

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

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

3:30 ~~am~~/p.m. on March 22, 1984 in room 526-S of the Capitol.

All members were present except:

Representative Douville 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:

Senator Gerald Karr
Dr. James McHenry, Commissioner, SRS/Alcohol & Drug Abuse Services
Harry, A Citizen
Phyllis, A Citizen
Mike Flysic, Alcohol & Drug Abuse Services
Jim Clark, Kansas County and District Attorneys Association
John Brookens, Kansas Bar Association
Senator Elwaine Pomeroy
Pat Goodson, Right to Life of Kansas
Austin Vincent, Kansans for Life
Jerry Levy, Kansas Trial Lawyers Association
Barbara Reinert, Women's Political Caucus

Hearings were held on SB 232 and SB 258.

SB 232 - Treatment act for drug abusers.

The Chairman said Senator Billy McCray supported the bill but was unable to appear.

Senator Gerald Karr, a sponsor of the bill, said more and more attention is being placed on addressing the problem of chemically dependent people. SB 232 provides a method whereby individuals and parents can obtain assistance with drug abuse problems. Provisions of the bill are similar to those in the alcohol treatment act.

Dr. James McHenry, Commissioner, SRS/Alcohol & Drug Abuse Services, representing Secretary Harder, gave a statement (Attachment No.1) supporting the bill and explaining the rationale of Senate amendments. He noted the bill closely follows the procedures contained in the alcohol commitment statute. In his travels around the state, Dr. McHenry has noted the interest and need for commitment procedures to treat drug abusers.

Harry, father of a drug abuser, told, in his statement (Attachment No.2), of his son's experiences with drugs, noting that drug abuse is as much a disease as alcoholism, and commitment procedures are needed.

Phyllis, whose daughter is chemically dependent, told of her experiences in this regard and in trying to get help for her. Phyllis' statement is attached (Attachment No.3).

The Committee discussed provisions of the bill with Mike Flysic, Alcohol and Drug Abuse Services, responding to questions. A member said the purpose of the bill would be negated by rules and regulations of the Secretary of SRS because no criteria is stated as to who gets in public facilities and who does not. He questioned if the language in lines 176 and 317-328 regarding ex parte order was constitutional and if language in lines 397-400 would impose additional duties on county attorneys. Jim Clark, Kansas County and District Attorneys Association, said it would not. The need for stringent prevention measures regarding the use of drugs was noted. Dr. McHenry said SRS has been pursuing preventive educational programs.

SB 258 - Wrongful life or birth actions prohibited.

John Brookens, Kansas Bar Association, cited a court case regarding an unsuccessful bilateral tubal operation where a suit was filed on behalf of the child against the doctor.

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MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,
room 526-S, Statehouse, at 3:30 ~~xxx~~/p.m. on March 22, 1984

The court held such action was against public policy and the benefits of having a normal healthy child outweighed legal liability. He said the Kansas Bar Association is opposed to cause of action for normal births.

Senator Pomeroy said he introduced the bill because human life is very important and someone who has life should not be able to file a lawsuit because they have life. SB 258 prevents any action against anyone else because of that person's birth. He said the amendment on line 23 makes clear that the bill applies only to wrongful life action. It was noted that there is no prohibition in the bill against parents filing a lawsuit. Senator Pomeroy said he was philosophically opposed to parents suing because of the birth of a normal child, but he knew of no way of limiting this in the bill.

Pat Goodson, Right to Life of Kansas, supported the bill. Her statement is attached (Attachment No. 4).

Austin Vincent, Kansans for Life, supported the bill and questioned how a determination could be made as to what was a normal child. An outline of his statement is attached (Attachment No. 5).

Jerry Levy said the Kansas Trial Lawyers Association was philosophically opposed to the bill. He agreed that cause of action for normal births should not be allowed and suggested the bill be amended to reflect this. He believed that children who were defective through negligence of the doctor should have the right to sue.

A statement from the Women's Political Caucus, given by Barbara Reinert, urged caution in passing the bill. The statement is attached (Attachment No. 6).

The Committee took action on HB 2688, HB 2689, HB 3012, all re-referred to the Committee, and on SB 519.

HB 2688 - Administrative procedures act.

Representative Duncan moved to report the bill, as amended, favorably, seconded by Representative Knopp. Motion carried.

HB 2689 - Judicial review and civil enforcement of agency actions.

Representative Duncan moved to report the bill, as amended, favorably, seconded by Representative Solbach. Motion carried. Representatives Patrick and Vancrum voted against the motion.

HB 3012 - Informal administration of estates.

Representative Knopp moved to report the bill, as amended, favorably, seconded by Representative Wunsch. Motion carried.

SB 519 - Exempting swine confinement facilities from restrictions on agricultural corporations.

Letters from the DEKALB Swine Breeders (Attachment No. 7) and Senator Richard Gannon (Attachment No. 8) supporting the bill were distributed to members.

Representative Duncan moved to report SB 519 favorably, seconded by Representative Schweiker. Representative Blumenthal made a substitute motion to report the bill without recommendation, seconded by Representative Vancrum. Representative Blumenthal said his substitute motion was made with the request that the bill be referred to the Agriculture Committee. Although the request was not part of the substitute motion, he believed the bill was a policy decision regarding the hog market, and the Agriculture Committee is more knowledgeable about agricultural issues. A member disagreed and said the bill hinges on the question of the DEKALB corporation being properly grandfathered into the statute. The Chairman said the Agriculture Committee did not want the bill, and the Speaker chose to assign it to Judiciary. He noted the bill's original intent was to clear up a title problem for a particular company, but other matters have developed since then. Following discussion on the substitute motion, the vote failed to carry 9 to 10.

Discussion was resumed on the original motion to report the bill favorably. Points were made that the Attorney General's opinion concerning DEKALB and the F & R swine operations was correct, and SB 519 would prevent their closing down; if the bill is not passed, these types

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of businesses will go to other states; voting against the bill will not insulate Kansas pork producers against corporation operations; the low price of farm land was noted and the possibility mentioned that, if corporations were allowed to buy land, prices might go up; and DEKALB could settle the issue by filing a declaratory judgment action that they were in compliance when the corporate farm law was passed and the company was grandfathered in, filing the action in its local district court which would probably give it a favorable opinion. The vote was taken on the original motion, and it failed to carry.

Representative Solbach, having voted on the prevailing side on the motion to report the bill without recommendation, moved to reconsider that action, seconded by Representative Schweiker. Representative Miller made a substitute motion to report SB 519 adversely, seconded by Representative Justice. A point of order was raised. The Chairman ruled the substitute motion was out of order. Representative Miller challenged the ruling. The vote on the challenge was in favor of the Chair, and the ruling prevailed. Following discussion regarding the motion to reconsider, the motion carried.

In discussion on the substitute motion to report the bill without recommendation, concern was expressed that the bill sanctioned foreign corporations buying Kansas farm land. It was noted that only enough land to establish breeding facilities would be involved. A member said the word from hog farmers is they do not want this bill passed. The Chairman said he would tell the Speaker that Representative Blumenthal requests the bill be referred to the Agriculture Committee. The vote on the substitute motion to report the bill without recommendation carried 10 to 9.

The meeting was adjourned at 5:40 p.m.

To: House Committee on Judiciary
From: Dr. James A. McHenry, Jr., Commissioner
SRS/Alcohol and Drug Abuse Services
Date: March 22, 1984
RE: SB 232

Currently Kansas does not have a procedure to provide court ordered treatment for persons who are incapacitated by drugs or for persons who are a danger to themselves or others because of drug abuse. During an average year in Kansas, we estimate that about 100 Kansans do not receive treatment for their drug abuse problems because our state does not have a procedure to provide for involuntary commitment. The absence of this statute not only affects individual abusers, but also their families and communities, who continue to suffer because there is no legal intervention process available to them, short of recourse into the criminal justice system.

Senate Bill No. 232 provides a well-defined process that family members, friends, judges and law enforcement officials can use to assure that drug dependent persons receive the treatment services which they so urgently need.

This bill closely follows the procedures contained in the alcohol commitment statutes rather than establishing a new procedure for courts and treatment programs. This bill, like the alcohol commitment statute, does not establish a diversion program, so if a proposed patient is charged with a crime, that person may be arrested and otherwise dealt with under the law in the same manner as other persons who are arrested.

I believe this legislation represents another important step toward providing essential drug evaluation and treatment services to the citizens of Kansas, and I support your efforts in enacting this legislation. I would also like to thank the chairman and the members of this committee for permitting me to share these views.

0667B

Atch. 1

RATIONALE FOR AMENDMENTS TO SB 232
As Amended By Senate Committee

- P. 2 Lines 48 - 51 To be consistent with MI commitment statutes.
- P. 2 Line 61 &
Lines 63 - 66 &
Lines 67 - 68 The "Informal patient" does not apply to drug treatment programing.
- P. 3 Lines 100 - 102 Does not pertain to this act.
- P. 4 Lines 127 - 130 Psychologists, along with physicians, should have the ability to determine if a person is incapacitated or a danger to self or others because of drug abuse/dependency.
- P. 4 Lines 133 - 140 Clean up language. To be consistent with MI commitment statutes.
- P. 4-5 Line 151 &
Lines 154 - 158 Clean up language.
- P. 5 Lines 159 - 171 Clean up language.
- P. 5-7 Lines 176 - 236 To be consistent with MI commitment statutes.
- P. 7 Lines 253 - 261 To be consistent with MI commitment statutes.
- P. 8 Lines 271 - 275 To be consistent with MI commitment statutes.
- P. 8 Line 277 Clean up language/adds psychologist.
- P. 8 Lines 278 - 279 The change to 72 hours gives more time for an examination to be valid and therefore one more day of time to accomplish the examination.
- P. 8 Lines 280 - 285 In the rural areas of Kansas it is hard to accomplish all the requirements within the currently required 48 hours. This will provide not more than 72 hours for the performing of the examination by a physician or psychologist after the filing of the application.
- P. 8 Lines 292 - 296 To be consistent with MI commitment statutes.
- P. 9 Line 317 Clean up language.
- P. 9 Line 329 To be consistent with MI commitment statutes.
- P. 10 Line 347 Clean up language and clarity.
- P. 10 Lines 353 - 357 Clean up language.
- P. 10 Line 358 Gives courts, especially in rural areas, sufficient time to hold this hearing and still protect the rights of the proposed patient by keeping to the shortest time possible.

RATIONALE FOR AMENDMENTS TO SB 232
As Amended By Senate Committee
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- P. 12 Lines 436 - 438 Clean up language.
- P. 13 Lines 459 - 476 To be consistent with MI commitment statutes.
- P. 14 Line 510 Clean up language.
- P. 14 Lines 520 - 523 Clean up language/adds psychologist.
- P. 15 Lines 547 & 550 Treatment programs generally have a set number of days of program length under 90 days. This reduction will provide better consistency with the treatment system.
- P. 16 Lines 577 - 580 Clean up language.
- P. 17 Line 611 Clean up language.
- P. 17 Lines 620 - 622 Clean up and to aid with possible problems with confidentiality.
- P. 17 Line 634 Clean up language/adds psychologist.
- P. 18 Line 641
Line 654 Clean up language/adds psychologist.
- P. 19 Lines 680 - 683 Clean up language/adds jury.
- P. 19 Line 688 & 691 Provides a more realistic length of treatment time, 60 days is about the average length of treatment programs.
- P. 19 Lines 701 - 703 Clean up language/adds psychologist.
- P. 22 Lines 821 - 822
- P. 23 Lines 834 - 835 See P. 28/29 below.
- P. 23 Lines 844 & 846 Since drug treatment is not as open ended as MI treatment, a shorter period of time is appropriate.
- P. 25 Lines 929 - 933 Clean up language. Most community based treatment
P. 26 Line 936 programs do not have a physician as a head of the treatment facility so the decision should be made by a person with clinical skills and authority.
- P. 28 Lines 1009 -
1044,
P. 29 Lines 1045 -
1047 If it can not be determined in the usual manner the county of residence of the patient, the secretary can determine the county of residence or pay the costs from amounts appropriated for this purpose.

Kansas State Legislature
House Judiciary Committee
Mr. Chairman
Members of the Committee

Attachment # 2

My name is Harry. The reason for using only the first name will become apparent in my testimony. I am a native son and resident of Kansas.

I appreciate this opportunity to speak in support of Senate Bill 232.

In the past three years I have learned more about substance abuse than I ever aspired or expected to know. My youngest son, who is now 19, taught me most of what I know about substance abuse. Presently he is seeking to find his way to recovery from abusing drugs. For this reason, I do not want my activity - and use of the family name - to subject him to any prejudice in his recovery effort.

I can say the last time I talked with him he was alive, not in jail, and still had a job. We have to take it one day at a time. But, it has not always been totally so.

As a youngster, he had a wide variety of interests. At one time there were two salt water aquariums. He was into radio controlled airplanes and a boat. He belonged to two explorer scout groups at the same time - one hot air ballooning, the other computers. As a ninth grader, he built his own personal computer and won the computer hog award for logging the most time on the school computer. He got his scuba diving ticket. He snow skied the intermediate slope after 1 hour beginning instruction when he was still in grade school. He did everything that interested him 150%.

When he started high school in the 10th grade, he started liquor and drug use. He soon did that 150% too. A year later, after the 1st 9 weeks as a junior, he was a high school drop out. He was rapidly going down hill.

Later on when he was in treatment, he wrote his version of his life. I want to share some of that with you.

As his father, I could see different signals from him that represented calls for help. But he would not agree to go into treatment. For the greatest fear of a drug user is the fear of being cut off from the source of supply of drugs. That overwhelming fear kept him from agreeing to go into treatment, even when he knew his problem was out of control.

I have had three experiences going to probate court seeking commitment to treatment in two different Kansas counties. I have learned

1st - The Probate Court is careful to protect the interest of the person who is the defendant.

2nd - Under Kansas law the Court will not make a commitment for drug abuse - only for alcoholism, or, because the defendant is a threat to himself (suicidal) or a threat to others.

It's very difficult to assert your child is insane, and it's tough to claim he's an alcoholic when he has never been arrested for an alcohol offense.

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Kansas State Legislature
House Judiciary Committee
Mr. Chairman
Members of the Committee
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As a result of the drug abuse treatment my son has experienced, I have learned that drug abuse is as much a disease as alcoholism. Alcohol is a drug. An alcoholic is a drug abuser. The treatment programs - the psychological therapy treatment - for alcoholism and drug abuse are the same. The alcoholic patients and drug abuse patients are together in treatment programs.

The Kansas statutes need to be revised to provide for court commitment to treatment of the disease of drug abuse the same as it provides for commitment to treatment of alcoholics.

Thank you for this opportunity to speak. I will be pleased to respond to questions.

Mr. Chairman & members of the judiciary committee:

Thank you for the opportunity of addressing you. I appreciate that my last name remain annanamous.

My name is Phyllis. I'm a Kansas citizen and a resident of Wichita, Kans. I consider myself average in life style and a positive part of my community. There is a cloud hanging over my household. I like thousands of other Kansans have a chemical user in my family. I'll call her Susie. She is the youngest of three children, and only last Tuesday turned 21.

During the past 18-24 months, her use of alcohol, heroin, perscription drugs, and countless other chemicals has rendered her helpless in her goals and attitudes. Her behavior is un-predictable, sometimes painfully fretful, other times belligerent. Mood changes, I soon grew to know, were directly related to those whose one concern was to get another fix or pill, and that was the prime reason for living. Susie assumed a nocturnal schedule. Friends came and went through my house as if it were a market place. Phone calls were placed and received throughout the night. Fighting, pleading, reasoning, long talks, prevailed. I was not getting through. The eyes I looked into were looking right through me. Words no longer were being registered in her mind. Her job was lost because she was not able to function. Our household became caotic, a nightmare.

Finally, she did admit herself as an outpatient at Sedgwick County Mental health clinic for a methadone maintenance program. That meant she was to receive methadone every day. Meanwhile, she kept telling me she had no drug problem. To this legal dose of drugs daily, she added many drugs on her own, causing her to become viohently ill, sleepy, and/or robotic.

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Watching my daughter grow painfully weak and fear for her life, I determined to seek help for her.

I met with the director of St. Joseph Chemical Treatment Unit in Nov. of last year. We discussed the alternatives. That of her seeking help for herself in that program or one like it, or having her placed against her will in a treatment center. I dreaded taking away the rights of Susie, but I finally did so in January of this year by signing a petition in probate to have her picked up at my home and taken to the hospital for help and possibly treatment.

On Jan. 11, Susie was admitted against her wishes to St. Joseph Chemical Treatment Unit for observation. Hopefully, we were getting help and for the first night in many, I slept, knowing that she was safe, hoping she would respond. After 2 days, she was given a right to appeal her case, denying she had any problems with drugs. *was willing & staying to get treatment.* This hearing was held in the hospital with the attending physician testifying that the tests made on her revealed a toxic amount of several drugs in her system, liver damage, but no trace of alcohol. The Judge released her to go home. My efforts and concerns were once again not to be acted upon.

Home to Susie is no longer in my home. She has taken residence away from my and I released her through tough love to the help of a greater power than myself. I pray for her daily.

With the passage of Senate Bill 232, other parents such as myself, will no longer have to suffer the pain of helplessness when seeking treatment for this illness which has reached epidemic proportions. I urge you to support this bill.

Mr. Chairman, members of the committee; I am Pat Goodson. I represent Right To Life of Kansas, Inc.

A major purpose of our organization is the restoration of a sanctity of human life ethic to the law of our land, an ethic so badly eroded by the Wade and Bolton abortion decisions of the supreme court. We appreciate the opportunity to appear in support of senate bill 258, as an important step in that goal.

For a number of years wrongful birth or wrongful pregnancy cases have been debated. Courts had generally rejected these suits on the basis that the birth of a child was a blessing. In the wake of Wade and Bolton, however courts have begun to favor the notion that the birth of a child was something less than a blessed event, especially if the child was in some way handicapped. Without legislation such as that proposed today, these cases seem well on their way to full acceptance in court jurisdictions across the United States.

The implications of this development are ominous. They suggest terribly disquieting things about the state of our civilization's attitude towards the sanctity of human life. For regardless of their theoretical insulation from the politics and culture of everyday American life, the attitudes of the courts nonetheless reflect to a large extent where we are as a society. To argue as an attorney must in a wrongful birth or life suit, on behalf of a child, that "I would be better off if I were not alive", and "but for the wrongful act of my parents or the doctor, I would not have been born" is to argue that Life, rather than a precious gift is somehow harmful; that death is to be preferred to a life less than perfect.

The notion that human life whether it results from a botched sterilization or a failure to obtain information that would have led to a eugenic abortion, ever can be "wrongful" is inimical to the reverence for life that has always been an integral part of the moral foundation of Western civilization.

The idea that a handicapped child would lead a life that would better never have been lived, or that the parents of such a child are "damaged" by that child's presence in their family, not only bespeaks a pervasive social prejudice against the handicapped, but also involves judgements that are beyond the moral abilities of courts, legislatures or society as a whole to make. Is it a measure of our moral degeneration that the courts of modern American society would not reject outright the idea of "wrongful life" in all its legal embodiments?

In a 1963 case, Zepeda v. Zepeda, the Illinois Appeals Court warned of such lawsuits; They said: "The legal implications of such a tort are vast, the social impact could be staggering....What (disturbs) us is the nature (of these suits). Encouragement would extend to

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seek damages for being born a certain color, another, because of race, one for being born with hereditary disease".

Twenty years later, January 1983, the Washington state supreme court in Harberson v. Parke Davis rendered a decision that would seem to show that the Illinois court concerns were more than justified. In that case, Harberson v. Parke-Davis, the Washington supreme court relied on the U S supreme court abortion decisions. Accepting or acknowledging the fact that a woman has the right to have an abortion under Wade and Bolton, the court outlined in the wrongful birth section of their decision two areas.

The court stated that for the purposes of the decision, wrongful birth would be viewed as an alleged breach of duty of health care providers where the breach is the proximate cause of the birth of a defective child. The court outlines that parents may avoid the birth of a defective child by aborting the fetus. They are clearly addressing the question of aborting defective children. But they recognize the inherent difficulties when they state:

"Are these developments the first steps towards a "Facist-Orwellian societal attitude of genetic purity...or Huxley's Brave New World'? Or do they provide positive benefits to individual families and to all society by avoiding the vast emotional and economic costs of defective children.?"

The court then proceeded to rule; "We hold that parents have a right to prevent the birth of a defective child and the health care providers a duty correlative to that right." Once having made this determination, the court then reaches what it considers the inevitable consequence of recognizing the parents' right to avoid the birth of a defective child and goes on to hold that the birth of such a child is the actionable injury. In other words, the court has determined that the injury is not the defect, but that the injury is in fact birth. To do this of course, they must have made the judgement that non-existence or non-life is a greater value than to be born with some type of handicap or disability. They offer no rationale for this, but offer the judgement that because of the "vast economic and emotional costs of defective children" that non-life has a greater value.

In considering wrongful life actions the Harberson court stated:

"In a wrongful life claim, the child does not allege that the physician's negligence caused the child's deformity. Rather, the claim is that the physician's negligence -- his failure to adequately inform the parent's of the risk -- has caused the birth of the child. The child argues that but for the inadequate advice, it would not have been born to experience

the pain and suffering attributable to deformity."

The court clearly established the child's individual right to bring such a cause of action. This expands the Roe v. Wade decision which gives the mother the right to an abortion and clearly establishes that a child has a right to be aborted.

Implications for physicians and health care providers are such that those who object to involvement in abortion might well be forced out of the health care field rather than risk the possibility of lawsuits because they refused to advise or refer for abortion.

We recognize that there are differences of opinion regarding the legal terminology of wrongful life and wrongful birth. Philosophically, we see no difference. In fact we told the Senate committee, if we were to be cynical we might say the distinction between wrongful life and wrongful birth is whose insurance company will pay the bill.

Cases in Kansas have been mixed. In December Judge Corrigan of Wichita ruled that the parents of a healthy child born following a failed sterilization could not recover the costs of pregnancy. Judge Corrigan ruled that to award the cost of rearing a child "attacks the family unity". It is our understanding that this case was to have been appealed. A different decision could be rendered on appeal, or by other courts in other cases.

In closing we would like to make clear that this bill does not prohibit, nor would we support precluding recovery for negligent actions that actually cause the defect or injury of a child as long as the birth or life of the child itself is not considered an injury. In the Washington case, the doctor had given the mother dilantin a drug which can cause injury to a child if given during pregnancy. The doctor should have been sued for prescribing a drug improperly that injured the child.

We urge the adoption of senate bill 258. Thank You.

TESTIMONY OF AUSTIN K. VINCENT OF TOPEKA, KANSAS
IN SUPPORT OF SB-258 TO PROHIBIT ACTIONS FOR WRONGFUL
BIRTH BEFORE THE SENATE JUDICIARY COMMITTEE
FEBRUARY 9, 1984

I. Generally, the courts have not allowed recovery in tort for wrongful life or birth. Gleitman v. Cosgrove, 49 NJ 22; Stewart v. Long Island College Hospital, 296 NYS 2d. 41.; Berman v. Allan, 404 A 2d 8 (N.J. 1978). Reasons given include:

A. Logical impossibility of measuring difference between life with defects and utter void of nonexistence;

B. Policy reasons against allowing tort damages for failing to take an embryonic life.

II. There will eventually be exceptions. Becker v. Schwartz 413 NY.S. 2d 895 disallowed damages for psychic and emotional injury to parents, but allowed pecuniary damages for losses which were the consequences of birth of a defective child.

III. The right to recover for wrongful birth would put the physician in the position of guessing whether an unborn person would want to be born and would further a mentality of genetic superiority.

IV. The viable child in utero is virtually unprotected under Kansas law. K.S.A. 21-3407. Wrongful birth cause of action would only further endanger this highly vulnerable being by inducing parents to abort for financial reasons (to avoid liability) and prodding physicians to think twice before attempting to save a defective child.

V. What is normal?



KANSAS WOMEN'S POLITICAL CAUCUS

March 22, 1984

House Judiciary Committee

Chairman Frey and Committe Members,

S.B. 258 Addresses a complicated issue better handled on a case by case basis by those most directly involved. The Kansas Women's Political Caucus questions the necessity and therefore the advisability of any legislation which may create more confusion than clarity. The Caucus urges caution.

Roberta Sue Hawver

Barbara Reinert

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DEKALB

Attachment # 7

Swine Breeders, Inc.

March 22, 1984

Representative J. Santford Duncan
Room 115-S
Capitol Building
Topeka, Kansas 66612

Dear Representative Duncan:

In connection with our efforts supporting the enactment of Senate Bill 519, it has come to my attention, as President of DEKALB Swine Breeders, Inc., that opponents of this legislation are indicating to the Members of the Legislature that upon the adoption of Senate Bill 519, DEKALB Swine Breeders, Inc. will be sold to Seaboard and Pauls & Whites or to some other company or group.

This is absolutely and categorically false. For your information and for the benefit of our customers and others, I want to reaffirm DEKALB's continuing commitment to the production and sale of hybrid swine breeding stock from our Kansas operation.

I am advised that under the present law (that is, without the passage of Senate Bill 519), DEKALB can produce and sell any number of market hogs. Of course, our business is the sale of breeding stock to farmers. Therefore, I would like to reiterate that DEKALB's interest in this Bill is confined to clearing up the ambiguity concerning its right to continue to produce and sell breeding stock and to make it possible to move our research facilities from Illinois to Kansas at some time in the future.

As further clarification, and as many of you are aware, DEKALB Swine Breeders, Inc. is wholly-owned by DEKALB AgResearch, Inc., the parent company, which is independent of any other corporate ownership.

If there are any other questions or information that you need before you can support Senate Bill 519, please let me know. Thank you.

Sincerely,


Roy L. Poage
President

cc: Eugene L. Smith, Attorney at Law



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RICHARD G. GANNON
 SENATOR, 40TH DISTRICT
 BOX 60, ROUTE 3
 GOODLAND, KANSAS 67735



TOPEKA

SENATE CHAMBER

March 22, 1984

COMMITTEE ASSIGNMENTS

MEMBER: AGRICULTURE AND SMALL BUSINESS
 COMMERCIAL AND FINANCIAL INSTITUTIONS
 ENERGY AND NATURAL RESOURCES
 FEDERAL AND STATE AFFAIRS
 ELECTIONS
 ADVISORY BOARD ON LOW-LEVEL
 RADIOACTIVE WASTE

VICE-CHAIRMAN: AGRICULTURE, FOOD POLICY, AND
 NUTRITION COMMITTEE OF THE
 NATIONAL CONFERENCE OF
 STATE LEGISLATURES

Attachment # 8

The Honorable Joe Knopp
 Vice-chairperson
 House Judiciary Committee

Dear Representative Knopp:

As a representative of an agricultural area, I support Senate Bill 519.

Before I delineate my reasons for supporting this bill, I want to inform you that my home community has met with Pauls and Whites and both my community and I feel that their facility would be extremely beneficial to the area.

I feel this bill would be beneficial to agriculture for the following reasons:

1. Development of a local market for grain.
2. Development of a local market for hogs.
3. Development of local agricultural jobs.

One of the major problems confronting American agriculture today is that of overproduction. Neither domestic consumption nor exports are high enough to make a substantial impact on our grain reserves. My area of Northwest Kansas is currently a net exporter of grain to feedlots in Southwest Kansas and the Texas/Oklahoma panhandle. If this bill is passed, there will be an opportunity for the area to develop a viable market for grain within the area. This market would help reduce the export costs which Northwest Kansas farmers currently face.

Hog production in Northwest Kansas is relatively low. The establishment of this facility would not damage the production that is now there, but would substantially benefit the few small producers by developing a market for hogs. For example, the DeKalb Company located in Southwest Kansas in 1973; hog production in that area showed a 106% increase from 1970 to 1981 while hog production in the entire state showed a decrease of 20%. Additionally, it is likely that an increase in hog production could initiate the same increase shown in the history of the cattle feedlot with a subsequent increase in slaughter facilities. Since I have recently learned that many of the hogs raised for slaughter in my home community are taken to Burlington, Colorado, and loaded with other area producers' hogs then trucked to California for slaughter, this probable increase in local slaughter facilities would have a substantial impact on the total cost of hog production.

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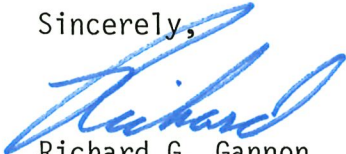
House Judiciary Committee
March 22, 1984
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While the construction of the Pauls and Whites facility will produce several construction jobs, the long range impact of agricultural related positions will be most beneficial to the area where they locate. The attendant retail and support positions generated by employees of the facility will also be an economic boom.

In the final analysis, I feel that Senate Bill 519 will be extremely beneficial to the State of Kansas.

I respectfully request your support of this bill and of Kansas agriculture.

Sincerely,



Richard G. Gannon
Senator
Fortieth District

RGG:pw