

Kansas Senior Care Task Force; Elder and Dependent Abuse; Multidisciplinary Teams; Adult Protective Services; HB 2114

HB 2114 creates the Kansas Senior Care Task Force, creates and amends law regarding elder and dependent adult abuse multidisciplinary teams, and amends law regarding abuse, neglect, or financial exploitation of adults.

Kansas Senior Care Task Force

The bill establishes the Kansas Senior Care Task Force (Task Force). The bill outlines the topics to be studied by the Task Force, provides for the appointment and compensation of Task Force members, establishes the frequency and location of meetings, requires a preliminary and a final report to the Legislature, and requires the Kansas Department for Aging and Disability Services (KDADS) to provide the Task Force with data and information that is not prohibited or restricted from disclosure by state and federal law.

The Task Force sunsets on June 30, 2023.

Task Force Study Topics

The Task Force is required to study the following topics:

- Provision of care for Kansas seniors who suffer from Alzheimer’s disease, dementia, or other age-related mental health conditions;
- Administration of antipsychotic medication to adult care home residents;
- Safeguards to prevent abuse, neglect, and exploitation of seniors in the state;
- Adult care home surveys and fines;
- Funding and implementation of the Senior Care Act;
- Senior daycare resources in the state; and
- Rebalancing of home and community-based services.

Organization of Task Force

Membership. The Task Force will consist of the following 22 members:

- The chairperson of the Senate Committee on Public Health and Welfare;

- A member of the Senate Committee on Public Health and Welfare, appointed by the President of the Senate;
- A member of the Senate Committee on Public Health and Welfare, appointed by the Minority Leader of the Senate;
- The chairperson and ranking minority member of the House Committee on Children and Seniors;
- A member of the House Committee on Children and Seniors, appointed by the Speaker of the House;
- One representative of KDADS appointed by the Secretary for Aging and Disability Services;
- One representative of the Department of Health and Environment appointed by the Secretary of Health and Environment;
- The State Long-term Care Ombudsman or the State Long-term Care Ombudsman's designee;
- An elder law attorney, appointed by the Governor;
- One representative of the Area Agencies on Aging, appointed by the Secretary for Aging and Disability Services;
- One representative of the Kansas Adult Care Executives Association, appointed by the Governor;
- One representative of LeadingAge Kansas, appointed by LeadingAge Kansas;
- One representative of the Kansas Health Care Association, appointed by the Kansas Health Care Association;
- One representative of Kansas Advocates for Better Care, appointed by Kansas Advocates for Better Care;
- One representative of the Kansas Hospital Association, appointed by the Kansas Hospital Association;
- One representative of community mental health centers, appointed by the Association of Community Mental Health Centers of Kansas;
- One representative of an adult care home, appointed by the Secretary for Aging and Disability Services;

- One representative of the American Association of Retired Persons (AARP), appointed by AARP;
- One representative from the home and community-based services community, appointed by InterHab;
- One representative of the Alzheimer's Association, appointed by the Alzheimer's Association; and
- A consumer of Kansas senior services, appointed by the Speaker of the Silver Haired Legislature.

The bill requires the first members of the Task Force to be appointed on or before August 1, 2021. The appointing authorities are required to provide notice of the appointments to the Secretary for Aging and Disability Services on the date of such appointment.

Vacancies on the Task Force shall be filled by appointment and accompanied by notice to the Secretary for Aging and Disability Services in the manner provided for the original appointment.

Task force leadership and public records custodian. The chairperson of the House Committee on Children and Seniors will serve as the first Task Force chairperson, and the chairperson of the Senate Committee on Public Health and Welfare will serve as the first vice-chairperson. The chairperson and vice-chairperson positions will alternate annually at the first meeting of the Task Force in each calendar year.

The chairperson of the Task Force will serve as the official custodian of the public records of the Task Force.

Compensation. If approved by the Legislative Coordinating Council, Task Force members attending meetings authorized by the Task Force will receive compensation as provided under KSA 75-3223(e), except Task Force members employed by a state agency will be reimbursed by such state agency.

Meetings. The Task Force is authorized to meet in an open meeting at any time and at any place in the state upon the call of the chairperson. A majority of the voting members shall constitute a quorum. Any action by the Task Force shall require a motion adopted by a majority of voting members present when there is a quorum.

Support services. The bill requires the staff of the Office of Revisor of Statutes, the Kansas Legislative Research Department, and the Division of Legislative Administrative Services to provide assistance as requested by the Task Force.

Data and Information Provided

KDADS, upon the request of the Task Force, is required to provide data and information on senior services in the state that are not prohibited or restricted from disclosure by state or

federal law, including conditions imposed by federal law or rules and regulations for participation in federal programs administered by the Secretary for Aging and Disability Services.

Annual Report

On or before the beginning of the 2022 Legislative Session, the Task Force is required to submit a preliminary progress report to the Legislature detailing the Task Force's study. A final report of the Task Force's study is due to the Legislature on or before the beginning of the 2023 Legislative Session. The bill requires the report to include recommended improvements regarding the well-being of Kansas seniors, including recommended changes to state statutes, rules and regulations, policies, and programs.

Elder and Dependent Adult Abuse Multidisciplinary Teams

The bill creates and amends law regarding elder and dependent adult abuse multidisciplinary teams.

The bill requires the Attorney General to appoint a Kansas elder and dependent abuse multidisciplinary team coordinator (coordinator) and, within limits of available appropriations, appoint such additional staff as necessary to support the coordinator. The coordinator must facilitate the convening of an elder and dependent adult abuse multidisciplinary team (team) in each judicial district.

Each team shall be composed of the following individuals, or their designees:

- The sheriff of each county within the judicial district;
- The county or district attorney of each county within the judicial district;
- The Secretary for Children and Families;
- The Secretary for Aging and Disability Services; and
- The State Long-term Care Ombudsman.

The bill allows each team to also include the following individuals:

- A representative from any law enforcement agency not already included;
- A medical provider;
- A legal services provider;
- A housing provider or representative of elder or dependent adult housing facilities;

- The district coroner or a medical examiner;
- A representative of the financial services or banking industry;
- A representative of the Area Agencies on Aging; or
- Any other individual deemed necessary by the team.

Each team must coordinate investigations of elder and dependent adult abuse, as defined by the relevant statutes, and is authorized to identify opportunities within local jurisdictions to improve policies and procedures in the notification of and response to abuse, neglect, and exploitation of elder or dependent adults, within the limits of local resources.

Each team shall determine the manner and frequency of meetings and must meet at least quarterly. Meetings are not subject to the provisions of the Kansas Open Meetings Act.

Each team may create and enter into memorandums of understanding with any governmental agency or private entity deemed necessary by the team.

All documents, materials, and other information obtained by or discussed by a team are confidential and privileged and not subject to the Kansas Open Records Act. This records provision expires on July 1, 2026, unless the Legislature reviews and reenacts the provision prior to that date.

Beginning in 2022, the Attorney General must submit a report to the Legislature on or before the first day of each regular legislative session regarding the implementation and use of the teams.

The statute creating the Abuse, Neglect, and Exploitation of Persons Unit (Unit) in the Office of the Attorney General is amended to allow the Unit to assist in any investigation or discussion of any elder and dependent adult abuse multidisciplinary team, pursuant to the bill.

Abuse, Neglect, or Financial Exploitation of Adults

The bill amends law related to the abuse, neglect, or financial exploitation of adults, as follows.

Definitions

The bill amends definitions related to the abuse, neglect, or exploitation of certain adults to remove the definition of “fiduciary abuse,” remove references to fiduciary abuse and omission or deprivation of goods or services in the definition of “abuse,” rename “exploitation” to “financial exploitation,” and redefine “financial exploitation” as the unlawful or improper use, control, or withholding of an adult’s property, income, resources, or trust funds by any other person or entity in a manner that is not for the profit of or to the advantage of the adult, which includes, but is not limited to:

- The use of deception, intimidation, coercion, extortion, or undue influence by a person or entity to obtain or use an adult's property, income, resources, or trust funds in a manner for the profit of or to the advantage of such person or entity;
- The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship or conservatorship appointment, as it relates to the property, income, resources, or trust funds of the adult; or
- The obtainment or use of an adult's property, income, resources, or trust funds, without lawful authority, by a person or entity who knows or clearly should know the adult lacks the capacity to consent to the release or use of such adult's property, income, resources, or trust funds.

The bill defines "act" to refer to this statute and following statutes.

Mandatory Reporters

The bill amends the statute governing mandatory reporters of adult abuse, neglect, or exploitation to reorganize the list of mandatory reporters, update the titles of some mandatory reporters, and add the following to the list of mandatory reporters:

- Persons engaged in postgraduate training programs approved by the State Board of Healing Arts;
- Persons licensed by the Board of Examiners in Optometry to engage in the practice of optometry;
- School administrators or other employees of any Kansas educational institution that the adult is attending;
- Firefighters; and
- Court services officers, community corrections officers, and mediators.

The circumstances under which a mandatory reporter is required to report, and under which other persons may report, are amended to reflect changes in terminology made elsewhere in the bill.

Department for Children and Families Duties Upon Report; Authority of Secretary

The bill amends the statute governing the duties of the Department for Children and Families (DCF) upon receiving a report of adult abuse, neglect, or exploitation to increase from 30 to 60 working days the time DCF has to complete a thorough investigation and evaluation upon receiving a report of financial exploitation. [Note: The deadline for investigation and evaluation of reports of abuse or neglect remains at 30 working days.]

DCF's duty to make a personal visit with the involved adult upon receiving a report is changed to require a face-to-face visit.

The bill adds a provision requiring the Secretary for Children and Families to forward any substantiated finding of abuse, neglect, or financial exploitation alleged to have been committed by a provider of services licensed, registered, or otherwise authorized to provide services in Kansas to the appropriate state regulatory authority. Language allowing such authority to consider this finding in any disciplinary action taken with respect to such provider is moved from a continuing provision regarding forwarding of findings to this provision regarding forwarding of substantiated findings.

A provision requiring DCF to inform the complainant, upon request of the complainant, that an investigation has been made and, if the allegations were substantiated, that corrective measures will be taken, is amended to instead require DCF to inform the complainant, upon request of the complainant, that an investigation has been initiated.

A provision allowing DCF to inform the chief administrative officer of community facilities of confirmed findings of resident abuse, neglect, or exploitation is amended to require DCF to inform such officer, as well as chief administrative officers of nursing facilities, nursing facilities for mental health, intermediate care facilities for people with intellectual disability, assisted living facilities, residential health care facilities, and home plus, of substantiated findings of resident abuse, neglect, or financial exploitation.

This section, and a section addressing the authority of the Secretary for Children and Families under the act, are amended to reflect changes in terminology made by the bill.

Protective Services

The bill amends the statute governing when protective services are not provided to clarify language regarding consent and withdrawal of consent to such services.

Investigation of Adult Abuse; Agency Coordination and Cooperation

The bill amends a statute regarding investigation of adult abuse and agency coordination and cooperation regarding the same to reflect changes in terminology made by the bill.