



EQUALITY ♦ LAW ♦ JUSTICE

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Testimony in Support of HB 2249
House Social Services Budget Committee
February 23, 2021

Chairman Carpenter and members of the committee:

My name is Mike Burgess. I am the Director of Policy & Outreach at the Disability Rights Center of Kansas (DRC). DRC is a public interest legal advocacy organization that is part of a national network of federally mandated organizations empowered to advocate for Kansans with disabilities. DRC is the officially designated protection and advocacy system in Kansas. DRC is a private, 501(c)(3) nonprofit corporation, organizationally independent of state government and whose sole interest is the protection of the legal rights of Kansans with disabilities.

First I want to thank this Committee and the Kansas Legislature for raising the Protected Income Level (PIL) two years ago.

I also want to applaud the Chairman for requesting this bill and having this hearing today. Prior to two year's ago, the PIL had not been increased for more than a decade as Kansas was one of a very few states who had no methodology for calculating it.

The first step of fixing the PIL is to establish a methodology. You did that two years ago when you followed the lead of the vast majority of states by tying the PIL to a percentage of Supplemental Security Income (SSI). You specifically set the PIL at 150% of SSI two years ago, which is a great first step. At that time, half of the states set the PIL at 300% of SSI. However, we understand why you set the PIL at 150% of SSI two years ago. Kansas was just establishing a methodology and starting to get with the program, so to speak.

However, something remarkable has happened in the last two years since Kansas set the PIL at 150% of SSI. Since then, 14 more states have increased their PIL to 300% SSI, bringing the total to 38 states and the Washington DC (39 total). Now the vast majority of states set the PIL at 300%, paving the way for Kansas to do the same.

With the work you did two years ago, Kansas is now half-way toward meeting that "magic number" of 300% of SSI for the PIL. Setting PIL at 300% of SSI would break down a huge barrier preventing Kansans with disabilities on HCBS Waiver programs from becoming employed and diverting others from having to enter a nursing facility, both of which will dramatically save taxpayer dollars.

Given this changing national landscape, if all Kansas does is keep its PIL at 150% of SSI (which is what this bill would put into statute), Kansas would once again have one of the lowest and worst protected income levels in the nation.

Following the growing national consensus and moving the PIL to 300% of SSI is important for several important reasons. First, raising the PIL to 300% will help divert Kansans (who already qualify for a nursing facility) from having to enter an expensive nursing facility. It doesn't take diverting very many people at an average cost of over \$82,000 per year to offset the nominal cost raising the PIL to 300%. In fact, this will save many more taxpayer dollars in the long run. Plus, given the pandemic and the high

infection and death rates in nursing facilities, there are a whole host of reasons why Kansas must not set policy that forces people into a nursing facility right now. Keep in mind, when people live in the community they have to pay their mortgage, taxes, homeowners insurance, transportation costs, food, and anything else not covered by Medicaid out of the \$1,211 of their income they get to keep when you set the PIL at 150%.

Additionally, for other Kansans with disabilities who are attempting to move back into the workforce, having a PIL set at less than 300% of poverty serves as a barrier to employment.

Having a Protected Income Level (PIL) of anything less than 300% of SSI is a huge barrier to Kansans with disabilities becoming employed. The SSI amount in 2021 is \$794. In general, to qualify for an HCBS Waiver, your monthly income (after spend down) cannot be more than \$2,382 (which is 300% of SSI). Let me walk you through how having a PIL less than 300% is a huge barrier to employment. For sake of illustration, let's say you are a spinal cord injury survivor, a person with quadriplegia who uses a powerchair, and you have a job. Let's say after you satisfy your spend down requirements, the net amount of your income is \$2,382 per month. A key reason why you have a job and you can get out of bed in the morning are the Physical Disability HCBS Waiver services you receive (you have someone come over and help you transfer from bed to your powerchair, assist you with other transfers, like toileting, and do other personal care assistance so you can do your activities of daily living to get out of the house and keep your job).

Under this example with this bill where the PIL is set at 150% of SSI, you would have only \$1,211 of your \$2,382 income protected (150% of \$794 SSI + the \$20 disregard = \$1,211 is protected). That means you would WRITE A CHECK to the State of Kansas for the rest of your income – \$1,171 – which is the difference between the federally established level necessary to qualify for the HCBS Waiver (which is 300% of SSI, or \$2,382 per month) and the amount of your income that is “protected” (which under this bill in Kansas is 150% of SSI, or \$1,211 per month). Do you see how this is a huge barrier to employment? As a person with a disability why would you continue to work enough hours to earn \$2,382 per month? Quite simply, and logically, you wouldn't, because Kansas only protects \$1,211 of your income. For every dollar of income you make more than \$1,211 per month, you are giving each and every one of those dollars back to the State of Kansas.

By increasing the Protected Income Level (PIL) to 300% of SSI, like 38 other states (and DC) already do, you would provide a huge incentive for Kansans with disabilities on HCBS programs to work and maximize their employment. Kansans with disabilities are great, hard-working and reliable employees. Unfortunately, as long as the PIL is less than 300% of SSI, you will have a built in barrier to having Kansans with disabilities on HCBS Waivers working any amount over the Protected Income Level. For only \$4.44 million SGF, Kansas can join the other 38 states in raising the Protected Income Level to 300% of SSI, which is the same level the federal government sets to qualify for the HCBS Waivers. That would create one simplified and single “finish line” and provide a great incentive for Kansans with disabilities on HCBS Waivers to work. The single “finish line” is critically important – if you qualify for HCBS Waivers, you can work as much as you want while staying within the limits to maintain HCBS qualification. Raising PIL to 300% of SSI would eliminate the current red tape that is a huge disincentive to working for people with disabilities.

I have attached is a chart that lists the protected income levels for all 50 states in both 2018 and in 2021.

Thank you for the opportunity to support HB 2249 and encourage you to amend it to increase the PIL to 300% and then recommend it favorably as amended. I would be happy to stand for questions at the appropriate time.

Protected Income Level – 50 States (and District of Columbia)

- The table below compares data from 2018 and 2021.
- Currently 38 states and the District of Columbia are at 300% of SSI
- Only 7 have a lower PIL than Kansas (both at the current PIL of \$1,177 and at 150% SSI)
- 14 States have raised their PIL to 300% since 2018.

	2018	2021	Note
Alabama	\$2,250	\$2,382	
Alaska	\$1,656	\$2,382	*
Arizona	\$2,250	\$2,382	
Arkansas	\$2,250	\$2,382	
California	\$2,250	\$1,468	
Colorado	\$2,250	\$2,382	
Connecticut	\$2,250	\$2,382	
Delaware	\$1,875	\$1,985	250% of SSI
District of Columbia	\$2,250	\$2,382	
Florida	\$1,005	\$2,382	*
Georgia	\$750	\$2,382	*
Hawaii	\$1,005	\$1,224	
Idaho	\$750	\$2,402	
Illinois	\$750	\$1,063	
Indiana	\$2,250	\$2,382	
Iowa	\$2,250	\$2,382	
Kansas	\$727	\$1,157	
Kentucky	\$750	\$2,382	*
Louisiana	\$2,250	\$2,382	
Maine	\$1,005	\$2,382	*
Maryland	\$2,250	\$2,382	
Massachusetts	\$2,250	\$2,382	
Michigan	\$2,250	\$2,382	
Minnesota	\$990	\$2,382	*
Mississippi	\$2,250	\$2,382	
Missouri	\$1,311	\$1,370	
Montana	\$525	\$794	
Nebraska	\$1,005	\$1,073	
Nevada	\$2,250	\$2,382	
New Hampshire	\$2,250	\$2,382	
New Jersey	\$2,250	\$2,382	
New Mexico	\$2,250	\$2,382	
New York	\$842	\$884	
North Carolina	\$1,005	\$1,064	
North Dakota	\$835	\$883	
Ohio	\$1,463	\$2,382	*
Oklahoma	\$1,125	\$2,382	*
Oregon	\$2,000	\$2,382	*
Pennsylvania	\$2,250	\$2,382	

Rhode Island	\$1,005	\$2,382	*
South Carolina	\$2,250	\$2,382	
South Dakota	\$750	\$2,382	*
Tennessee	\$2,250	\$2,382	
Texas	\$2,250	\$2,382	
Utah	\$1,005	\$1,073/\$2,382	**
Vermont	\$1,025	\$2,382	*
Virginia	\$2,250	\$2,382	
Washington	\$1,005	\$2,382	*
West Virginia	\$750	\$2,382	*
Wisconsin	\$2,250	\$2,382	
Wyoming	\$2,250	\$2,382	

*States that have increased to 300% of SSI since 2018

**\$2,382 is only for their New Choices Waiver

2018 Data from document produced by the Kansas Legislative Research Department

2021 data from the American Council on Aging at

<https://www.medicaidplanningassistance.org/state-specific-medicaid-eligibility/>