

Date: March 11, 2021  
To: Rep. Fred Patton, Chairman  
House Judiciary Committee  
From: Barbara Hickert, Long-term Care Ombudsman  
Re: Testimony in support of House Bill 2122

Chairman Patton and Members of the Committee,

My name is Barbara Hickert, and I am an ombudsman representing the Office of State Long-Term Care Ombudsman. Our agency advocates for the rights of individuals residing in adult care homes throughout Kansas. This includes nursing facilities and long-term care units of hospitals, assisted living facilities, home plus facilities, residential health care facilities, and boarding care facilities.

Thank you for providing this hearing today and allowing me to provide this testimony supporting HB 2122.

Every year our office investigates and resolves complaints made by or on behalf of residents to help protect their rights and enhance their quality of life and quality of care. Our office regularly receives complaints related to guardianships and other substitute decision-makers inappropriately limiting the person's rights and making decisions that are inappropriate.

These actions deprive the resident of his/her right to make choices and negatively impact the person's sense of safety, autonomy, and self. These complaints 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,
- The inappropriate restriction of visitors by the guardian,
- The inappropriate 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 as required by our guardianship laws.

Supported-Decision Making (SDM) 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 clergy member when making big decisions. SDM formalizes that familiar process as needs and capacity change.

Supported Decision Making is not meant to replace measures such as a Power of Attorney or a living will. Rather SDM provides a way for the individual to participate in decision-making for as long as possible. Through SDM agreements, older persons would appoint legally recognized supporters to help them make their own decisions while also planning for their future through advance planning documents. While guardianship is sometimes necessary to protect a vulnerable adult, alternatives including SDM should be explored and eliminated as viable options before the court grants guardianship. Where guardianship is needed, incorporating SDM would allow for the maximum amount of self-determination possible.

Our office supports the passage of this bill because:

- Persons who can make life decisions with support from others around them do not have the right taken away from them by unnecessary guardianships or conservatorships.
- Research shows that persons who make more decisions about their lives are more involved in their community, maintain their health, feel respected and dignified, and report satisfaction with their own lives. They are also less likely to be the victim of abuse, neglect, or exploitation.
- Persons experiencing declining abilities due to conditions like Alzheimer's disease still can and should maintain their remaining skills by exercising them with support and encouragement.

Thank you for the opportunity for our agency to provide our support for HB 2122.