

TESTIMONY  
House Bill 2034

By Barbara Hickert  
Kansas State Long-Term Care Ombudsman  
January 24, 2019

Chairman Barker and Members of the Committee,

I am Barbara Hickert, the Kansas State Long-Term Care Ombudsman and I thank you for allowing me to submit testimony in support of House Bill 2034. Our agency advocates for the rights of individuals residing in adult care homes throughout Kansas. This includes nursing facilities, as well as long-term care units of hospitals, assisted living facilities, home plus facilities, residential health care facilities, boarding care facilities, and adult day care centers.

Every year our network of Regional Ombudsmen and Certified Ombudsman Volunteers investigate and resolve complaints made by or on behalf of residents with the goal of enhancing their quality of life and quality of care. Complaints related to guardianship and other substitute decision-making instruments are consistently among the top 10 complaints investigated by our agency. Common complaints from people under guardianship include:

- The desire to live in their community of choice, rather than where the guardian has placed them,
- Restriction of visitors by the guardian,
- Restriction on the ability to go places they want to go (guardian restricts the ability to leave the premises), and
- The guardian does not know the person, never visits, and makes choices without including the person in the process.

While guardianship is sometimes necessary to protect a vulnerable adult, alternatives to guardianship should be explored and eliminated as viable options before the court grants a guardianship to allow for the maximum of amount of self-determination possible. Supported Decision-Making is one of those options which can provide help for older adults experiencing changes in memory and cognition.

Supported-Decision Making continues familiar and lifelong ways of making choices. It is very common throughout life to confer with family, friends, a physician, a financial planner, or a member of the clergy when making big decisions. Supported-Decision Making formalizes that familiar process as needs and capacity change. This bill does not interfere or change the established laws regarding guardianship or conservatorship. It is just another option for people to use. It does not take the place of other legally established documents such as powers of attorney or advance directive.

Our office believes this bill is needed:

- So that people who can make life decisions with support from others around them do not have the right taken away from them by unnecessary guardships or conservatorships.
- Because research shows that people who make more decisions about their lives are more involved in their community, more likely to maintain their own health, more likely to feel respected and dignified, and more likely to report satisfaction with their own lives.
- Because even people experiencing declining abilities due to conditions like Alzheimer's disease, still can and should maintain remaining skills by exercising them with support and encouragement.

Thank you for your consideration of HB 2304; we urge the committee to vote in favor of the bill.