Testimony on COVID-19 Liability Concerns and Possible Legislation to Mitigate Liability

Presented to the House Committee on the Judiciary By Kansas Attorney General Derek Schmidt

May 13, 2020

Chairman Patton, Ranking Minority Member Carmichael, and Members of the Committee:

Thank you for the opportunity to submit this written testimony as the Committee considers whether limitations on potential liability should be enacted by the legislature as our state recovers from the COVID-19 pandemic.

I recently joined in a letter to congressional leaders generally supporting the concept of enacting enhanced liability limitations during the period of recovery. As our economic engine begins firing again, it will be important that those who have carried us through this crisis and those who struggle to help us emerge not be unduly weighed down by liability risks brought by the disease. As we wrote, "In the wake of this unprecedented crisis, the extension of appropriate post-pandemic liability protections is needed at both the state and federal levels for businesses, manufacturers of personal protective equipment, first responders, healthcare workers, healthcare facilities, and members of law enforcement, among others."

As you consider what limitations may be appropriate for Kansas, I would encourage you to keep two recommendations in mind:

First, the authority of law enforcement and regulatory agencies should not be diminished nor should health and safety enforcement actions brought by government actors – whether criminal, civil or administrative – be precluded or impeded. This avenue for protecting the public interest and ensuring compliance with applicable legal requirements should be fully preserved.

Second, civil liability protections should not be provided for bad actors that intentionally violate legal requirements in disregard for public safety.

Thank you for considering my views on this subject.

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