

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

The meeting was called to order by Representative Vancrum at _____
Chairperson

1:30 a.m./p.m. on February 29, 1984 in room 526S of the Capitol.

All members were present except:

Representatives Eckert, Ramirez, Barr, Grotewiel, Roe, Peterson, & Sallee-E

Committee staff present:

Russ Mills, Research Department
Mary Torrence, Revisor's Office

Conferees appearing before the committee:

Representative Ed Rogers
Donna Malone
Suzanne Tasker

The meeting was called to order by Vice-Chairman Vancrum.

Representative Hensley made a motion, seconded by Representative Aylward, to approve the minutes of the February 28 meeting. The motion carried.

HB2901 - Swimming pool safety standards

Representative Rogers explained that this is a safety bill directed at public swimming pools and health spas. A person should be on duty at all times who is capable of handling any emergency that might arise at any time. He showed the committee a list of persons who had signed a petition in support of HB2901.

Donna Malone gave testimony in support of HB2901 and explained why she asked Representative Rogers to introduce it. See attachment A.

Suzanne Tasker gave testimony in support of HB2901. See attachment B.

Chairman Miller appointed a subcommittee to look into this problem and to look at whether this bill will address it. The subcommittee consists of Representative Brady as Chairman, Representative Smith and Representative Goosen.

Hearings were concluded on HB2901.

Chairman Miller announced that because of the House schedule adopted at the beginning of the session and the fact the parimutuel resolution was introduced at such a late date, hearings will be held as soon as possible. The committee was asked to keep in mind that all of the Senate bills to be heard must also be heard during the remaining eight days of hearing time.

The meeting was adjourned.

Mr. Chairman and Committee members;

My name is Donna Rae Malone. I live at 2710 Pattie, Wichita. I am a licensed Practical Nurse, Prec. committeewoman and I'm very proud to be the mother of 3 sons, one who has gone on to be with the Lord. On behalf of my family, I would like to thank you for the opportunity to be here today to ask your help in getting House Bill 2901 enacted into law. Today I will speak for both myself and my husband, Howard, who because of a scheduled plane flight, was not able to leave his work at Boeing.

To give you just a brief background, our beloved son and brother, 21 year old, Dana Kyle Malone, drowned in a whirlpool at Win's Fitness Center, 2234 So. Oliver Wichita, Kansas, December 20, 1980 - Saturday night - 5 days before Christmas. After the shock of our son's drowning wore off, we knew we had to do something, so this terrible thing did not happen to anyone else. Because of possible litigation, we had to be unobtrusive in our collection of information. No one would give us any information on the details of our son's death, so we knew we would have to take them to court. We started collecting all the information and searching many sources for information about drownings in whirlpools, hot-tubs and swimming pools opened to the public. We learned from data that there were 7,000 drownings in the United States in 1983 (200 of those drownings occurred in hotel pools, motel pools and whirlpools. As we continued to gather information on whirlpools and Hot-tubs from many different sources, we came to the conclusion very early in our research that whirlpools were a potential danger. We visited different spas, not just the club where my son died, and found so many violations, according to the Minimum Standards for Public Spas - dated April 1, 1978 - from the National Spa and Pool Institute, Washington, D.C. In every spa in Wichita, they do not provide a person to watch the patrons, in the whirlpools and swimming pools, only periodic checks every 20 to 30 minutes. It takes just a few minutes to faint and drown.

In the spa where our son drown, there was not one working clock. Under oath, the manager stated "there were no working clocks, using the excuse that they had all rusted out, and also there were no signs in and around the pool areas, if House Bill 2901 were made law, violations such as this would be corrected.

Atch. A

Section 2 stated: shall provide at least one properly trained person and all necessary equipment for life saving and resuscitation at all times when the pool is opened.

Dana's lifeless body remained at the bottom of the murky whirlpool for over 30 minutes, the manager, a 22 year old young man, did not call 911 emergency, nor did he call the Police, for reasons known only to him. When he did go to the telephone he called a young lady, who had quit her manager position only 1 week before, and she and her husband arrived a few minutes later, as they lived only a few blocks away. They went directly to the whirlpool and the husband went into the whirlpool after our sons body, EMS arrived soon after. Upon arriving at St. Joseph Hospital, Doctors worked over my son for nearly an hour, then they pronounced him DEAD.

Dana deserved a chance to be resusciated, he was not given that chance. WHY - I think because they were no laws to protect him and hundreds of others who go to these fitness centers to get in shape, and unknowingly become victims in one way or another. We heard testimony in our court trial that many of these fitness clubs hire young people for their good looking bodies and appeal, with safety never being a factor.

Hot-tubs, spas , whirlpools are a FAD that has gotten out of hand. A fad that has ballooned faster than adequate information on safety and potential hazards can be brought to the publics attention. Coroner Kornblum stated in Time Mag, dated June 1983 God only knows how many cases of drowning in hot-tubs have gone unreported.

Howard and I were very pleased when our Representative Ed Rogers, brought to our attention House Bill 2901. We have talked to so many people, most of whom expressed disbelief that the state of Kansas had no law governing public swimming pools. I decided to type up a petition and gather some signatures in support of House Bill 2901.

I sent Ed Rogers 224 names that I quickly gathered, knowing if 500 names would help *I could get them and* convinced people really do care when they are aware of the House Bill 2901.

It isn't fair that our beloved son, Dana, will not get to grow up to be the young man he promised God and his family he would be, but neither is it fair to do ^{nothing} to prevent this from happening to someone else.

If I had the time and you had the time, I could talk ^{for} maybe an hour on just whirlpools alone, but there's danger anywhere, ^{and just when we think} drowning only happens to someone else or its something we read in the newspaper, it happens to someone we know. Now I ~~am~~ not so naive, that I'd believe that there will be no opposition to House Bill 2901. But those who would not want to see this bill enacted, I would hope might reconsider.

Sorrow comes to all of us, but when it comes to us, by negligence, it leaves a bitter taste for awhile. We cannot bring our son back, but the opportunity to help, in even a minute way, to encourage our Representatives and Senators to pass House Bill 2901, gives pleasure and hope to us.

I thank you for allowing me to come here, I'm here on behalf of many, many, parents out across Kansas, who haven't heard of House Bill 2901, some who will never write a letter or send a mailgram, some who will neither raise a voice to yea or nay, I'm here to plead with you for a YES vote to House Bill 2901.

Thank You

Mrs. Donna Rae Malone
and family.

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FEBRUARY 29, 1984

MR. CHAIRMAN, COMMITTEE MEMBERS,

First, I want to thank you for the invitation and opportunity to speak to you today about my thoughts and feelings concerning HOUSE BILL NO. 2901

I want to introduce myself to you, so that you can better understand where I am coming from concerning this particular piece of legislation:

My name is Suzanne Tasker. I have been a Kansas resident for the past 30 years. My husband, Bernard, and I have resided in Haysville for the past 27 years where we own our own home and have raised our children. They are:

Janet, who is married to Ken Douglass. They have two small children. Ken is an elementary school teacher in Tipton, KS. and for the past three summers has managed the Osborn, KS., city pool. He would like to have been able to be here today to speak to you but was unable to due to his father having open heart surgery this week-end. He will, however, probably be contacting his representative in support of our need for Kansas laws concerning swimming pools. He also expressed a desire to have copies of this bill to take to the Pool Managers Conference the later part of April as they are currently using Oklahoma laws as guidelines for the operation and safety of swimming pools. This is left entirely up to the discretion and integrity of the individual manager.

Our son Bill, is a machinist for CAC Tool and Dye in Wichita. He also owns 3 small apartment houses.

Our youngest son, Tom, is a music major at Wichita State University.

For the past 14 years while raising my children one of the major portions of my time and interest has been in volunteer work at church, particularly in the areas of Sunday School teacher, counselor and sponsor for the teenagers in the local church and on the Kansas District level. The past 4 years I have worked with the Junior and Senior High Department at First Nazarene Church in Wichita. It has been in the capacity of sponsor and counselor that I have spent a large amount of time each year in traveling with our youth group. Along with our youth ministers and other sponsors, I have traveled with from 30-90 teen-agers to several states including: Pennsylvania, Missouri, Arkansas, St. Simon Island, Georgia, Tennessee, Oklahoma, New Mexico, Arizona, Colorado and will be going to the Black Hills this summer. Many of our activities include swimming, rafting, canoeing or fun at Whitewater in Oklahoma City or Oceans of Fun in Kansas City. It also may include going *to*

Atch. B

Racketball Clubs or other such Fitness Clubs where they use swimming pools or whirlpools. One of the first questions the kids usually ask when we are going to be staying in a motel is if they have a swimming pool. It is in all of this travel that I have had the opportunity to observe pools, design of pools in relation to the placement of their whirlpools and saunas, and whether or not there is life saving personnel and equipment. Unfortunately, until recently I have not been as aware of the necessity of noticing these things as I might have been. That took a tragedy and the resulting trial to bring it to my attention. In fact, it was just about two weeks ago when the trial had ended, that Donna Malone asked me if I would help her collect signatures supporting HOUSE BILL NO. 2901 that I first became aware that we do not at this time have Kansas State laws concerning Public pools, including whirlpools. But, neither was I alone, for few people who signed the petitions for me were aware of that fact either. It was then that I asked my son-in-law about it and the safety equipment that he uses at the pool that he manages. Among the things he mentioned were flotation rings, hooks, spine board, ropes with floats warning of deep water, but that they do not have oxygen present. Ken also mentioned to me such other things that would be a help such as:

logs kept that would report incidences of ~~an~~ accidents and disciplinary problems that they may encounter.

Warning signs being posted in more than one language if the particular local has a large foreign speaking population. He recalled an incident he had heard of a small boy diving into shallow water and breaking his neck though there were signs posted warning the public. Unfortunately, the boy spoke and read only Spanish and they were posted only in English.

Ken mentioned that indoor-outdoor clocks can be purchased for a small fee of approximately 12.50 that are sealed against moisture and even if in a steamy environment they should rust, they are not that expensive to replace.

Few of the motels that we have stayed in on our teen tours have provided a life guard and few if any of us ever even took notice of whether or not there was a telephone handy with a 911 number posted in case of emergency. Considering that we are responsible for such a large number of teens, I am really shocked that we took these things so for granted. Those things that we were so carelessly ignorant of included the dangers of hypothermia caused by the high temperatures of the whirlpools which can cause drowsiness, fainting, vomiting, and coma, then death, if the person is in too long. At only one place was I even cautioned by the operators of the club to warn the teens not to stay in the whirlpool longer than 5 minutes for their size and weight.

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At no whirlpool were life guards ever provided and at few were there even clocks provided. Never were we warned about the dangers of the possibilities of the diseases that can be spread that the medical magazines are informing the Doctors of.

I believe that HOUSE BILL No. 2901 is a big step in the safe guarding of these innocent and sometimes uninformed lives. But when we think of lives only in general we are not particularly moved and that is why I want to once again call your attention to that one life in particular that Donna Malone has already told you about...her son, Dana.

I last saw Dana at a Christmas party for our teens on December 19, 1980. He was a co-worker with me in our Junior High Department at church. We had had a lot of fun that evening, laughing over the silly white elephant gifts that the kids were exchanging. And then as we got ready to go, as I past Dana, I felt there was something that I wanted to say to him...such a beautiful young man..the same age as my older son...but I couldn't find the words. A few days before I had prayed with Dana at the altar and I wanted him to know I was concerned for him, but none of those words came. We just said "Hi!" Forever that will be the picture that I have of Dana in my mind for I never saw him again alive.

The next evening Dana drowned...alone...in a whirlpool at a fitness center.

I was so shocked that my reaction to the news was that it just had to be another Dana Malone...Dana had struggled to hard to fight his way back to health after a near fatal illness...^{in 1978}...he was just 21...that's just too young to die....How could his mother take it?...And Eric, his 13 year old brother, part of our youth group...one of "my" kids...

I knew something of how Eric would feel for I, too, had lost a brother when he was only 22...But it was over a year later when Eric finally got around to verbalizing those feelings to me or to anyone else that I know of...

We had gone to a softball game together and on the way home we stopped to get a coke. As we were preparing to go Eric suddenly told me about his reactions the night that Dana drowned....I wasn't expecting it...it just hit me out of the clear blue sky...even though I could remember telling Eric one evening at church, "Whenever you are ready to talk about Dana, I am ready to listen, for I too, lost a brother."

Eric recalled that night:

"We got the call that Dana was on his way to the emergency room of the hospital. We thought that he might have gotten hurt lifting weights or something. When I saw him lying there...he was blue...I knew he was dead and I turned around to try to prevent my mother from going in there...but I couldn't, she just rushed right past me... "

It was good that he had finally talked to someone about it and I was glad that I was there to listen. I knew something of the feeling that the children that are left feel...even though I had only been 6 years old when my brother Bill, a Topeka boy, was shot down over Germany in World War II, those feelings that say, but I'm still here, I care about you ...I want to help you...and all the time that isn't enough because God has made us so uniquely individuals that no one can ever take our place. Eric couldn't fill Dana's place anymore than I could fill Bill's place. But we can't grieve over that fact, but rejoice that we are so completely unique as individuals.

MR. CHAIRMAN, COMMITTEE MEMBERS

I do not apologize for having appealed to your emotions today, for I remember the question that the defence attorney asked one of the lady jurors following the trial placing "fault and negligence" in the death of Dana Malone.

"Did emotions enter into your verdict?"

The lady responded,

"Yes, of course they did, in every instance. You just could not leave emotions entirely out of it."

Last Sunday my Pastor said it even better when asking prayer for one of our families:

"One of our families is hurting today for they have lost a loved one. I am glad they are hurting. I hope we always hurt when someone dies for it tells us something about the value that we place on human life."

However Gentlemen, I hope that I have not appealed only to your emotions but also to your reason in the support of HOUSE BILL No. 2901 so that in our own small measure we may prevent this tragedy from happening again, perhaps to one of these teens that I love or to someone that you love.

Once again, thank you for allowing us this privilege of speaking to you today.

Suzanne Tasker
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