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TO: **Senator Vicki Schmidt, Chairman**
Senator Barbara Bollier, Vice-Chairman
Senator Laura Kelly, Ranking Minority Member
Members of the Senate Committee on Public Health and Welfare

FROM: **Blake A. Shuart, Hutton & Hutton Law Firm, L.L.C., Wichita**

DATE: **February 14, 2017**

RE: **SB 126: Restrictions on persons interacting with child care facilities (SUPPORT)**

My name is Blake Shuart, and I am an attorney at Hutton & Hutton Law Firm, L.L.C., based in Wichita. Over the past several years, I have devoted significant time to representing parents of children who were killed or gravely injured due to the wrongdoing of in-home day care providers, and my clients and I continue to lobby on an ongoing basis for laws that will go further to protect the children of our state from unnecessary harm and injury. I write in support of SB 126, which will be heard in Committee on February 15th.

The goals that SB 126 seeks to accomplish are neither novel nor controversial. In summary, the bill seeks to amend K.S.A. 65-516 ("restrictions on persons maintaining or residing, working or volunteering at child care facility; criminal history check by secretary of health and environment; information to be provided sponsoring child placement agency") by fine-tuning some of the statutory language and also making four key additions.

Before I address these additions, it is important to note that the statute specifically applies to "child care facilities," which are defined under K.S.A. 65-503(c)(1)-(4), and include:

1. orphanages;
2. children's homes;
3. maternity homes;
4. facilities maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the sole purpose of providing the children with food or lodging, or both;

5. day care facilities (under K.S.A. 65-503(d), "day care facility" is defined as a child care facility that includes a day care home, preschool, child care center, school-age program or other facility that falls under the purview of Chapter 65, Article 5);
6. child placement agencies; and
7. detention homes for children under 16

Since the spectrum of child care facilities that fall under these definitions – and are thus implicated in the statute at issue, K.S.A. 65-516 – is a broad one, it is crucial that there be firm "restrictions on persons maintaining or residing, working or volunteering at child care facilities."

This is where SB 126 comes in. K.S.A. 65-516 begins by stating in subsection (a) that "no person shall knowingly maintain a child care facility if there resides, works or regularly volunteers any person who in this state or in other states or the federal government: ***." The statute then goes on to list various offenses/disqualifying events (these specific words are not used in the statute – this is my own characterization). SB 126 leaves all of the various offenses/disqualifying events in place, but makes the following four key additions:

First, it adds a new offense/disqualifying event as the new subsection (a)**(3): "has been convicted or adjudicated of a crime that requires registration as a sex offender under the Kansas offender registration act, K.S.A. 22-4901, *et seq.*, and amendments thereto, as a sex offender in any other state or as a sex offender on the national sex offender registry."** This is a common sense addition, and it is broad enough to encompass sex offenders from all 50 states who may attempt to affiliate themselves with child care facilities in Kansas. It is hard to envision a competing public policy interest that would override the clear benefit of incorporating this provision into the statute.

The second, third and fourth key additions are all inter-related. What is currently subsection (a)(3) under the statute becomes subsection (a)(4) with the addition addressed immediately above, and the following **bolded** additions are made in order to expand the scope of physical, mental or emotional abuse or neglect or sexual abuse from Kansas offenses to nationwide offenses:

(4) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse and who is listed in the child abuse and neglect registry maintained by the Kansas department for children and families pursuant to K.S.A. 2016 Supp. 38-2226, and amendments thereto, **or any similar child abuse and neglect registries maintained by any other state or the federal government** and;

(A) The person has failed to successfully complete a corrective action plan **that** had been deemed appropriate and approved by the Kansas department for children and families **or requirements of similar entities in any other state or the federal government**; or

(B) the record has not been expunged pursuant to rules and regulations adopted by the secretary for children and families **or similar entities in any other state or the federal government**;

Again, it is evident that these three additions are vital insofar as they will protect Kansas children in child care facilities from potential caretakers with prior histories of abuse or neglect in *any* state – not just in Kansas. This is very important policy for obvious reasons, and these are crucial additions to the statute.

By closely analyzing our Kansas statutes and regulations, and looking for voids or shortcomings that may legally empower wrongdoers and place our children at risk, this Committee is fulfilling one of its most important obligations: protecting Kansas children, who are not in a position to protect themselves. I commend Senator Taylor and all other involved Legislators on their great work with SB 126, and I am hopeful that the bill will receive this Committee's full support.

I appreciate the Committee's attention to these important issues, and thank you for your time.