Approved March 20, 1984
Date

MINUTES OF THE HOUSE COMMITTEE ON REPRESENTATIVES.

The meeting was called to order by Representative Bob Frey at
Chairperson

3:30 xxxx/p.m. on March 12, 1984 in room 526-S of the Capitol.

All members were present except:
Representatives Justice, Erne, and Douville were excused.
Representative Knopp was absent.

Committee staff present:

Jerry Donaldson, Legislative Research Department
Mike Heim, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes' Office
Nedra Spingler, Secretary

Conferees appearing before the committee:

Matt Lynch, Judicial Council
Brian Moline, Judicial Council's Family Law Committee
Jim Clark, Kansas County and District Attorneys Association
John Brookens, Kansas Bar Association
Bob Barnum, Commissioner of Youth Services, SRS

The minutes of the meetings of February 27, 28, 29, March 1, and 2, 1984, were approved.

A hearing was held on SB 484 and Substitute SB 486.

HB 484 - Kansas Parentage Act.

Staff reviewed the activities and recommendations of the 1983 interim study that resulted in SB 484. It is based on the Judicial Council's Family Law Committee's suggested legislation. The need for updating the parentage act was the result of a U.S. Supreme Court ruling that barred discrimination regarding the rights of children born out of wedlock. Information regarding the interim study, Proposal No. 27, is attached (Attachment No. 1). The interim committee also addressed the rights of unwed fathers in Proposal No. 29 (Attachment No. 2). The results of this are also contained in SB 484. Staff then explained the provisions of the bill.

In discussion, Staff was requested to determine the eleven states that have adopted to some extent a similar parentage act and also states that may have considered and rejected these provisions. It was noted provisions of Section 4, if enacted, would supercede any prior law or rights of the mother. The rationale of selecting and the adequacy of the 300 days limitation in Section 5 (a)(1) for a child to be born after a marriage is terminated was discussed. Elimination in the bill of a trial by jury for determining paternity was noted. Matt Lynch, Judicial Council, said this was not a Judicial Council committee decision but was made by the interim committee.

Brian Moline, a member of the Judicial Council's Family Law Committee, said Washington, California, Colorado, Delaware, Hawaii, Minnesota, Montana, Nevada, New Jersey, North Dakota, Ohio, Washington and Wyoming have passed similar laws. The thrust of SB 484 is based on the assumptions that the old law regarding illegitimacy is dead because of the Supreme Court ruling that there is no distinction between legitimate and illegitimate children, and court decisions that recognize the rights of fathers. He said the Family Law Committee went through the Uniform Parentage Act (UPA), adopting some of its provisions and retaining Kansas law that was working well, and attempted to codify the best of both into one statute.

In regard to presumption of paternity in New Section 5, Mr. Moline said the first three presumptions, taken from the UPA and adapted to current Kansas law, do not change present provisions. A member expressed concern regarding presumption (2) as it would affect an underage father whose marriage was voided. Mr. Moline said this was existing law, and marriage was only incidental to parentage. Case cites were available. In regard to eliminating trial by jury, the Judicial Council committee recommended this be discretionary with the judge, but the interim committee chose the UPA provision. The 300 days limitation on line 52 is taken from the UPA. In lines 102 through 105, artificial insemination donor, a member questioned if this would limit wrongful birth action. Mr. Moline said his committee did not attempt to get into ramifications but stuck with present law. He did not believe this language changed current law. He said he would furnish copies of the UPA model to the Committee.

Jim Clark, Kansas County and District Attorneys Association, supported the concept of SB 484 but said it would require a county attorney to handle private civil actions which may not be indigent cases. The bill makes no distinction between an unwed mother and a punitive father or financial status. This would create a hardship on the person who did not get the county attorney or district attorney first, and service may be hard to get in rural areas. His association prefers that reference to county and district attorneys be eliminated or that an indigent requirement be added. Mr. Clark said it made no sense to have the financially solvent party the first at the courthouse for the county attorney's service.

John Brookens said the Kansas Bar Association generally supports the concept of SB 484. He agreed Mr. Clark had made a good point.

Substitute for SB 486 - An act relating to adoption procedures and support.

Staff reviewed the interim committee study, Proposal No. 31 (Attachment No. 3), that resulted in SB 486. The study was requested by the National Committee for Adoption. Staff noted the interim committee chairman received 101 letters in opposition to the registry with 15 in support. Provisions of Substitute SB 486, recommended by the Senate Judiciary Committee, were reviewed. It removes the original requirement in SB 486 that SRS provide assessment services. It requires that certain information, not obtained since July 1, 1983, be furnished SRS by the clerks of the courts.

Bob Barnum, Commissioner of Youth Services, SRS, supported Substitute SB 486. A statement regarding SRS' position on the bill is attached (Attachment No. 4). He called attention to suggested amendments (No. 5 in Attachment No. 4) to amend line 90 to require that all legal documents should be sent with the reports of the non-agency adoption assessment to SRS, and in line 147, the meaning should be clarified regarding "eligible for adoption" but "is not eligible for foster care placement".

In discussion, Mr. Barnum said the bill would require one extra clerical person in his division and computer assistance would be available. The mandatory requirement in Section 1 (c) that assessments be done in Kansas clarifies that an assessment will be made on any adoption that occurs in Kansas. A member said it should be clarified that a licensed agency would include assessments made by licensed agencies in other states. It was noted that most of the interim committee opponents to the registry were opposed because they believed it would allow people to find out who the natural parents of all adopted children are.

Mr. Barnum said the original SB 486 put the Department back like the old law, but Substitute SB 486 does not do this but allows it to keep a depository. Through rules and regulations, SRS will establish what information the file should contain and genetic information will include heredity and medical problems, insanity and mental retardation, and family history.

The meeting was adjourned at 5:10 p.m.

Attachment # 1

RE: PROPOSAL NO. 27 — UNIFORM PARENTAGE ACT*

Proposal No. 27 directed the Special Committee on Judiciary to study the Uniform Parentage Act (UPA) and to determine whether the Act should be adopted in Kansas.

The study of UPA was suggested by the Chairman of the Senate Judiciary Committee. This Act served as the basis for a comprehensive review by the Committee of a number of issues relating to parenting and as a coordinating point for three of the Committee's other interim topics including visitation rights of unwed fathers (Proposal No. 29), surrogate mothers (Proposal No. 28), and the adoption registry (Proposal No. 31).

Background — Laws Regarding Illegitimate Children

Common law was harsh to the child born out of wedlock. The child was variously known as the child of no one (fillius nullius) or the child of all (fillius populi). He was considered a ward of the parish and his parents had no legal relationship with him and no obligation to provide for his support. The child had no inheritance rights with respect to either parent and only the issue of his body could be his heirs. No statutes provided for legitimization of the child by subsequent marriage of his parents or by any other means other than a special act of Parliament. Adoption was unknown at common law therefore the child was unable to acquire adoptive parents.

American courts generally followed the common law tradition and held the father of an illegitimate child could not be required to provide for its support. The first changes in the status of these children came when legislation was adopted in various jurisdictions requiring parents to support their illegitimate offspring. Virtually all states now require a father to support his children born out of wedlock.

---

* S.B. 484 accompanies this report.

Atch. 1

Rights and obligations regarding illegitimate children have developed in a piecemeal fashion. Gradually, limited paternal rights of visitation and custody were recognized. Legitimization statutes which allow a putative father to "legitimize" the child by acknowledging him and receiving him into his home were adopted. Statutes and case law, however, continued to use such pejorative terms as "bastard" or "illegitimate" to identify nonmarital children.

Federal constitutional standards concerning rights of illegitimate children and their parents were first articulated in the latter 1960s based on the equal protection clause of the 14th Amendment. The United States Supreme Court in two 1968 decisions declared unconstitutional a statute allowing only legitimate children to recover for their mother's wrongful death and invalidated another statute which denied a mother recovery for the wrongful death of her illegitimate child. A number of other cases since then have dealt with the rights of illegitimate children and their parents including one rendered just this past summer. These decisions have invalidated state laws which denied illegitimate children recovery for the death of their father under workers' compensation, which denied support payments from their father, which denied Social Security benefits when their father was disabled, and which denied the right to inherit from their intestate fathers under certain circumstances. On the other hand, the right of putative fathers to recover for the wrongful death of their children has been recognized, as have their right to be notified of their child's adoption in certain cases and their right to obtain custody of their children over third parties, if they are found to be fit parents. Conclusions to be drawn from these decisions include that state and federal laws may not discriminate between legitimate and illegitimate children in any substantive area other than inheritance where some latitude is allowed. Further, putative fathers have been granted most of the rights as other fathers in regard to their children. These include the right to notice of the adoption of their children, the right to a parental preference, unless they have been found unfit, over third parties for custody of their children and the right to visitation of their children.

Present Kansas Law. Kansas was the first state to recognize the nonstatutory or common law right of an

illegitimate minor child to receive support from his father. An unmarried woman has a statutory right to bring a paternity action under K.S.A. 38-1101 et seq. The Kansas Department of Social and Rehabilitation Services (SRS) has a right under K.S.A. 39-755 to bring an action to enforce an illegitimate child's right to support and thus prove paternity in this action. Under case law, a putative father whose paternity is acknowledged by the mother may bring an action to have his paternity declared, to establish support obligations, and to obtain visitation rights.

In the area of inheritance rights, under K.S.A. 59-501 an illegitimate child can inherit from an intestate father where the decedent has notoriously or in writing recognized his paternity.

Case law in Kansas recognizes a strong presumption that a child born in wedlock is legitimate. This presumption extends to a child born after parents are divorced where conception takes place before the decree is entered. Under K.S.A. 23-124, children of a void or voidable marriage are deemed legitimate, although a father can attempt to disprove his paternity. K.S.A. 23-125 et seq. provides a procedure for the legitimization of a child whose parents marry after the child's birth.

The Uniform Parentage Act and the Kansas Parentage Act

The UPA was formulated in 1973 by the National Conference of Commissioners on Uniform State Laws. The Chairmen of the House and Senate Judiciary Committees have been statutory members of this body since 1979 and, therefore, did not participate in the formulation of the UPA. The UPA is an attempt to systematically address the many unsettled issues in this area of the law in a way which meets both the requirements of the U.S. Constitution and changing social needs. The purpose of the Act is to provide substantive legal equality for all children regardless of the marital status of their parents. The Act has been adopted in 11 states to date.

The UPA was introduced into the Kansas Legislature as a Senate bill in 1979. No hearings were held on the proposal at that time but interest in this legislation continued. The Family Law Advisory Committee to the Kansas Judicial Council was subsequently assigned the UPA as a study topic. The Family Law Advisory Committee met over an 18-month period to discuss and analyze the Uniform Act. The Committee decided that a suitably modified version of the UPA would be an important step in modernizing Kansas law dealing with nonmarital families. The result was the formulation of the proposed Kansas Parentage Act which was published in the May 1982 issue of the Kansas Judicial Council Bulletin.

The Kansas Judicial Council tabled any action regarding the proposed Kansas Parentage Act and asked the Family Law Advisory Committee to address the issue of surrogate motherhood prior to the Council taking further action.

Committee Activity and Testimony

The Committee reviewed both the Uniform Parentage Act and the Kansas Parentage Act, several law review articles, and court cases. The Committee heard from two representatives of the Family Law Advisory Committee, staff members of the National Conference of Commissioners on Uniform State Laws and the Kansas Judicial Council, representatives of the Kansas Association of County and District Attorneys, Kansas Legal Services, Inc., the Family Life Committee of the Kansas Catholic Conference, the Kansas Women's Political Caucus, and several attorneys.

The consensus of all who testified was that Kansas would benefit from the enactment of the Kansas version of the UPA, i.e., the Kansas Parentage Act. Conferees felt the Kansas Parentage Act integrated the concepts contained in the UPA into the current Kansas legal structure. They felt the law would help clarify rights of all parties involved when children are born out of wedlock and would set out the rights in a unified statutory scheme.

Conferees offered, however, a number of specific suggestions for additions or amendments to the Kansas Parentage Act. These suggestions included that the putative father and the mother be given longer periods of time in which to bring a paternity action; that personal service outside the state be permitted by registered mail; that blood tests be required when one of the parties makes such a request; that notice be required if a witness is to be offered who will testify he had intercourse with the mother at any possible time of conception; that county and district attorneys be relieved of their current statutory duty to bring paternity actions and enforce support claims on behalf of unmarried women; that the trial by jury option be deleted; that the Act be amended to permit joint custody arrangements; that temporary paternity support orders pending a trial be allowed; and that visitation and custody proceedings be separated from paternity and support proceedings. The Committee agreed with some but not all of these suggestions.

Committee Conclusions and Recommendations

The Committee believes that the proposed Kansas Parentage Act with certain modifications should be enacted in Kansas. The Committee feels that the time has come to eliminate any remaining legal barriers for children born out of wedlock. The Committee further believes there is a need to establish a statutory scheme setting out the rights and obligations of all parties involved in nonmarital situations when children are involved and procedures for enforcing these rights and obligations.

The Committee therefore makes the following specific recommendations which are incorporated in S.B. 484 and urges the 1984 Legislature to give favorable consideration to this proposed bill. The bill includes the Committee's recommendations in regard to Proposal No. 29 — Visitation Rights of Unwed Fathers, which the Committee feels should be dealt with as part of the Kansas version of the UPA. The bill does not include the Committee's recommendations on Proposal No. 28 — Surrogate Mothers which are incorporated in a separate bill. If the Legislature acts favorably on the surrogate mother

bill (S.B. 485) it will need to coordinate certain provisions of that bill with this one, particularly the sections dealing with artificial insemination. The bill includes the following major provisions.

1. Equality of legal status is granted to all children regardless of the marital status of the parents. Pejorative adjectives such as "illegitimate" are eliminated.

2. The parent-child relationship may be established by proof of birth or of adoption or by ascertainment under this Act.

3. The act establishes a series of presumptions for when paternity is presumed including:

   a. The father and mother have been married to each other and the child was born during the marriage or within 300 days of termination of the marriage.

   b. The father and mother have attempted to marry each other in a legal ceremony but the attempted marriage is void or voidable. If the marriage is voidable, the presumption applies during the attempted marriage or within 300 days after its termination. If the attempted marriage is void, the presumption applies if the child is born within 300 days after termination of cohabitation.

   c. The father and mother have married or attempted to marry in a legal ceremony that is void or voidable after the birth of the child and the father has acknowledged his paternity in writing, or, with his consent, he is named as the father on the

child's birth certificate, or, he is obligated to support the child under a written voluntary promise or court order.

d. The father has notoriously or in writing recognized his paternity.

4. An action to determine paternity of a child may be brought by the child or any person on behalf of the child until three years after the child reaches the age of majority.

5. No trial by jury is permitted in paternity actions.

6. Unwed fathers may be granted visitation rights and may seek custody of their child based on the best interests of the child standard.

Respectfully submitted,

December 1, 1983

Sen. Elwaine Pomeroy,
Chairperson
Special Committee on Judiciary

Rep. Joe Knopp,
Vice-Chairperson
Sen. Paul Burke
Sen. Paul Feleciano
Sen. Nancy Parrish
Sen. Wint Winter, Jr.

Rep. Marvin Barkis
Rep. Frank Buehler
Rep. Vic Miller
Rep. Dale Sprague

Attachment # 2

RE: PROPOSAL NO. 29 -- VISITATION RIGHTS OF UNWED FATHERS*

Proposal No. 29 — Visitation Rights of Unwed Fathers called for a study to determine the legal rights of unwed fathers including a review of the procedure for granting visitation rights to unwed fathers when paternity is acknowledged; to determine whether an unwed father should have the right to be declared the father of a child when paternity is denied by the mother; and, to determine whether an unwed father should have visitation rights if the mother of the child is married at the time of the birth of the child.

Background

The impetus for the study came from the Kansas Supreme Court and its decision in Carty v. Martin, 233 Kan. 7 (1983). The court ruled that an unwed father whose paternity has been established by adjudication or by acknowledgement of the mother has a right to visitation of his child absent a finding of his unfitness and subject to a determination by the court that visitation will be in the best interests of the child. The court noted the question of whether an unwed father, where paternity is disputed, may bring an action to establish his paternity is an issue more appropriately addressed by the Legislature. The Chairman of the Senate Judiciary Committee, as a result of the above case, recommended this issue for an interim study.

The Committee reviewed court cases from other jurisdictions addressing this issue including an American Law Reports Annotation (15 A.L.R. 3d 887).

Testimony of Conferees

Conferees included the attorney who represented the unwed father in the Carty case, attorneys from Topeka and

---

* S.B. 484 accompanies the report on Proposal No. 27.

Atch. 2

Johnson County involved in the family law area and representing the Kansas Women's Political Caucus and the Family Life Committee of the Kansas Catholic Conference, respectively, a clinical psychologist from Prairie Village and a doctoral candidate involved in the study of unwed fathers from the Menninger Foundation.

All conferees felt unwed fathers, in situations where the mother was not already married, should be given the right to bring a paternity action and have the right to visitation of their children if a court determined the visitation would be in the best interests of the children. Conferees differed on the issue of unwed fathers visitation when the mother was already married. Several persons felt no rights should be given in this situation, fearing this would create havoc and undermine the family unit; whereas others felt the right to bring a paternity action should be allowed regardless of the marital status of the mother with visitation granted on a case-by-case basis subject to the best interests of the child standard.

The clinical psychologist and the representative from the Menninger Foundation both noted that recent studies have revealed the importance of a father-child relationship as early as the infant stage for the healthy emotional development of children.

Committee Conclusions and Recommendations

This proposal is closely interrelated with the Committee's study of the Uniform Parentage Act (Proposal No. 27). The Committee's recommendations on this topic therefore are incorporated as part of its recommendations on the Uniform Parentage Act study.

The Committee concludes that unwed fathers should be given a statutory right to bring a paternity action regardless of whether paternity is acknowledged or denied by the mother. The Committee believes unwed fathers should have the right to visitation when, in the totality of circumstances, a court determines visitation would be in the best interests of the

child. The Committee further recommends that unwed fathers be given the statutory right to seek custody of their child based on the best interests of the child standard.

The Committee acknowledges that granting visitation rights to unwed fathers in certain situations is a troublesome issue. The Committee believes, however, that there should not be a flat prohibition of visitation rights in any given set of circumstances. The Committee believes that judges possess the necessary skills to decide difficult questions such as this with the best interests of the child as their guiding standard.

The above recommendations are incorporated in H.B. 484 which is found at the end of Proposal No. 27 -- Uniform Parentage Act.

Respectfully submitted,

December 2, 1983

Sen. Elwaine Pomeroy,
Chairperson
Special Committee on Judiciary

Rep. Joe Knopp,
Vice-Chairperson
Sen. Paul Burke
Sen. Paul Feleciano
Sen. Nancy Parrish
Sen. Wint Winter, Jr.

Rep. Marvin Barkis
Rep. Frank Buehler
Rep. Vic Miller
Rep. Dale Sprague

Attachment # 3

RE: PROPOSAL NO. 31 — ADOPTION REGISTRY*

Proposal No. 31 directed the Special Committee on Judiciary to determine the feasibility of creating a voluntary adoption registry in Kansas. A voluntary registry would facilitate voluntary contacts between adult adoptees, birthparents and relatives of deceased adoptees and birthparents by allowing the names and current addresses of the parties in interest to be maintained in a registry.

Background

The request for the interim study of the adoption registry concept was made on behalf of a representative of the National Committee for Adoption. The National Committee for Adoption, a membership organization comprised of individuals, families and agencies, is working to encourage states to enact mutual consent, voluntary adoption registries as the most prudent way to provide access to identifying information to adult adopted persons and biological parents. The organization has devised model state legislation which is designed to provide a sensitive legal way for both biological parents and an adult adoptee to voluntarily register their willingness to waive their confidentiality. States which have implemented some form of voluntary registry include: California, Colorado, Florida, Louisiana, Maine, Michigan, Nebraska, Nevada, and Texas.

Existing Confidentiality Statutes

Before the Committee could determine whether the state should implement some form of adoption registry, it was first necessary to determine the extent to which such a registry would alter existing Kansas law. It would appear that three different state agencies handle the various records associated with an adoption proceeding. Moreover, the standards for releasing such information vary with the particular

---

* S.B. 486 accompanies this report.

Atch. 3

agency involved. Those agencies maintaining adoption records include the Registrar of Vital Statistics, where the original and supplemental birth certificates are filed; the district court, where the records of the actual adoption proceedings are kept; and the Department of Social and Rehabilitation Services (SRS), which maintains records of home studies conducted in adoption cases and records of adoptions of children relinquished to SRS or in the custody of SRS after termination of parental rights.

Registrar of Vital Statistics. Present law permits disclosure of an adoptee's original birth certificate only to the adoptee and only when the adoptee is an adult. This requirement first became a part of Kansas law in 1943. Prior to that time, there was no direct limitation on the disclosure of birth certificates in adoption cases.

State District Court. K.S.A. 1982 Supp. 59-212 requires that a separate appearance docket, closed to the public, be maintained in adoption cases.

K.S.A. 59-2279 allows disclosure of court files relating to adoptions only on order of the court to the "parties in interest" and their attorneys and to SRS personnel. There may be some question as to the individuals who would be included as a party in interest. One district court judge believes that such language would entitle an 18-year-old adoptee to such court records. Furthermore, birthparents might also be construed to be parties in interest and thus be allowed access to the closed court records.

SRS Records of Adoption. K.S.A. 39-7096 provides that records of the Department of Social and Rehabilitation Services are confidential if they concern an applicant for or a recipient of assistance. These records are open to the applicant or recipient in accordance with SRS rules and regulations.

The implementation of a registry as proposed by the National Committee for Adoption would alter existing Kansas law by restricting access to any identifying adoption information unless both the adult adoptee and birthparents waive their confidentiality.

1983 Legislation

H.B. 2099 made certain amendments relating to adoption investigations which directly impacted on the record keeping function of the Department of Social and Rehabilitation Services. The bill deleted the requirement that the Secretary of Social and Rehabilitation Services be given notice of certain adoption petitions and authorized the court to require the petitioner to obtain an assessment of the advisability of the adoption by a licensed social worker designated by the court. The bill authorized the court to use the Department of Social and Rehabilitation Services to make a social assessment and report to the court in adoption cases only if there is no licensed social worker available to make the assessment. The costs of any such assessment could then be assessed as court costs.

The effect of this bill is to provide that there shall be no central repository for adoption information. Rather, such information would be maintained in the district court clerks' offices spread throughout the state.

Committee Activity

The Committee received testimony from interested persons on one day and devoted a portion of two other days to Committee discussion and review of bill drafts on the proposal. The Committee also was made aware of certain correspondence which had been received by the Committee Chairman. Fifteen of the letters received were in support of the registry concept while 101 opposed the concept. Two letters were in support of the registry, but only if the open records policy was continued for adult adoptees.

Additionally, the Committee reviewed the model adoption registry legislation proposed by the National Committee for Adoption as well as the statutes of other states which have created voluntary adoption registries. The Committee also reviewed suggested amendments offered by the Kansas Adoption Planning Team.

Those individuals testifying before the Committee included: Susan Foglesong, Concerned United Birthparents; Nancy Smith, adult adoptee; Paula Gramlich, adult adoptee; June Tanner, adult adoptee; Judy Comstock, Topeka Adoptive Family Group; Nancy Schenck, adult adoptee; Donald Pearson, Lutheran Social Services; Susan Lovett, Wichita Adult Adoptees; Patricia Rich, National Committee for Adoption; Sharon Knowles, National Committee for Adoption; Irvin Franzen, Department of Health and Environment; Jan Waide, Department of Social and Rehabilitation Services; and Andy Kenkel, Kansas Childrens Service League, speaking on behalf of the Kansas Adoption Planning Team.

Testimony of Conferees

Patricia Rich and Sharon Knowles, National Committee for Adoption, spoke in support of the registry concept. Both urged that Kansas establish an adoption registry which would close those adoption records containing the names of the birthparents and adoptees, except in those instances where the parties have agreed to share this information through the registry. They stated that reunions between birthparents and adoptees can be traumatic and detrimental to both parties if the reunion has not been mutually agreed upon in advance.

Mrs. Knowles related her personal experience when her natural father contacted her without her consent. That contact, however, did not result from the operation of any specific Kansas law, but rather because the biological mother had learned of the location of the adoptee by tracing the automobile license number of the adoptive parents. She noted that the contact had been traumatic and disruptive. As a final matter, Mrs. Knowles observed that the registry would be a mechanism to provide updated medical information on both the birthparents and the adoptee.

Those conferees who opposed the registry concept believed that Kansas should maintain its open records policy for adult adoptees. These individuals noted that adopted children should have the opportunity to discover the identity of their biological parents if they so desire. The creation of a registry would modify this long-standing policy by requiring the natural

parents' consent to the release of identifying information before the adult adoptee could have access to such information.

Several conferees explained that organizations such as Concerned United Birthparents, Wichita Adult Adoptees and the Topeka Adoptive Family Group assist in arranging reunions between birthparents and adoptees. In addition to the actual search assistance, such groups also provide much needed counseling and support services to the individuals attempting a reunion.

Irvin Franzen, Office of Vital Statistics, Department of Health and Environment, stated that the Department has a neutral position on the creation of a registry. He pointed out that his office receives requests for roughly 165 original birth certificates per year from adult adoptees. Mr. Franzen also stated that his office would be willing to provide information about different search and support groups if these groups would supply this information for distribution.

Finally, Jan Waide, SRS, explained that the Department presently releases nonidentifying genetic, medical and social history information. However, identifying information about adoptees may be released only if the adoptive parents agree. She noted that SRS serves as an intermediary when persons involved in the adoption wish to contact one another.

Mrs. Waide indicated that as of July 1, 1983, SRS was no longer required to maintain records of nonagency adoptions. This change was brought about by the enactment of 1983 H.B. 2099 which generally provided that SRS would no longer conduct home studies in adoption cases or be informed of adoption proceedings as had been the case under prior law. She suggested that the law be amended to require courts to forward adoption records to SRS.

Committee Conclusions and Recommendations

After reviewing the comments of interested persons, the Committee concluded that it is not desirable to implement a

voluntary adoption registry at this time. Rather, the Committee believes that the state should continue to maintain the existing open records policy for adult adoptees. In making this decision, the Committee noted that the specific personal situations cited by conferees supporting the creation of a registry would have occurred even if there had been a registry in existence. Furthermore, an adoption registry in all likelihood would not prevent such cases from arising in the future. It was the Committee's belief that if an adult adoptee was intent on locating the adoptee's natural parents, there was very little that could be done legislatively to prevent the adoptee from doing so.

The Committee further believes that there should be a central repository for adoption records. Consequently, the Committee recommends that the 1984 Legislature enact legislation which would rescind the action of the 1983 Legislature when it passed 1983 H.B. 2099. The effect of this action would be to reinstate the requirement that SRS be notified of private adoption petitions and would require that home studies be conducted in all adoption cases with the exception of stepparent adoptions. In this manner, SRS would again become the central repository for adoption information.

Additionally, the Committee recommends that more detailed genetic and medical information concerning the adoptee and biological parents be required to be filed at the time of the adoption. The Committee also requests that the Bureau of Registration and Health Statistics of the Department of Health and Environment provide information about groups which assist adult adoptees and natural parents seeking reunions.

The Committee's recommendations are incorporated in S.B. 486.

Statement Regarding House Bill 486

Attachment # 4

1. Title

An act concerning adoption, relating to procedures therefore, authorizing adoption support for certain children; amending K.S.A. 59-2278 and repealing the existing section.

2. Purpose of Bill

Senate Bill 486 requires two things on every adoption filed in the State of Kansas: an assessment and report to the court and secondly, the filing and retention of genetic and medical history on every adopted child.

3. Why of the Bill

As we understand it, the basis for the submission of 486 is to remove the discretionary language regarding assessments and reports to the court on all adoptions, to assure a mechanism whereby all adoption records will be permanently retained and to require that genetic and medical information on the child be obtained and filed with the petition to adopt so that it will be available to the interested parties.

Since the requirement of an assessment on all adoptions is mandatory a provision for SRS to pay for the cost of such an assessment when a family has unusual financial problems has been added, as well as, a provision that makes adoption support available to special needs children not in the custody of the Secretary.

4. Background

This bill was introduced based on concerns expressed by various adoptive parent organizations, special interest groups and some judges concerned that under the current statute assessments on adoptions are not required and there was no provision for permanent adoption record retention. It was also brought to the attention by various groups that adoptive families often have no information on the genetic or health history of their child and no way of obtaining it after the adoption is final. The provision of this bill that such information be filed with the petition is a mechanism to assure the permanent availability of this information. Youth Services has a complete registry on all adoptions up until July 1, 1983. This bill requires that agency again become the repository of such information. There has been some concern expressed that adoption support services are not available to children not in the custody of the Secretary. The bill opens adoption support up to all special needs and minority children adopted in Kansas.

5. Problems with the Bill

Section 1 (e) requires court reports on all non-agency adoptions completed during FY-83 be sent to SRS. In order to more completely comply with the intent of this bill it is recommended that all legal documents should also be sent with the reports of the assessment. (line 0090) The deletion of the phrase "and is not eligible or likely to be placed," (line 0147) would clarify the meaning since it is somewhat contradictory to be "eligible for adoption support" but "is not eligible" for foster care placement.

6. Recommendation

Support with the two changes outlined above.

Robert C. Harder, Secretary
Office of the Secretary
Social and Rehabilitation Services
296-3271
3-12=84

Atch. 4