clients so that they can get the best possible legal advice without fear of that information being used against them or told to others. Social workers on a legal team share that goal but are limited in their ability to engage in this full disclosure because of their obligation to report. Putting such stringent bounds on the legal team's relationship with the client disrupts the foundation of the attorney-client relationship.

A social worker on a legal team must be able to work towards achieving the stated legal outcome and fulfil their obligations to the clients. This narrow carve out would allow social workers to operate more fully as members of the legal team and increase their ability to provide client-centered advocacy and defense.

I am happy to answer questions from the committee at the appropriate time.

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