

March 5, 2018

The Honorable Richard Wilborn, Chair
Senate Judiciary Committee

Reference: HB 2458 — Guardian/ Conservator/Mistreatment of Dependent Adult

Good morning Chairman Wilborn and Committee Members. My name is Ernest Kutzley and I am the Advocacy Director for AARP Kansas. AARP is a nonprofit, nonpartisan organization with more than 315,000 members living in Kansas. Thank you for this opportunity to submit testimony *in support of* House Bill 2458 as amended. We thank Attorney General Schmidt for bringing this bill forward.

AARP has a long history of fighting for protections against financial exploitation of seniors and has been on the forefront of advocacy in support of federal and state laws and regulations that prevent this type of abuse.

Kansas 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.

Elder abuse, like many other forms of domestic abuse, is an often hidden phenomenon that affects hundreds of thousands of older Americans. Older people are attractive targets because they often have sizable assets. However, older victims may be unable or unwilling to testify as a result of incapacity, fear, shame, or misguided loyalty.

Older Americans are disproportionately affected by financial fraud. Although older people make up just 12 percent of the population, they constitute a full 30 percent of the victims of consumer fraud crime. Women, who make up an increasingly larger percentage of the older population by virtue of a longer life expectancy, are the majority of the victims.

Protecting seniors against power of attorney and guardianship abuse has become increasingly important, and AARP encourages state efforts to strengthen these protections in state law.

Financial abuse of seniors can cause injures far beyond the pocketbook. This abuse frequently affects seniors' physical and emotional health. The state in many instances finds itself trying to pick up the pieces. Yet, efforts to prevent this abuse through the passage of stricter laws is often cost neutral to the states. The enactment of stronger safeguards against the abuse of elders is a win, win, situation for states, older adults and their families.

AARP supports the Uniform Law Commission's model legislation on power of attorney and guardianship jurisdiction. We believe that enactment of these standards will help curb elder financial abuse by providing protections against and remedies for abuse, as well as provide uniformity and mechanisms to resolve disputes among states.

States like Kansas are making significant progress in implementing new techniques for investigating and prosecuting abuse cases, increasing the chances for successful prosecutions.

AARP supports strong legal protections against financial exploitation and abuse. We believe Kansas should enact and enforce laws that make it a criminal offense, with enhanced penalties, to abuse, neglect, or exploit a vulnerable individual.

States should also:

- 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;
- enact laws making institutions liable for criminal and civil penalties for victimization of those in their care;

- provide victims and their legal representatives adequate civil procedures and remedies against perpetrators of abuse, neglect, or exploitation (including a shift in the burden of proof, award of attorney's fees and costs, expedited hearings, and posthumous recoveries for pain and suffering);
- support the formation and ongoing operation of multidisciplinary teams to address elder abuse issues that cannot be effectively resolved by a single discipline and train professionals from a variety of disciplines (including prosecutors, police officers, sheriffs, lawyers, employees of financial institutions, and APS agencies) to improve detection, investigation, and enforcement regarding cases of abuse, neglect, and exploitation.

We appreciate the opportunity to provide these comments and respectfully urge passage of HB 2458 as amended.

Thank you.