

Introduction. The **House Judiciary Committee** met at **3:30PM** on **January 17, 2024**, in **Room 582-N**. The Committee heard **Bill Introductions** followed by a **Hearing** on **HB2345 – Supported Decision-Making Agreements Act**.

Hearing HB2345 – Supported Decision-Making Agreements Act

Overview

- House Bill 2345 adults that cannot support themselves, to be provided with a supporter, must have agreement. These supporters can help these adults, but the adults do not have to take the advice of the supporters.
- Question Carmichael: Informational type hearing which was same as last year?
 - Yes.

Proponents

Lorie Barnes, mother of son with mental illness, son now deceased.

- Adult children for mental health, bipolar, depression, ADHD, this would be beneficial. As an adult parent didn't have control for needs, son tried on own, took his life at the age of 21.
- As a senior in high school, 18, he would've signed such an agreement.
- People in a similar situation would benefit from this.

Stephanie Coleman, mother of son with autism

- Son diagnosed with autism, guardianship was given, but didn't need it, just no options given.
- Determinantal having guardianship, now he makes decision on his own.
- Option to learn about supportive decision making.
 - Passing the bill would help.

Questions:

- Carmichael: Joseph testimony, existing laws for power of attorney, why is the power of attorney insufficient?
 - Supportive decision making is different, agreement in-line, versus, power of attorney is for one person.

Colin Olenick, individual with disability

- Make it easier, but informal with dad for supportive decision making, he has power of attorney, but dad could do whatever he wants with that.
- Financial decisions dad helps, but medical he does on own.
- Bill would give more rights to him, but still have help with decision making.

Callie Simmons, Policy and Program Analyst for KCDD

- KCDD supports the Bill.
- Working with families and people in the state for people to know about.
- A tool for people to make decisions.
- Does not alter guardianship, this should be a last resort.

- Avoid unnecessary guardianship.

Questions:

- Osman: Why is this superior to power of attorney? Ignored at any time without any legal?
 - Self-determination allows individuals to select the people in their life to make those decisions.
 - Who they want to seek help from when making decisions.
- Carmichael: What is inadequate with durable power of attorney and springing durable power of attorney?
 - Nothing wrong but adds on to what is available.
 - Facilitates them to have self-determined lives, to have people they choose, gives them flexibility.

Mike Burgess, Director of Systems and Partner Outreach at Disability Rights Center of Kansas

- Having the right tools, missing piece
- A lot of states have already done this.
- Advice on housing, employment, eating healthily, etc.
- Have the right to ignore the advice.
- Unnecessary guardianship, too expensive and sometimes not the right tool.

Questions:

- Rep Ralph: Signing contract with person with diminished capacity how is that a valid contract?
 - A court would have to make that determination, don't know if tools work the way we want, like guardianship. A court says no to guardianship cause threshold does not reach; therefore, an individual cannot have guardianship.
- Rep Carmichael: KS Bar and KS Bank Association, why are they wrong about?
 - Listen to concerns and come up with a compromise and not sure about their full concerns.

Opponents

Joe Melina, representative of the Kansas Bar Association

- This bill doesn't get all the way there.
- Issues:
 - You can already do this, have alternatives.
 - Confusion has on the guardianship, have more than one party made decisions.
 - Termination portion, principle and supporter can terminate whenever, agreement is made, but then principle is then incapacitated, or the supporter wants to be kept. Then a lawsuit is waiting to happen.
 - Created two groups legal, immunity for one but not the other.

Questions:

- Carmichael: What efforts have been made to help with these issues?
 - The language is strange and needs better understanding.
- Vaugh: Have these conflicts come up in these other states?
 - None that are aware of.

Kelly VanZwoll, representative of Kansas Banker Association

- Talked to a group in the past and never came to agreement but been a while.
- Limits the financial industry to accept certain transactions.
- Additional language is required for this Bill.
 - The duty should be fiduciary care.
 - Incapacitate language, the bank doesn't know until it has notice, current Bill doesn't this in it.
 - Could be an avenue for elder fraud.