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Neutral Testimony Regarding House Bill 2034

**Presented to the House Committee on Federal and State Affairs
By Deputy Attorney General Steve Karrer**

January 24, 2019

Chairman Barker and Members of the Committee:

Thank you for the opportunity to present this written neutral testimony on behalf of Kansas Attorney General Derek Schmidt on House Bill 2034.

Our understanding of HB 2034 is it will establish a new legal relationship that would allow individuals to enter into supported decision-making agreements. Our further understanding is under HB 2034, a supporter by agreement could assist in decision making, communicate such decisions to third parties, be present during discussions between third parties and a grantor, and finally access or obtain information about the grantor from third parties, including but not limited to protected health information and educational records.

Based upon this understanding of HB 2034, we would ask that if the committee sees fit to report HB 2034 out of committee, that it also propose an amendment to K.S.A. (2018 supp.) 21-5417, mistreatment of a dependent or elder adult, by adding support agreements to the list of legal relationships in 21-5417(a)(2). This would ensure that if an individual violated the supported-decision making agreement act and obtained a dependent or elders' property through such violation it would be a crime.

Any time there is a third person who occupies a position of trust and can speak for or obtain information on behalf of someone else, there is a potential for fraud. By amending 21-5417 as suggested, this committee would allow for criminal prosecution of such fraud if it involves use of a supported decision-making agreement to defraud an elderly or dependent adult.

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