

House Judiciary Committee – SB 128

- I. Background
 - a. Tim Burdick
 - b. Assistant Federal Defender, District of Kansas
 - c. Pd for over 25 years; 1000's of clients

- II. Atty/Client Confidentiality & Loyalty
 - a. Bedrock of our representation / entire legal system
 - i. Trust
 - ii. Me & those that work with me
 - b. The defense team is all bound by my obligation of confidentiality & loyalty
 - i. Investigator
 - ii. Paralegal
 - iii. Law student / intern
 - c. Not licensed social workers in Kansas
 - d. I don't think these statutes that the Kansas legislature created for mandatory reporting contemplated such a conflict between atty confidentiality obligation & a social worker's mandatory reporting obligation
 - i. They just didn't account for it
 - ii. Very narrow fix

- III. Importance of social workers to our practice (Holistic Defense)
 - a. Increasingly, more people with mental health issues & substance use issues are swept up by the criminal legal system.
 - b. We have clients under supervision (pretrial & supervised release)
 - i. We need to help them abide by conditions of supervision & reintegrate into society

- c. Licensed social workers work to connect our clients w/ community resources
 - i. This makes the community safer
 - ii. Reduces recidivism, keeps people from going back to prison, increases the likelihood of success
 - iii. Social workers not only support our clients, but also their families and the community as a whole
 - iv. It saves taxpayers money
 - 1. Imprisonment is expensive, community-based treatment costs a fraction of that.
 - 2. Our ability to have licensed social workers on our defense teams makes government more efficient & our legal system more effective.
- d. All of this requires trust
 - i. Clients must trust that they can be honest & open with the team
 - ii. Clients must also trust our social workers

IV. Work Around

- a. Current work around – waiver
- b. If you want to work with a social worker, you must waive confidentiality – that’s not sustainable.
 - i. Confusing, disruptive, & unworkable
- c. We recognize one fix could be to use unlicensed social workers
 - i. We want licensure, we want professionalism, we want standards, guardrails, & continuing education with our social workers. The State of Kansas should as well.
 - ii. We want a licensed social worker, so they can supervise social work interns in our office – to learn & make our practice better.
 - iii. The use of unlicensed social workers would discourage licensure
- d. SB 128 offers a very narrow exception

- i. Mandatory Reporting makes sense in many contexts for social workers
- ii. This narrow field, this narrow conflict in not one of them
- iii. SB 128 offers a simple, circumscribed solution

V. Holistic Defense

- a. Provides the best outcome for our clients
- b. In turn, successful clients (our goal) is the best outcome for the community
- c. Licensed SW are an integral part of that process