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Testimony in Support of House Bill 2062

Presented to the Senate Committee on Public Health and Welfare

**By Senior Assistant Attorney General Melissa G. Johnson
Chair, State Child Death Review Board**

March 16, 2021

Chair Hilderbrand and Members of the Committee:

Thank you for the opportunity to testify in support of HB 2062 on behalf of the State Child Death Review Board and Kansas Attorney General Derek Schmidt. As you may recall from earlier this session, this committee previously considered the language from HB 2062 as SB 83. While HB 2062 is before the committee for consideration today, it may be helpful to discuss the impact of the amendments to SB 83 as well and how those amendments could impact the work of the State Child Death Review Board.

As introduced, HB 2062 will accomplish four goals:

- Allow more information to be provided to Kansas law enforcement agencies and District and County Attorneys in cases of a child's death caused by abuse or neglect to assist them with conducting a complete investigation and/or reviewing the evidence for prosecution;
- Allow board members who are licensed professionals to report necessary information for a disciplinary complaint required by their professional licensure;
- Allow access to the Child Death Review Case Reporting System (CRS) for record keeping purposes as long as the information is de-identified; and
- Allow access for researchers, who have been approved by the United States Department of Health and Human Services (HHS) and signed a confidentiality agreement, to use de-identified information in approved research projects.

In its current form, K.S.A. 22a-243 has very limited exceptions on when information may be disclosed in order to maintain confidentiality. While it is imperative to retain the information

confidentially, the addition of the limited purposes above will assist the State Child Death Review Board in its goal of working to prevent future child deaths.

The existing statute prevents the Board from being able to provide information to law enforcement that they may not be aware of about a child's death that they are investigating. Similarly, the Board may have information that would change a prosecutors' decision on whether or not to charge someone in a specific case that we are currently restricted from providing to them. Additionally, by having access to the national database, we would be able to compare our data to those of surrounding states to assess areas that we could improve upon based on the lessons learned from others.

SB 83 would also accomplish the changes above but there were two amendments to SB 83 as it worked its way through the Senate. The Board is concerned about the potential consequences of those amendments.

Specifically, in SB 83, the amendment in committee added an additional requirement on when the information could be released to law enforcement. As amended, the information could only be released to law enforcement or prosecutors if the information was not previous available to law enforcement or the prosecuting attorney, the cause of death was from abuse or neglect **and** the board had knowledge of a law enforcement investigation involving the child. By adding this additional element, it would restrict the Board's ability to release our findings to law enforcement or prosecutors if there wasn't a law enforcement investigation. For example, if the Board believed a child died from abuse or neglect but law enforcement hadn't investigated the case because they believed it was a SIDS death, we would still be prevented from releasing that information to law enforcement or prosecutors with this amendment. The Board believes that the original language would allow us to provide our findings in abuse or neglect cases that may allow law enforcement to initiate a case in that situation.

The second amendment to SB 83 involved creating an exception to the confidentiality provision for "any entity established by a city or county for the express purpose of providing a local review of child deaths" for deaths occurring or if the child was a resident of that city or county. To the Board's knowledge there are no State-level Child Death Review Boards that function in that manner. Generally, if there are local child death review boards, data sharing is accomplished through a local team channeling information to the state level team. The language from this amendment could require the State Child Death Review Board to provide records to multiple teams within a single jurisdiction. Additionally, the State Child Death Review Board would have no ability to determine what happens to that information after it is shared or how it might be used by any of those locally established entities.

All child deaths are certainly a tragedy. However, they also provide an opportunity to honor the lives lost by ensuring that decision and policymakers in our state have access to the necessary information to attempt to prevent future child deaths. As written, House Bill 2062 is an important

step in that direction and will allow for the more effective use of the board's data. We are asking that the Committee report HB 2062 favorable and that it be passed by the Senate unamended.

I appreciate the opportunity to appear before the committee today and would be happy to answer any questions that the committee members may have.