

House Judiciary Committee Meeting
Wednesday, March 13, 1963

The House Judiciary Committee met Wednesday, March 13, 1963, in Room 523 at 8:45 A.M. with Chairman Clyde Hill presiding. Fourteen members were present. Members Arthur, Briggs, Davis, Fatzer, Van Cleave and Williams were absent. Present for a hearing concerning House Bills 411, 412 and 413 were Paul Shanahan, Secretary of State, and W. Ray Stewart. Present concerning House Bills 342, 346, 347 and 348 were Marvin E. Larson, State Director of Social Welfare, and Dr. Robert A. Haines, Director of Institutions of Social Welfare.

Chairman Hill called the meeting to order.

W. Ray Stewart spoke concerning House Bill No. 411, an act relating to the names of corporations organized in this state. He stated that the present law permits the use of any name a corporation might select. If they should select the same name which another corporation has, it causes confusion. This proposed law would prevent that.

Paul Shanahan, Secretary of State, stated that the Senate passed Senate Bill No. 201, concerning the registration and reservation of trade names. If this goes into law, then we certainly should restrict corporations from using the same type of name. He went on to state that most states do not permit a similar or confusingly similar type of name.

Chairman Hill asked if there were any questions.

Mr. Malone asked if it would do away with using things that don't reflect the purpose of the corporation. Mr. Shanahan stated that it would not.

Mr. Skoog stated that he thought that probably was the law. Both are involved with this recommendation of reserving names. He asked, if the committee didn't think that this reserving names was in the best interest right now, if it would still be wise to pass House Bill No. 411 and strike out that part concerning registering names.

Mr. Liebert asked where this particular statute was taken from. Mr. Shanahan stated that most states have this type of law. Mr. Liebert gave reference to lines 2 and 3 of Section 1. He asked if this means there would be no restriction on that kind of a name. Mr. Skoog gave an example of such a name. Mr. Griffith stated that it is rather like a title to a bill. You have to make it broad enough to cover everything.

Mr. Stewart stated that this proposed statute is basically taken from the model code of the Bar Association. He said the intent is to alleviate deception in corporation names. Mr. Liebert stated that the

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last makes it quite clear to refuse to give a name which is deceptively similar. He stated it is the first part which he thinks is going to present the trouble. A name can imply so many other things.

Mr. Skoog asked if they have any examples of misuses that have come to their attention over the years. Mr. Shanahan stated they have not had any difficulty with this, but the deceptive names have caused some trouble.

Chairman Hill asked if there were any other questions or comments.

Mr. Stewart stated that the way it is now, if we have one corporation under a specific name, they advise them accordingly and suggest they change it. It could create a lot of problems. Basically they would have a common law action for an infringement or misuse of their name now.

Mr. Crossan asked if there was a duplication if the court restrained them from the use. Mr. Edwards said no. With this, he could refuse to let them register that name. Mr. Crossan stated the court held it didn't make any difference if it is a purely local outfit in two cities. Mr. Stewart stated this would not prevent them from taking common law action. Mr. Crossan asked what the point is. Mr. Stewart stated that another corporation cannot come in and take that same name. Mr. Crossan said if they are not in competition, it doesn't make any difference. Mr. Stewart said it causes a great deal of confusion from the mechanical element.

Mr. Shanahan explained House Bill No. 412, an act relating to foreign corporations; pertaining to application to engage in business in this state; and to service of process; amending section 17-501 of the General Statutes Supplement of 1961, and repealing said original section, and House Bill No. 413, an act relating to corporations; pertaining to reservation of names and providing a procedure therefor; and for the transfer thereof and prescribing fees in connection therewith.

Chairman Hill asked if there were any questions.

Mr. Skoog asked how much this will do to breed litigation. He wanted to know what the possibilities are of somebody trying to reserve a name and selling it to somebody who plans to use it.

Mr. Stewart said that basically this is taken from the model code. The idea is that you don't want to use a name which somebody else has. There is a danger of getting into a law suit. He went on to explain how this bill would work. He pointed out what difficulties occur. He said that what Mr. Skoog pointed out, might very well occur. The competition could run in and reserve the name, but with a 60 day period,

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they aren't going to gain much. Mr. Skoog said that there isn't as much of an opportunity of this now, as this proposed law would permit.

Chairman Hill asked if there were any other questions or comments. Mr. Shanahan stated he doesn't anticipate much difficulty of this type.

Mr. Euler asked if some of this possible trouble could be eliminated if it were made nonassignable. Mr. Liebert stated that you would want it assignable. Mr. Stewart explained why it would need to be assignable.

Chairman Hill asked if there were any further questions or comments for discussion while the experts were present. Mr. Skoog stated House Bill No. 412 would do away with the stick men.

Chairman Hill thanked the gentlemen for appearing. He then introduced Marvin E. Larson, State Director of Social Welfare, and Dr. Robert A. Haines, Director of Institutions of Social Welfare.

Mr. Larson explained House Bill No. 342, an act relating to social welfare; providing for the relinquishing of children to the state department of social welfare and the termination of parental rights in such children. He said this is what the department calls a direct relinquishment law. He explained how it can be done presently. The child has to be declared dependent and neglected in a hearing. He stated this bill does provide protection because the relinquishment is done before a judge.

Chairman Hill asked if they have any working relationships with any of the outside organizations which would permit them to take a relinquishment. Mr. Larson explained that if a child is relinquished to them, then it is their ward and their responsibility. They occasionally get a child who turns out unplaceable for adoption. Then, this agency is left with the care of the child. They can find the child dependent and neglected and have the child placed as a state ward.

Mr. Larson said the special problem here is a mother who has decided this is the best plan for her child. If this is the plan worked out, there isn't any way to get the child into the state welfare without the proceedings.

Chairman Hill stated there has been some objection in past years from the outside services. He asked if any of that has been resolved. Mr. Larson stated he thinks it has been resolved.

Mr. Larson gave a little background concerning House Bill No. 346, an act relating to state institutions under the jurisdiction of

the department of social welfare, amending sections 39-111, 39-110, 75-3307 and 76-1228 of the General Statutes of 1949, and repealing said original sections, and also repealing sections 76-1220, 76-1221, 76-1230, 76-1234 and 76-1235 of the General Statutes of 1949 and section 76-1414 of the General Statutes Supplement of 1961, House Bill No. 347, an act relating to the probate code; pertaining to mentally ill persons and their hospitalization; amending sections 59-2007, 59-2268, 59-2274, 59-2276, 76-1222 and 76-1223 of the General Statutes of 1949 and sections 59-2003, 59-2260, 59-2261, 59-2264 and 59-2271 of the General Statutes Supplement of 1961, and repealing said original sections and also repealing sections 59-2004, 59-2005, 59-2262, 59-2263, 59-2272, 76-1227 and 76-1233 of the General Statutes of 1949 and sections 59-2201 and 59-2202 of the General Statutes Supplement of 1961, and House Bill No. 348, an act relating to the probate code, defining incompetent persons and providing a procedure for the appointment of guardians; amending sections 59-1801 and 59-2265 of the General Statutes of 1949, and repealing said original sections. He stated we had a good basic law that needed to be changed in the kinds of words used. The old law makes mentally ill persons sound like criminals. He stated that these bills separate the proceedings which find a person mentally ill and which find him incompetent. The law does provide that the two proceedings can be confined.

Dr. Haines gave some background concerning House Bill No. 346. Mr. Larson pointed out that there has been some objection to the new language in Section 4, lines 27 through 35, and he agrees it should be taken out.

Mr. Larson said that Section 8 contains relatively minor changes. This is just about as it was, but takes out mysterious death. Section 9 is very much like the old law.

Chairman Hill asked if there were any questions concerning House Bill No. 346. There were no questions.

Mr. Larson stated that House Bill No. 347 starts out with the definitions. This simply makes the bill easier to use. It provides a constitutional reason to deprive a person of their liberty. This is a difficult thing to work out. This does have the approval of the Kansas Psychiatric Association and the Kansas Medical Association. It distinguishes between hospitals so that the judge isn't limited to one thing. The old procedure was called a commitment law. This is unfortunate language. There are a number of ways for hospitalization. He went on to explain this. He stated that Section 4 doesn't make much modification of existing law. The remainder of it provides for the red tape which is necessary.

Section 5 is the 90 day referral section modified to provide notice and to get rid of bad language which was in the old act.

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Mr. Liebert pointed out that the right of a jury has been eliminated. Mr. Larson stated that most people think there shouldn't be a jury in hospital law. It is called a commission. Mr. Crossan objected very strongly to the wording "commission". Mr. Larson said there would be no strong feeling concerning changing "commission" back to "jury". Mr. Crossan stated that you want to be able to demand a right to be brought home.

Mr. Larson went on to explain. He said this provides you explain the nature of a hearing to the patient. He is supplied with notice. He presented a point of interest concerning working on this 4 years ago and working on this bill 16 years ago.

Mr. Larson said they put it in the statute that the hospital gets to the business of determining what his illness is. If they find him mentally ill, then they must get to the business of the hearing. After 90 days, if he is still mentally ill, he signs a voluntary application. At any time during this 90 days, he can ask for a hearing. Mr. Liebert stated this procedure seems to be a step in the right direction, but asked if they are set up to do this sort of thing. He asked if there is sufficient staff and money available to do this type of thing. Mr. Larson stated they are approaching a solution. The court can refer him to a general hospital.

Mr. Liebert stated that the problem is they are trying to do all of this, but don't have the facilities. Dr. Haines said this will provide the treatment in other than the state hospitals. Mr. Skoog pointed out that temporary holdings can be done in hospitals rather than jails.

Mr. Larson stated that some communities just aren't equipped at all. He went on to state that Section 13 is all new. He read and explained this section.

Chairman Hill asked the gentlemen appearing if they would be able to come back and continue this hearing Friday, March 15, 1963, at 8:30 A.M. They will appear and continue at that time. Mr. Hill thanked them for appearing.

Chairman Hill announced that there will be a hearing concerning House Bills 427, 417, 286 and 291 Thursday, March 14, 1963.

The meeting adjourned at 10:00 A.M. The next regular meeting will be held Thursday, March 14, 1963, at 8:30 A.M. in Room 523.

Respectfully submitted,
Clyde Hill, Chairman

Minutes approved: