

KANSAS OFFICE of
REVISOR of STATUTES

LEGISLATURE of THE STATE of KANSAS
Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: House Committee on Judiciary
From: Natalie Scott, Assistant Revisor of Statutes
Date: January 28, 2020
Subject: Bill Brief on HB 2500

HB 2500 makes changes to the Kansas power of attorney act.

Section 1 amends K.S.A. 58-652 to provide that a power of attorney shall be deemed sufficient if it is in substantial compliance with the form set forth by the judicial council. It also requires the judicial council to develop a form to use for this section.

Section 2 amends K.S.A. 58-658 to provide that a third person is not responsible for determining whether the attorney in fact is exceeding or improperly exercising the attorney in fact's authority. It also provides that a third party is not relieved from a duty to report abuse, neglect or exploitation, and making such report will relieve the person from liability for not accepting a power of attorney. A third person may require the attorney in fact to provide certification under penalty of perjury of any factual matter concerning the principal, attorney in fact or power of attorney.

A new subsection (f) is added to section 2 to provide that a third person may not require an additional or different form. A new subsection (g) is added to provide that a third person shall accept a power of attorney unless certain conditions are met. A new subsection (h) is added to provide that a third person who refuses to accept a power of attorney is subject to a court order requiring acceptance. Reasonable attorney fees and costs may be awarded in such an action. A new subsection (i) is added to provide that an attorney in fact's certification shall be deemed sufficient if it is in substantial compliance with the form provided by the judicial council, and requires the judicial council to develop a form for use pursuant to this section.