

MINUTES OF THE HOUSE AGING & LONG-TERM CARE COMMITTEE

The meeting was called to order by Chairman Bob Bethell at 9:05 am. on February 10, 2011, in Room 144-S of the Capitol.

All members were present except :

Representative Scott Schwab - absent

Committee staff present:

Katherine McBride, Office of the Revisor of Statutes  
Iraida Orr, Kansas Legislative Research Department  
Craig Callahan, Kansas Legislative Research Department  
Evelyn Walters, Committee Assistant

Conferees appearing before the Committee:

Joe Ewert, Kansas Association of Homes and Services for the Aging  
Craig Kaberline, KS Area Agency on Aging Assn.  
Mitzi McFatrach, KS Advocates for Better Care  
Belinda Vierthaler, Ombudsman  
Nick Wood, Disability Rights Center  
Pam Falk Smith, Medicalodges, Inc. representing KHCA/KCAL  
Cindy Luxem, Kansas Health Care Association  
Ernest Kutzley, AARP  
M. Jean Krahn, KS Guardianship Program  
Tom Lain, Interhab, Inc.

Others attending:

See attached list.

Hearing on:

**HB 2108 – Transfer of duties and functions of Department of SRS concerning adult protective services to the office of Attorney General**

Katherine McBride, Office of the Revisor of Statutes, reviewed the bill contents.

Proponents:

Joe Ewert, Kansas Association of Homes and Services for the Aging spoke in support of the bill (Attachment 1). Questions were asked by Rep. Weber, Rep. Otto and Chairman Bethell.  
Mitzi McFatrach, KS Advocates for Better Care, spoke in support of the bill (Attachment 2). Questions were asked by Representative Moore and Chairman Bethell.  
Belinda Vierthaler, Ombudsman, spoke in support of the bill. (Attachment 3). A question was asked by Chairman Bethell.  
Craig Kaberline, Executive Director, KS Area Agency on Aging Assn., spoke in cautious support of this bill due to funding needed. (Attachment 4). A question was asked by Chairman Bethell.  
Written testimony in support of the bill was also provided by Nick Wood, Disability Rights Center, (Attachment 5). Pam Falk Smith, Medicalodges, Inc. representing KHCA/KCAL (Attachment 6). Ernest Kutzley, AARP, (Attachment 7). Cindy Luxum, Kansas Health Care Assn, (Attachment 8).

Neutral:

M. Jean Krahn, Kansas Guardianship Program, testified. (Attachment 9). No questions were asked.  
Tom Laing, Interhab, Inc. testified. (Attachment 10). A question was asked by Rep. Worley.

No other conferees on **HB 2108**.

Chairman Bethell invited Secretary Sullivan, Department of Aging, to introduce himself and make comments from his previous experience. Secretary Sullivan made comments on what priorities his Department is working on. Secretary Sullivan commented on his APS experiences from previous administrator's experiences which ranged from positive when dealing with the abuse or neglect to get

## CONTINUATION SHEET

Minutes of the House Aging & Long Term Care Committee at 9:00 am on February 10, 2011, in Room 144-S of the Capitol.

guardianship for individuals and frustrations usually occurring when dealing with the financial exploitations.

Chairman Bethell called on Gary Haulmark, Legislative Director of SRS and Ms. Bobbi Mariani, Director of Economic and Employment Support of SRS to give update on the frustrations when dealing with the registry for abusers and how providers could get access to the registry before hiring. Mr. Haulmark commented that they have met several times and referred to Ms. Mariani to provide the specifics of the new policy that went into effect immediately this week. They provided a handout of material being mailed to all providers covered under statute 65-6204 to resolve the access to the registry issue. (Attachment 11). A question was raised by Rep. Hill. Mr. Haulmark responded that everything the department does was going to go under review and findings would be made known to the committee.

Chairman Bethell closed the hearing.

The next meeting is scheduled for February 15, 2011.

The meeting was adjourned at 10:04 am.

**HOUSE AGING AND LONG TERM CARE COMMITTEE**

**DATE:** 2/10/11

[illegible]

**PLEASE USE BLACK INK**

**To: Chairman Bethell, and Members House Aging and Long Term Care Committee.**  
**From: Joe Ewert, KAHSA Government Affairs Director**  
**Date: February 9, 2011**  
**Re: HB 2108**

**Testimony in Support of HB 2108**

Thank you, Mr. Chairman, and members of the Committee, for this opportunity to speak to you on HB 2108. My name is Joe Ewert and I am here on the behalf of the Kansas Association of Homes and Services for the Aging. KAHSA represents 160 not-for-profit long term care provider organizations throughout the state. Over 20,000 senior Kansans are served by our members, which include retirement communities, nursing homes, hospital-based long term care units, assisted living residences, senior housing and community service providers.

Every day, our members are witness to tragic situations in which frail older Kansans are targets of financial abuse, often by those who are closest to them. Perpetrators obtain control of victim's assets through joint bank accounts, power of attorney documents and other arrangements. Pensions, social security checks, and other assets belonging to the victim are cashed, or diverted to the abuser's personal accounts and are never used for the purposes they were intended. Victims' bills go unpaid, credit card debts are created, while they are denied simple luxuries and comfort items. Quite simply, these fraudulent individuals are driving elders into debt and impoverishment.

Far too often, fiduciary abuse of elders is not considered to be a crime by those involved. Based on extensive experience, our members have no confidence in the effectiveness of Adult Protective Services involvement fiduciary abuse cases. Adult Protective Services does not view financial abuse of an elder residing in an adult care home as a priority, because the health and safety of the victim is safeguarded by the nursing home. We simply do not agree that fiduciary abuse is any less severe a crime when perpetrated against a resident of an adult care home.

We have worked extensively with the Attorney General's office in addressing fiduciary abuse in Kansas. The Attorney General's office has tenaciously pursued solutions to this problem, and we believe their perspective and expertise could greatly enhance the effectiveness of the Adult Protective Services. We ask you to support HB 2108, and transfer Adult Protective Services from the Department of Social and Rehabilitative Services to the Office of the Attorney General.

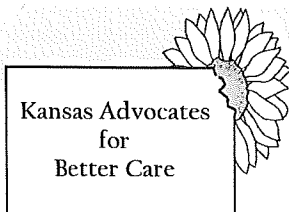
Thank you for your attention to this matter. I am happy to answer questions.

785.233-7443

kahsainfo@kahsa.org

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DATE: 2/10/11  
ATTACHMENT # 1

1-1



## *"Advocating for Quality Long-Term Care" since 1975*

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Executive Director  
Mitzi E. McFatrach

February 8, 2010

Rep. Bob Bethell  
Chairman House Aging & Long-Term Care  
Topeka Statehouse  
Capitol Office Room: 55C-S

Dear Chairman Bethell, Vice Chairman Worley and Members of the Committee,

Thank you for hearing testimony this morning on **HOUSE BILL No. 2108**. Kansas Advocates for Better Care supports the provisions of this proposed legislation which would transfer operations of the Adult Protective Services unit from SRS to the Attorney General's office.

Implementation of this legislation could promote:

- 1) Better coordinated action in instances of abuse, neglect, exploitation and fraud for elders and adults living in the community;
- 2) Bring together law enforcement and social services, allowing for an integrated approach to problem solving and/or corrective action on behalf of adults when complaints are made by adults receiving long-term care or on behalf of those in danger from self-neglect;
- 3) Successful intervention and better outcomes for victims in cases of elder abuse or exploitation. This model of coordinated response has proven very successful when addressing abuse and neglect of children and domestic violence in Kansas and on behalf of elders in other states.

The office of the Attorney General would have the opportunity to apply for additional funding to serve elderly victims from existing funds available through the Justice Department and other national sources. This funding could be utilized for training and implementation of a coordinated, service delivery model. Through these grants training dollars would be available to train social workers, law enforcement and other service providers. Results of this type of cross training will likely result in better trained professionals for identifying and intervening on behalf of vulnerable adults; more public awareness of what constitutes abuse, neglect and exploitation of an adult, more reports for early intervention; greater access to services for victims, among others. These results have been seen in a coordinated, integrated approach to dealing with child abuse and domestic violence and it is logical to assume similar results will be seen for adults who are older or have a disability.

Kansas Advocates for Better Care is a non-profit organization that has been serving the needs of elders and persons with disabilities and advocating for improved long-term care in nursing homes and assisted living facilities for 35 years.

Thank you,  
Mitzi E. McFatrach  
Executive Director  
785-842-3088 or mitzim@kabc.org

913 Tennessee Suite 2 Lawrence,  
phone: 785.842.3088 fax: 785.749.0029 toll-free: 800.525.178

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DATE: 2/10/11  
ATTACHMENT # 2

**AGING AND LONG-TERM CARE COMMITTEE  
FROM THE STATE LONG-TERM CARE OMBUDSMAN  
Belinda Vierthaler, MSW  
February 10, 2011**

Representative Bob Bethell, Committee Chair and Members of the Committee, thank you for the opportunity to provide testimony.

The Long-Term Care Ombudsman program is in support of transferring Adult Protective Services. We would like to see a change for the positive to better serve the vulnerable elderly of the state of Kansas.

The Regional LTC Ombudsmen work with APS frequently. During our interactions with them we have encountered challenges.

First of all, multiple occasions of where the APS worker is not willing or unable to collaborate with us. Often the work is duplicated and does not end positively. They state that they can't share information, even though the resident and/ or family have given permission. This hinders our ability to follow up with the resident and/or family member.

Another example, the APS worker had been working with a consumer in her home for several years. The home was not safe to live in. Over time the consumer developed dementia. The consumer was badly injured due to the living conditions, was treated at the hospital and then discharged to a nursing home. The argument for APS not doing what was needed was self-determination vs. self-neglect. Shortly after the consumer entered the nursing home, the Regional LTC Ombudsman was able to get an emergency guardian in place and now she is getting the care she needs in a safe place.

On several occasions callers to the hotline have been given incorrect information. For example, a woman from the community had called and stated that she had a son that was mentally handicapped and was acting erratically. The hotline told her to call the Regional LTC Ombudsman. The son is at a homeless shelter. When the Regional called the APS worker she stated that she would not call the woman back.

There have been multiple occasions where LTC facility administration has called APS regarding abuse on the part of a community member coming into the facility and APS has failed to follow up. One example, a daughter who was allegedly abusing her mother moved her to four different facilities when the facility would intervene. The woman passed away approximately five months from the first allegation. APS was called by each facility with no follow up.

On the subject of financial exploitation, many administrators have shared frustration because they feel there is a lack of follow up on the part of APS. We often hear from APS that there is no immediate threat to the resident because they are being cared for by the facility. All the while, the family is financially exploiting them and the facility is not getting paid.

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ATTACHMENT # 3

KANSAS  
AREA AGENCIES  
ON AGING  
ASSOCIATION



*Meeting the Needs of Older Kansans*

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**House Aging & Long-Term Care Committee  
Testimony on the Transfer of Adult Protective Services  
HB 2108**

**Craig Kaberline, Executive Director  
February 10, 2011**

The Kansas Area Agencies on Aging Association (K4A) represents the 11 Area Agencies on Aging (AAA) in Kansas, who collectively serve all 105 counties of Kansas. In Kansas, Area Agencies on Aging are the “single points of entry,” that coordinate the delivery of publicly funded community-based services that seniors and their caregivers need. The Area Agency on Aging system is funded by federal, state and local resources, and administered locally. Service delivery decisions are made at the community level—often in the homes of the seniors who need those services. The Area Agencies on Aging carry out their federal mandate as “the Leader” on aging issues at the local level. The Kansas Area Agencies on Aging Association works to improve services and supports for all older Kansans and their caregivers.

Whether you are an older Kansan or a caregiver concerned about the well-being and independence of an older adult, Area Agencies on Aging are ready to help. Area Agencies on Aging in communities across the state, plan, coordinate and offer services that help older adults remain in their home - if that is their preference. Services such as home delivered meals and a range of in-home services make independent living a viable option. Area Agencies on Aging make a range of options available so that seniors choose the services and living arrangement that best suits them.

The Kansas Area Agencies on Aging Association appreciates the opportunity to appear before you today in support of HB 2108 – Transfer of Adult Protective Services to the Office of the Attorney General.

K4A is cautiously supporting this legislation. K4A is cautious because adult protective services must be appropriately funded regardless of which agency it resides in. Historically adult protective services have not been funded at the federal level and only marginally funded at the state level.

K4A believes there are benefits to this transfer. We believe it would be positive to have human services and law enforcement housed together with the Attorney General's Office. The attorney general's office already has responsibility to investigate abuse cases in nursing homes that involve Medicaid recipients. Another potential benefit of the transfer is having adult protective services tied to those with criminal investigative experience, especially at a time when our aging population is growing and we are seeing more and more cases of financial abuse/exploitation.

The transfer of adult protective services to the Attorney General's Office could result in positive outcomes for citizens of Kansas if done correctly.

**The Kansas Area Agencies on Aging Association asks for your support of HB 2108.**

**AREA AGENCIES ON AGING:**

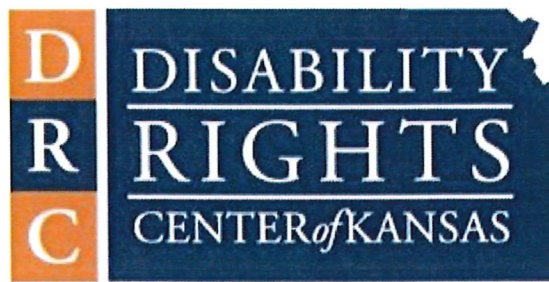
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DATE: 2/10/11

ATTACHMENT # 4





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## **Aging and Long Term Care Committee**

### **Neutral Testimony on HB 2108 – Informational about needed reforms to APS**

**February 10<sup>th</sup>, 2011**

Chairman Bethel and Members of the Committee, my name is Rocky Nichols. I am the Executive Director for the Disability Rights Center of Kansas (DRC). DRC is the federally mandated, officially designated protection and advocacy organization for Kansans with disabilities. DRC is a 501(c)(3) nonprofit.

We are here providing neutral testimony on the question of moving Adult Protective Services (APS) to the Attorney General's Office. Instead we would like to take this opportunity to offer information and comment about needed reforms for APS regardless of where it is housed. We think it is a good thing that the Legislature is examining the future of APS. In that examination there are some critical and necessary improvements to the division of APS. Reform of APS cannot be about simply where it is housed. It has to be about fundamental changes to the vision, focus and structure of APS.

First we are concerned with the way reports have historically been processed by APS. By the latest estimates we have seen, upwards of 50% of reports are "Screened Out" and never investigated. We're not sure how these reports are screened out, but we know that they are somehow determined as not being appropriate to investigate.

Of the reports that are not screened out, the state focuses half of its Investigations on protecting people with disabilities "From Themselves". Upwards of 50% of all the reports of ANE investigated by state are for "self-neglect" (ex: FY 2005, of the 5116 reports of ANE investigated by SRS/APS, 2710 – over 50% - were allegations of "self-neglect").

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Also, 75% of the confirmed cases are self-neglect. Many in the disability community would argue that protecting people from themselves has the potential to cross over the line from protection to paternalism. Shouldn't the focus be on promoting self-determination and independence? We believe people with disabilities who are independent and engaged in self-determination are less likely to be abused. When the number one area of investigation borders on paternalism and "protecting people from themselves," the system can't focus on getting the real bad guys – the perpetrators of ANE.

We believe there has been too much focus from APS on "protecting people from themselves" and that follow up from APS to these reports should focus more on getting people with disabilities the help they need. Through this process we would like to ensure standard by which the state decides to intervene in a self-neglect case.

- **This is a perfect example of how state law and state policy needs to change. If the Legislature Acts on HB 2108, an amendment should be drafted that refocuses state policy so that the investigations of APS are rebalanced to focus greater efforts on holding perpetrators accountable and less focus on protecting people with disabilities from themselves. We would gladly work with this committee to suggest language to this bill to do just that.**

Investigative Agencies Don't Know IF the Person Has a Guardian, or Who the person's Guardian is, or Which Guardians have Conflicts of Interest, etc. – APS can't conduct an investigation if the Guardian refuses or if consenting adults don't want to be investigated. There is no centralized registry available to investigative agencies of Guardianships and Conservatorships to track all this. This was a huge problem in the Kaufman house case, because SRS was told by Mr. Kaufman that the people there were consenting adults and that they didn't have guardians. That was not true. At different points more than half had Guardians. In fact, Mr. Kaufman WAS the guardian for at least one resident (clear conflict of interest but is unfortunately allowed under law – this must change). There was no guardian/conservator registry for investigative agencies to check this out (SRS, Aging, KDHE, AG, DRC, law enforcement, etc.). The Kansas Supreme Court could operate such a registry. This is

an issue that could be fixed as part of a broader APS reform that could be contained in HB 2108.

We have one final thought about the Attorney General's office regarding APS investigations. In 2006 the Legislature created a new authority and a new program (the ANE Unit) for the AG's office as a response to the horrors and service gaps illustrated in vivid detail by the Kaufman house case in Newton Kansas. However, shortly after starting the new ANE Unit, the Legislature defunded this program and never restored the funding. The Unit served an incredibly important role in protecting the rights of people with disabilities and ensuring that they had access to civil, legal representation so that they could obtain justice. Perhaps before you look at adding new programs to the AG's office like APS functions, you should look at the needed program of the ANE Unit you eliminated and find a way to restart that project.

Thank you for your time and attention to our suggestions.



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kcal ahca

February 10, 2011

Aging and Long Term Care Committee

Mr. Chairman and Committee members

My name is Pam Falk Smith and I am here on behalf of the Kansas Health Care Association and Kansas Center for Assisted Living members and residents. We would like to testify in support of House Bill 2108.

As a licensed nursing home administrator and attorney, I can tell you that the issue of financial exploitation is a reality for many older citizens. Sadly many of the cases of financial exploitation are from their own family members.

**In the Adult Protective Services Fact Sheet, it states, "The APS program helps those adults who need help in dealing with abusive, neglectful or exploitive situations...." It goes on to say this service is provided to adults who reside:**

**In the community**

**In facilities licensed or certified by SRS**

**In adult care homes and other facilities licensed by the Kansas Department on Aging-when the perpetrator is not a resident or staff of the facility**

Our concern has been that APS does not have enough "teeth" in their services to be effective. We feel HB 2108 which moves APS from the department of Social and Rehabilitative Services to the Attorney general's office is a positive first step in finding ways to assist residents, our seniors, with exploitive financial circumstances.

Since 1995, I have handled numerous issues that arose from financial exploitation, and in about 95%, the instances were financial exploitation by a family member. I have seen children, spouses, ex-spouses, nieces and grandchildren all take money from their elderly family member, and each time this occurred it was reported to APS. Sadly, I cannot recall one single instance where APS determined the abuse was confirmed. I have even been involved in situations where the Court has stepped in and determined finances were not being properly handled, and again, APS had not substantiated any finding of abuse.

Thank you and always if you have any questions, do not hesitate to contact me.

Pam Falk Smith, JD LNHA  
Director of Corporate Compliance &  
Associate General Counsel  
Medicalodges, Inc.  
Representing  
Kansas Health Care Association/Kansas Center for Assisted Living

HOUSE AGING & LTC  
DATE: 2/10/11  
ATTACHMENT # 6



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February 9, 2011

The Honorable Bob Bethell, Chair  
House Aging and Long-Term Care Committee

Reference: HB 2108 – Adult Protective Services

Good morning Chairman Bethel and Members of the House Aging and Long-Term Care Committee. My name is Ernest Kutzley and I am the Advocacy Director for AARP Kansas. AARP represents the views of our over 341,000 members in the state of Kansas. Thank you for allowing us to submit our written comments in support of HB 2108, which will transfer duties of adult protective services to the office of the Attorney General.

AARP believes that elders should be free from exploitation and abuse through strong legal protections against, and effective protective services addressing, all forms of exploitation and abuse of incapacitated and vulnerable adults.

Prosecuting alleged abusers is difficult for numerous reasons, including that:

- Victims may be unable or unwilling to testify as a result of incapacity, fear, shame, or misguided loyalty, and
- Law enforcement staff and prosecutors may lack training, interest, and resources for these difficult cases.

However, a number of states and local jurisdictions have made significant progress in introducing and implementing new techniques for investigating and prosecuting abuse cases, increasing the chances for successful prosecutions.

AARP believes states should enact and implement adult protective services (APS) laws that apply in the community and long-term care settings and provide for:

- prompt investigation;
- access to the alleged victim by agency personnel, law enforcement, and other relevant entities;
- intervention in emergency and nonemergency situations of abuse, neglect, or exploitation of vulnerable individuals;
- use of the least-restrictive protective action that meets the specific needs of the vulnerable individual;
- a balancing of the individual's autonomy and self-determination with the state's need to protect those people who cannot protect themselves; and
- programs for abusive family members and caregivers aimed at curbing future abuse.

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States also should work to ensure agencies are responsive to the particular needs of older abused spouses and partners.

States should:

- enact and enforce laws that make it a criminal offense, with enhanced penalties, to abuse, neglect, or exploit a vulnerable individual;
- enact laws that provide victims and their legal representatives adequate civil procedures and remedies (including a shift in the burden of proof, award of attorney's fees and costs, expedited hearings, and posthumous recoveries for pain and suffering) against perpetrators of abuse, neglect, or exploitation; and
- enact laws making institutions liable for criminal and civil penalties for victimization of those in their care.

Thank you for this opportunity to express support for HB 2108.



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kcal ahca

February 10, 2010

Aging and Long Term Care Committee

Mr. Chairman and Committee members

On behalf of the Kansas Health Care Association and Kansas Center for Assisted Living membership and residents we would like to bring an important topic to your attention today.

The issue of financial exploitation is an unfortunate fact of being an older citizen. And sadly many in the nursing home and assisted living provider community see too many examples of their family members exploiting. When we turn to Adult Protective Services for help for these seniors, often, help is not found.

We would like to be a part of the solution to figure out how to assist frail and vulnerable residents with family members and others who do not have the best interest of the resident in mind. Because of this, we fully support HB 2108 which moves Adult Protective Services from the Department of Social and Rehabilitative Services to the Attorney General's office.

This alignment makes sense and provides the right enforcement power to assure that frail elders and in fact all adults in need get the help they deserve in dealing with abusive, neglectful or exploitive situations regardless of where they call home.

Thank you for accepting this testimony in support of HB2108 and always if you have any questions, do not hesitate to contact me.

Cindy Luxem  
Kansas Health Care Association/Kansas Center for Assisted Living

HOUSE AGING & LTC  
DATE: 2/10/11  
ATTACHMENT #8



# KANSAS GUARDIANSHIP PROGRAM

# KGP

3248 Kimball Ave., Manhattan KS 66503-0353  
[www.ksgprog.org](http://www.ksgprog.org)

(785) 587-8555 (785) 587-9626 Fax  
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Olathe KS 66062  
(913) 780-3300 (913) 780-3342 Fax

**Wichita Office**  
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Wichita KS 67202  
(316) 269-2525 (316) 269-2586 Fax

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Executive Director  
M. Jean Krahn

To: Representative Bob Bethell, Chair  
House Aging and Long Term Care Committee  
Re: HB 2108  
From: M. Jean Krahn, Executive Director  
Date: February 10, 2011

The Kansas Guardianship Program (KGP) is a volunteer-based model of providing guardianship or conservatorship services. We recruit, train and monitor community volunteers to serve as court appointed guardians or conservators for persons who meet program eligibility criteria. These individuals have limited financial resources (Medicaid recipients) and do not have family members willing or appropriate to assume guardianship or conservatorship responsibilities. In FY 2010, the KGP served 1500 individuals through the efforts of more than 820 volunteers.

The KGP was initiated in 1979 under the administration of Kansas Advocacy and Protective Services, Inc. The 1995 Kansas Legislature established the program as a separate public instrumentality pursuant to K.S.A. 74-9601 et seq., as amended. The program is governed by a seven member board of directors, six of whom are appointed by the Governor and one by the Chief Justice. The KGP is funded through State General Funds.

## The Model - A 32 Year Collaboration with Adult Protective and Legal Services

This model involves a collaborative working relationship with the Kansas Department of Social and Rehabilitation Services (SRS).

### Referrals for Guardianship or Conservatorship Nominees

Persons served by the KGP are identified by SRS Adult Protective Services and State Hospital social workers who make formal requests to the KGP for an approved volunteer to be nominated to the court for appointment as guardian or conservator. The needs of the potential ward and conservatee are matched with the abilities and interests of the volunteer.

### Legal Services Support

SRS legal services petitions the court for the trial to determine the need for an initial or successor guardianship or conservatorship. The District Court determines the need for and level of guardianship or conservatorship services and appoints the guardian or conservator.

Secretary of SRS serves as surety on the conservator bond (KSA 59-3069(g))

In 1987, the Legislature passed legislation which provided that the State would serve as surety on the bond of any conservator serving in the Kansas Guardianship Program. The purpose of the action was to save the cost of purchasing private conservator bonds required by statute.

KGP Training, Monitoring, Support and Assistance

Following the court appointment, the KGP provides training, monitoring, information and support to a volunteer throughout the duration of guardianship or conservatorship. This includes oversight of a written monthly reports of advocacy activities undertaken on behalf of the person, and, the availability of a monthly stipend for out-of-pocket expenses.

KGP brings to Kansas a unique and cost effective volunteer-based model of providing guardianship or conservatorship services. This cost effective collaboration represents a significant savings to the State of Kansas. In considering this proposed legislation, we believe it is critical to ensure for a continuing collaboration which reflects and enhances the current elements including:

- a referral process for guardian or conservator nominees,
- legal resources to petition for guardianship or conservatorship and other needed legal services,
- a conservator bonding resource,
- ongoing APS collaboration to assist in meeting the needs of the people served.



# INDEPENDENCE INCLUSION INNOVATION

February 10, 2011

TO: House Committee on Aging and Long Term Care

FR: Tom Laing, Executive Director, InterHab

RE: House Bill 2108, to relocate the adult protective services functions to the AG's office

Our organization wishes to thank Representative Bethell and the members of the committee for this hearing, and we appear today to offer neutral comment on House Bill 2108. We recognize HB 2108 is intended to have a beneficial effect on protecting the interests of persons who are vulnerable and who are covered by adult protective service laws. We support that sentiment, and urge that such intentionality be maintained as this issue is discussed, i.e. a focus on the persons who are the intended beneficiaries of such laws.

Many persons agree that current laws are not applied nor enforced as effectively as we all want it to be. Some of that is budgetary. The population of vulnerable citizens and the settings in which they live or are served has both grown faster than SRS capacity to manage the influx of reports. Additionally, some of the challenge results from the multiplicity of ways in which state laws address abuse, neglect and exploitation of vulnerable persons.

For any of our members who serve children and adults and seniors, they routinely intersect with multiple statutes, multiple offender registries, multiple administrative oversight agencies, and so on.

Consolidation, or at least coordination, of governance and policy is worthy of consideration, and we encourage it. A broader effort than that envisioned in 2108 may be appropriate.

We also encourage the committee to consider the implications of an APS move from SRS to the Attorney General's office. On one hand, the SRS role is primarily to assist persons in need of protective services, and recommend for penalties or prosecution those who commit acts of ANE against a vulnerable person. The attorney general's role is different. The Attorney General's role is not a social welfare role, i.e. it is not historically conversant with, nor accustomed to be responsive to, the lives and needs of persons who are in a vulnerable state. The attorney general's role is law enforcement.

We support the prosecution of crimes against vulnerable persons, but we equally support a government approach that is focused first on ameliorating their vulnerabilities, by connecting them with needed services, advising them of their rights, encouraging their voices to be heard on their own behalves and so on. To blend these distinctly different focal points into one balanced approach for this purpose would be ideal.

Among the populations we ask you to consider as you go forward (with this or any effort to improve the lives of vulnerable persons and protect them from abuse, neglect and exploitation) are those persons who are found to be self-negligent.

Findings of self-neglect do not result in prosecution, they result in a response from government to assist the person in ways that remedy the self-neglect, by connecting them with supportive local service networks, or with concerned families, and so on. Will the attorney general's office undertake that kind of remedial intervention upon such findings? If not we are concerned that such persons will be left in worsening conditions, when in fact the information is there to trigger the sometimes very modest assistance they might need.

We are grateful that this matter is one upon which the Legislature is engaged, and hope these hearings go forward. We will participate in, and urge all affected State and community agencies to work with legislators, state agencies and law enforcement personnel to assure that the next steps we take are as positive as we can make them for those who are intended to benefit from this bill.

The committee has bitten off a major policy challenge, and even if the work to improve the worth of APS laws extends into the second year of your term, it will be worth it.

Economic and Employment Support  
915 SW Harrison St., Suite 580-W  
Topeka, KS 66612



phone: 785-296-3349  
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www.srs@ks.gov

Robert Siedlecki, Acting Secretary  
Bobbi Mariani, Director

Department of Social and  
Rehabilitation Services

Sam Brownback, Governor

February 14, 2011

RE: Adult Abuse Central Registry checks

Dear Service Provider:

This letter is to advise you regarding changes in the Adult Abuse Central Registry check process. Effective immediately agencies identified in K.S.A. 65-6205 will be able to submit a Request for Information on individuals making an application for employment. These agencies are: Community Service Providers as defined in K.S.A. 39-1803, Mental Health Centers as defined in K.S.A. 65-4432 and Independent Living Agencies as defined in K.S.A. 65-5101. This Request for Information does not require the signature of the proposed employee.

For individuals and agencies not identified in K.S.A. 65-6205 a registry check may be conducted with a Release of Information signed by the individual on whom the check is going to be done.

Please find enclosed with this letter a copy of the Request for Information, ES-1021a and the Release of Information, ES-1021. These forms are also available on the SRS public website at: <http://www.srs.ks.gov/agency/ees/Pages/EESServices.aspx>. The mailing address for the forms is listed at the bottom of each form. Requests are typically processed within 48 hrs. and returned via mail.

If you have any questions regarding these changes please contact Bessie Walker at 785.368.8105.

Thank you,

Bessie Walker, LMSW

BW:bw  
enclosure

HOUSE AGING & LTC  
DATE: 2/10/11  
ATTACHMENT # 11

**KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES  
ADULT ABUSE, NEGLECT, EXPLOITATION CENTRAL REGISTRY  
REQUEST FOR INFORMATION**

All information released will be for the exclusive and confidential use of the agency requesting the information. The information provided by the applicant is true and correct to the best of the agency's knowledge.

\_\_\_\_\_ has applied for employment with our agency.

(PRINT ONLY)

Maiden Name and/or Other Names known by: \_\_\_\_\_  
(PRINT ONLY)

DOB: \_\_\_\_\_ SS#: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Sex: M or F  
(mm/dd/yyyy) (circle one)

**Agency Information (please print)**

Contact Person \_\_\_\_\_ Phone \_\_\_\_\_

Agency Name \_\_\_\_\_

Agency Mailing Address \_\_\_\_\_  
Street, City, State, Zip

**RETURN TO:** Adult Abuse Registry  
915 SW Harrison Room 551 South  
Topeka, Kansas 66612

**FOR CENTRAL OFFICE USE ONLY:**

Record found?

Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, finding: \_\_\_\_\_ AB \_\_\_\_\_ NG \_\_\_\_\_ EX \_\_\_\_\_ FA (Check all that apply)  
"Yes" indicates the individual is listed on the Adult Abuse, Neglect, Exploitation Registry

Perpetrator's Name: \_\_\_\_\_

Region: \_\_\_\_\_ Date Report Substantiated: \_\_\_\_\_

Initials: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Per statute 65-6205: Community Service Providers, Mental Health Centers and Independent Living Agencies may request information for the purpose of obtaining background information on applicants for employment.



**KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES  
ADULT ABUSE, NEGLECT, EXPLOITATION CENTRAL REGISTRY  
RELEASE OF INFORMATION**

I, \_\_\_\_\_, give permission for the release of information concerning  
(PRINT ONLY)

myself in the Adult Abuse, Neglect, Exploitation Central Registry to:

Contact Person(s)\* \_\_\_\_\_ Phone \_\_\_\_\_

Agency name \_\_\_\_\_

Agency mailing address \_\_\_\_\_

\*If you are requesting information about yourself please complete the address information below

Maiden Name and/or  
Other Names Known By: \_\_\_\_\_  
(PRINT ONLY)

Address: \_\_\_\_\_  
Street City State Zip Code

DOB: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ SS#: \_\_\_\_ - \_\_\_\_ - \_\_\_\_ Sex: M or F  
(mm/dd/yyyy) (circle one)

I understand that all information released will be for the exclusive and confidential use of the above named organization/person. I have read and understand this form and the information provided is true and correct to the best of my knowledge.

Signature: \_\_\_\_\_ Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
(mm/dd/yy)

**RETURN TO:**

Adult Abuse Registry  
915 SW Harrison Rm. 551 South  
Topeka, Kansas 66612

**FOR CENTRAL OFFICE USE ONLY:**

Record found?

Yes \_\_\_\_ No \_\_\_\_ If yes, finding: \_\_\_\_ AB \_\_\_\_ NG \_\_\_\_ EX \_\_\_\_ FA (Check all that apply)

"Yes" indicates the individual is listed on the adult abuse, neglect, exploitation registry.

Perpetrator's Name: \_\_\_\_\_

Region \_\_\_\_\_ Date Substantiated: \_\_\_\_\_

Initial: \_\_\_\_\_ Date: \_\_\_\_\_

<b>EES Policy Memo</b>  <b>No.</b> 11-09-02	<b>RE:</b> Adult Protective Services  This change is a result of changes to the process for requesting APS Adult Central Registry checks.				
<b>From:</b> Bobbi Mariani, Director, EES	<table border="1"> <tr> <td data-bbox="721 375 964 468"><b>Contact Person:</b></td> <td data-bbox="964 375 1520 468">Bessie L. Walker</td> </tr> <tr> <td data-bbox="721 468 964 560"><b>Where Posted on Web:</b></td> <td data-bbox="964 468 1520 560">KEESM 12000</td> </tr> </table>	<b>Contact Person:</b>	Bessie L. Walker	<b>Where Posted on Web:</b>	KEESM 12000
<b>Contact Person:</b>	Bessie L. Walker				
<b>Where Posted on Web:</b>	KEESM 12000				
<b>Date:</b> February 8, 2011	<table border="1"> <tr> <td data-bbox="721 581 964 657"><b>KEESM Reference</b></td> <td data-bbox="964 581 1520 657">KEESM 12400</td> </tr> </table>	<b>KEESM Reference</b>	KEESM 12400		
<b>KEESM Reference</b>	KEESM 12400				
<b>Primary SRS Area(s) Affected:</b> HR Registry Checks for APS	<b>Other Manual Reference</b>				

The purpose of this memo is to provide the field with information regarding changes in the way information requests are completed for the Adult Abuse Central Registry. These changes take place immediately and the changes will be reflected in the May 2011 KEESM manual revision.

#### **Background Information:**

Statute 65-6205 identifies agencies that may check the registry as part of a background employment check for potential employees. These agencies are: Community Service Providers as defined in K.S.A. 39-1803, Mental Health Centers as defined in K.S.A. 65-4432 and Independent Living Agencies as defined in K.S.A 65-5101.

#### **Specific Policy Changes Necessary:**

Effective on this date, for entities covered under K.S.A. 65-6205 a Request for Information may be completed and the request does not require a signature from the individual applying for employment. This change is reflected in EES form ES -1021a.

Individuals and agencies not identified in statute 65-6205 may submit a release of information for purposes of an employment background check using EES form ES – 1021.

This change does not impact the work performed by Adult Protective Services social workers.

#### **KEESM Section 12400**

##### **Accessing Information for the Central Registry of Substantiated Perpetrators**

The names of individuals listed in the registry are those on whom a substantiated finding has been made since July 1, 1997. No names are entered in the registry until due process for the perpetrator has been completed.

An agency identified in K.S.A. 65-6205 which provides services to adults age 18 or above may submit a request for information using ES-1021a. This request does not require a signature from the individual for which the inquiry is made.

## **KEESM Section 12400**

### **Accessing Information for the Central Registry of Substantiated Perpetrators**

The names of individuals listed in the registry are those on whom a substantiated finding has been made since July 1, 1997. No names are entered in the registry until due process for the perpetrator has been completed.

An agency identified in K.S.A. 65-6205 which provides services to adults age 18 or above may submit a request for information using ES-1021a. This request does not require a signature from the individual for which the inquiry is made.

Agencies not identified in K.S.A. 65-6205 may also conduct a background check on potential employees using the release of information form ES – 1021. This form needs to be signed by the person on whom the check is being completed.

The Registry is available to any individual who wishes to know if his/her name is on the registry. Individuals may submit a signed release of information to learn if their name is on the Adult Abuse Central Registry.

APS workers needing to verify a record for business reasons must do so with the permission of his/her supervisor. The designated staff in the Region responsible for placing names on the registry may verify a name per worker request, with supervisor approval.