



May 18, 2020

TO: Senator Rick Wilborn and  
Members of the Senate Judiciary Committee

FR: Matt Fletcher, Executive Director, InterHab

RE: IDD Service Provider Liability Concerns RE: COVID-19

Chairman Wilborn, and members of the committee, thank you for the opportunity to share the concerns of Kansas IDD service providers regarding exposure to liability due to the coronavirus pandemic. The members of InterHab provide services to Kansans with intellectual and developmental disabilities (IDD) across the state of Kansas. As such, they are engaged in the vital provision of services to this vulnerable population on a 24/7 basis.

It is important to recognize the potential for COVID-19 to affect the IDD population at significantly higher levels than the general population. Many Kansans with IDD also have physical health conditions that have been proven to be co-morbidity factors for heightened risk of complications from COVID-19. As such, Kansas IDD service providers have taken significant measures to keep the persons they serve healthy during the pandemic.

Kansas IDD providers will be heavily engaged in continuing measures to prevent the spread of COVID-19 among the IDD population long after restrictions are lifted on the general public. They will have to contend with returning significant numbers of the individuals they serve back into the community after months of social distancing. While Kansas IDD providers will continue to do everything within their power to keep their service populations safe, they will face increasing risks while doing so.

As this legislative committee returns to work, we understand that liability risks due to COVID-19 will be under consideration. We respectfully request that any efforts to provide liability immunity related to COVID-19 include the Kansas IDD service network. Such coverage would significantly aid Kansas IDD service providers as they navigate these unprecedented circumstances.

We appreciate this committee's work on this important issue, and would be happy to provide additional information upon request.

**Proposed elements for revisions to legislation:**

We would request that the Committee include organizations that provide community-based services to persons with disabilities within any definition of "health care provider" included in legislation that addresses exposure to liability due to COVID-19. The definition of health care provider would need to be revised to include a reference to IDD community service providers as defined in K.S.A. 39-2001, et seq. and K.A.R. 30-63-1, et seq. to make it expressly clear that immunity extends to these IDD providers.