

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

Held in Room 519 S, at the Statehouse at 10:00 a. ~~m/p.m.~~, on February 27, 19 79.

All members were present except:

The next meeting of the Committee will be held at 5:45 ~~p.m.~~ p. m., on February 27, 19 79.

~~These minutes of the meeting held on xxx were considered, corrected and approved.~~

*Christine J. Homroy*  
Chairman

The conferees appearing before the Committee were:

- Ellen Richardson - Kansas Children's Service League
- Patricia S. Ireland - Ks. Depart. of Social and Rehabilitation Services
- Mary Mittelstadt - Committee for the Prevention of Child Abuse
- Jan Scott - National Association of Social Workers
- Pat Jones - Representing herself.
- Charles Hamm - Kansas Dept. of Social and Rehabilitation Services
- Dr. Robert Harder - Kansas Dept. of Social and Rehabilitation Services
- Steve Henry - Kansas Association of School Psychologists
- Dr. M. A. McGhehey - Kansas Association of School Boards

Staff present:

- Art Griggs - Revisor of Statutes
- Jerry Stephens - Legislative Research Department
- Wayne Morris - Legislative Research Department

The chairman explained that the bills to be heard today and tomorrow were ones that were introduced at the request of the governor's office resulting from the Governor's Task Force on Youth meetings during 1978. The chairman announced that he had requested the governor's office to rank the bills according to the priority that the governor's office had for them, and that the bills being heard today were those with the highest priority, and the bills to be heard tomorrow were the bills that the governor's office had ranked next in priority.

Senate Bill No. 382 - Termination of parental rights.

Ellen Richardson testified in support of the bill. A copy of her statement is attached. She stated the bill would put parents on notice as to what specific kinds of behavior or home conditions constitute a danger to the child and will merit court action.

Patricia S. Ireland from SRS spoke in support of the bill. Committee discussion with her followed. She explained situations where children cannot be returned to their homes and are put in foster care. She feels the bill will help the judges who are

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

SB 382 continued -

not familiar with these situations. During committee discussion with her, it was pointed out that the bill would change the doctrine of parental rights to a test of what would be in the children's best interest.

Mary Mittelstadt from the Committee for the Prevention of Child Abuse testified in support of the bill; a copy of her statement is attached. She stated the bill seeks a means in which the child is the primary consideration in deciding termination of parental rights and establishes a procedure to aid in this decision.

Jan Scott, of the National Association of Social Workers, testified in support of the bill. A copy of her statement is attached.

Pat Jones, representing herself, testified that she is a concerned parent and that a bill is needed that will clarify <sup>for</sup> those who work with children in deep need. The time limit factor is important; children should be considered as to their hopes and feelings and needs. Committee discussion with her followed.

Charles Hamm testified in support of the bill, and pointed out that the department of SRS favored the passage of Senate Bill 113.

Senate Bill No. 381 - Appeals in juvenile code severance of parental rights cases. Mr. Hamm testified in support of the bill, which could facilitate the handling of cases.

Senate Bill No. 377 - Precedence in appeals of adoption orders. Charles Hamm testified in support of this bill, and pointed out that it is identical in its thrust to Senate Bill 381.

Senate Bill No. 379 - Juvenile code, educational needs assessments. Dr. Harder testified in support of the bill. He said this would attempt to establish when a child comes into the juvenile justice system, the court would have available the educational assessment. Committee discussion with him followed.

Steve Henry, a school psychologist, testified children who come before the courts have learning problems; many people feel this is one cause of their difficulties. He suggested that the bill be amended to refer to "comprehensive evaluation". Committee discussion with him followed.

Dr. Mc Ghehey testified that the Association of School Boards has reservations about the bill, and suggested that the terminology be changed to "determination of grade placement".

The meeting adjourned.

These minutes were read and approved  
by the committee on 4-25-79.

GUESTS

## SENATE JUDICIARY COMMITTEE

NAME

ADDRESS

ORGANIZATION

Dana Scott

~~Topoka~~

DASW

Mary Mittelstadt

Topoka

KCPA

Chris Deschner

Topoka

Foster Parents Assoc.

Ruby Thornton

Topoka

Foster Parents Assoc.

Ellen Richardson

Topoka

Ks. Children's Service League

Clicia Schodrey

Topoka

Sp. Action for Children

Pat Jones

Topoka

Self

Steve Henry

3120 Sena Dr Topoka

Ks. Assoc. for School Psychologists

M. Wells

5600 W. 6th

WIBW-TV

Patricia S. Ireland

779 Topoka

Soc. &amp; Rehab. Services

Rebecca D. Healy

3701 W. W. 37 Ter

Shawnee Co. Foster Parent Assoc.

Johnny Mizner

Smith W. W. Bldg TSH

SRS - Air Coy

Charles W. Hamman

5th St. Office Bldg

SRS

Robert Hamman

" " "

SRS

Susan Lueger

" " "

SRS

James Hall

Topoka

WREN - Radio

Paul Johnson

"

FLS

MAMcGHEHEN

Topoka

KASB

Linda Kohlerman

Lawrence

KSNA

Jodie Winchester

Lawrence

KSNA

Peggy Sealy

Lawrence

KSNA

Carolyn Frost

Pittsburg

A.S.K

Carlton Craft

Pittsburg

A.S.K

Jesse M. Kohler

Lawrence

KSNA

Marilyn L. Chamberlain

Lawrence

KSNA

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Daisy Lo Salomon	Lawrence	KSNA - guest
Marilyn Bradt	Lawrence	LWVIE
Ann Hebbeger	B. P.	L. W. V. K.
Mary Siscoone	Hutchinson	student
Sorathy Querkaw	Buhler	student
Carolyn Cooper	Nickerson, Ks	Nurses student
Carl Gregory	Hutchinson, Ks.	Nursing Student
Dorothy Brothers	Lone Ks	Nursing Student.
Carl Salzer	Topeka, Ks.	RN Instructor
Constance Buerger	Topeka Ks.	RN.
Leah R. Bell	Topeka KS	RN.
Janice Garrett	Emporia, Ks.	student RN
Dorothy Clark	Manhattan, Ks	R. N. Instructor
Leta Hill	RR #1, Kynsine Ks	Hutchinson Hosp. Sch of Nursing
Florence Lee	R1 Nickerson, Ks	Hutchinson Hosp. Sch of Nursing
Mary Stewart, Rn.	1213 E 36th St, Topeka, ks	Instructor Nu. Sch of Nursing



**KANSAS CHILDREN'S SERVICE LEAGUE**

— Established in 1893 —

SENATE JUDICIARY COMMITTEE

February 27, 1979

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Jery Coppel

Mr. Chairman and Members of the Committee:

The Kansas Children's Service League urges your favorable review of SB 382.

As the Governor's Task Force on the Problems of Youth noted in its final report: "The present termination laws are very vague, offering little direction to the judiciary for appropriate termination. The statutes also do not help the court decide when to remove a child from the home for his or her protection or when to return the child to the home."

As an agency which has served the families of Kansas for almost ninety years, we have found that the vague statute now in effect makes it very difficult to work with parents who, because of unfortunate circumstances, have had their children temporarily removed from the home. A statute such as that proposed in SB 382 would put parents on notice as to what specific kinds of behavior or home conditions constitute a danger to the child and will merit court action. The statute would greatly assist our staff in their efforts to increase the parents' capacity for child care in specific areas of concern.

Submitted by

*Ellen Richardson*  
Ellen Richardson,  
Child Advocate



JUDICIARY COMMITTEE  
STATEMENT OF  
MARY MITTELSTADT

I am Mary Mittelstadt, a representative from the Kansas Committee for the Prevention of Child Abuse. We strongly support Senate Bill 382 as it affirms permanency in a home environment for children adjudged deprived. We believe this bill to be beneficial as its major consideration is the right of the child to have his needs the primary focus in the decision concerning the termination of parental rights. The court is required to consider "reasonable alternatives available to effect adjustment of the parents conduct, condition, or circumstances which may otherwise render the parent unfit, . . ." But more importantly, it is required to use its discretion in choosing the laternative "least determental" to the child. We feel that in some cases, though the parent or parents be deemed unfit, termination of parental rights may be more harmful than beneficial and as such, discretion accorded the court in this bill is vital to children placed in foster care in the state of Kansas.

A major reason for our support is the consideration of abuse in the termination of parental rights. Abuse is a pattern which may be changed whether it be in the form of physical or psychological abuse, abandonment or neglect. A strong area of this bill is that it establishes time guidelines according to the child's age, his perception of time, and his needs and/or is not to exceed one year. We feel that these guidelines should help to motivate parents to work for thsi children's return and does not leave the child in limbo for an indefinite period of time. Because parents are forewarned through such a law of the conditions, circumstances, and conduct needed for the children's return to home, and through services available to parents to help meet these, within the guidelines professionals may work with both the parent and child and formulate an opinion as to if the situation is changing, whether the child can be returned to his parents, or if in the future he may be able to return home. These guidelines are flexible to suit the child's needs. The ambiguity of the present law does not allow for this consideration and by its lack of time guidelines does not motivate the parents or parent to meet the requirements necessary for the return of the child to his home.

Some may perceive a threat in this bill in that parents may be deemed unfit or lacking in parenting skills. In our society, parents are expected to know what is right for this children and how to raise them in a healthy environment. No parent always know what is right for his child. We feel that this threat is unwarranted in that the court addresses itself to the child's needs and the means for parents to achieve those needs by affecting adjustments through various alternatives available to them. The focus is on the child and not the parent.

Abuse, abandonment, and neglect are real problems and are much more prevalent than most realize. This bill seeks to help the child in foster care because of these conditions or various others in a manner that is best for him. This bill recognizes that children may be in and out of foster care of placed in foster care indefinitely. It seeks a means in which the child is the primary consideration in deciding termination of parental rights and establishes a procedure to aid in this decision. It seeks the best interest of the child. For these reasons, we support SB382.

SENATE JUDICIARY COMMITTEE

Testimony of

Jan Scott  
Executive Secretary  
National Association of Social Workers  
Kansas Chapter

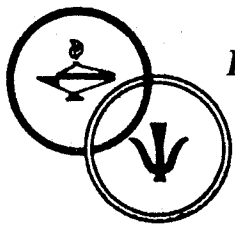
As a representative of the National Association of Social Workers, I want to state that we strongly support Senate Bill 382. It is our belief that every child has a right to continuous nurturing care and consistent parental controls and expectations. This right is based on the expectations that parents receive sufficient preparation and support in family living so the family experience can be conducive to healthy development. When there is a decision to be made concerning who the child's parents may be, the child is entitled to participate in the decision appropriate to his or her age and the capacity to understand the situation. The child's family should be determined by the child's psychological parents, who may or may not be biological or legal parents, and who may or may not have current physical or legal custody. It should not be determined by arbitrary community definitions of adequate parents. We want to stress this does not deny the rights of natural parents.

Senate Bill 382 places the primary consideration for the termination of parental rights on the needs of the child. It requires that the court look at alternatives available and seek the course most beneficial to the child and the parents. It speaks to the means to an environment that is best for healthy development, and one in which the child is the primary focus on what this environment should be. We feel the procedure set forth in this bill is clear, concise, and allows the court's discretion in suiting its decision to to the needs of the individual child and to his parents. To make a judgment

on termination of parental rights based on the standard of the parent being unfit is unrealistic and insensitive to the living problems of the family. This establishes a psychological barrier that is extremely difficult for the parent to resolve. We recognize as social workers that each situation, each person, whether adult or child, is unique; and, as such, a rigid procedure does not suit each individuals needs. As this bill provides for constructive alternatives addressed to the needs of individuals, it also applies a uniform procedure for all counties in the state of Kansas to follow. In this way it serves the children and parents of Kansas much better than present law.

We firmly support Senate Bill 382, and encourage its adoption.





**Kansas Association for  
School Psychologists**

February 27, 1979

To: Honorable Elwaine F. Pomeroy, Chairman and members of the Senate Judiciary Committee

The Kansas Association of School Psychologists (KASP) representing the professional concerns of over 200 School Psychologists throughout the state is pleased to have this opportunity to provide testimony regarding Senate Bill No. 379. We would like to make the following comments:

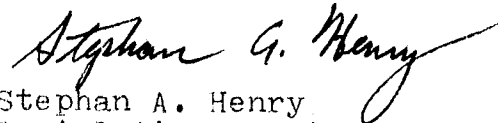
1. We endorse the concept of requiring the courts to refer first offense juveniles to their respective school districts for evaluations to identify any existing special educational needs which they may have. There is a growing body of evidence linking juvenile delinquency and learning problems. It is our experience that many children who come to the attention of the courts have already had a school-based evaluation at some time in the past. Many others have not, however, and may well have unidentified special educational needs.

2. We recommend substituting the term "comprehensive evaluation" for "educational assessment" (lines 17, 52). Use of the term "comprehensive evaluation" would be consistent with the language of the State Plan for Special Education as well as the Education for All Handicapped Children Act (P.L. 94-142). According to these two statutes, all children being considered for placement in special educational programs must have an evaluation which is "comprehensive," ie. multidisciplinary and multifaceted in scope. At minimum it must consider ". . . the child's developmental, psychological, social, and educational functioning," and any ". . . health or sensory impairments which may interfere with learning."

3. We have some reservations about automatically requiring each first offender to be evaluated. School psychological services throughout the state are already taxed to an extreme and this action would seem likely to result in inefficient utilization of our resources. We would recommend instead that the courts be required to petition the child's school district to hold a "needs assessment staffing" to consider the advisability of proceeding with a comprehensive evaluation. The participants in such a staffing should include a certified School Psychologist, the child's parent(s), teacher(s), and others as appropriate. The School Psychologist could be given the authority to determine whether to proceed with a comprehensive evaluation and could be charged with the responsibility of coordinating the evaluation

and communicating its findings and recommendations to the court. Using this procedure, it should be possible to identify juvenile offenders with unidentified special educational needs and to avoid conducting a comprehensive evaluation when available information suggests it would be unproductive.

For the members of KASP,

A handwritten signature in cursive script that reads "Stephan A. Henry". The signature is written in dark ink and is positioned above the printed name.

Stephan A. Henry  
Legislative Committee