

MINUTES OF THE SENATE COMMITTEE ON JUDICIARYThe meeting was called to order by Senator Elwaine F. Pomeroy at
Chairperson10:00 a.m./~~p.m.~~ on February 17, 1984 in room 514-S of the Capitol.~~All~~ members ~~were~~ present ~~except~~ were: Senators Pomeroy, Winter, Burke, Feleciano, Gaar,
Mulich, Steineger and Werts.Committee staff present: Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

H. C. Modlin, M.D., Menninger Foundation
Brenda Hoyt, Office of the Attorney General
Jon Willard, Olathe Attorney
Suzanne Hardin, Kansas City
Kenneth Johnson, Kansas LP Gas Association
K. R. Rissler, Kansas LP Gas Association
Tom Whitaker, Kansas Motor Carriers Association
Kathleen Sebelius, Kansas Trial Lawyers Association
Gary McCollister, Kansas Trial Lawyers Association
John Brookens, Kansas Bar Association

Senate Bill 681 - Grandparents' visitation rights.

Dr. Herbert Modlin spoke in support of the bill, and of the psychological and social concerns of the family. He stated a divorce dissolves a marriage, but it does not dissolve a family, from a child's standpoint. With the new divorce law, the battle now is over the children, instead of who is at fault. This adult child/parent controversy can result in hostile reaction, including the grandparent. In regard to the social support system for the child, the community is the extension of the family. This support system can't be over estimated; it is the sense of where the child belongs and with whom the child belongs. It is the feeling of sense of continuity. Dr. Modlin sees this strikingly in adopted children. The sense of extended family is important. The chairman inquired, with regard to the importance of extended family, the bill is not restricted to cases where there are deceased or divorced parents. What effect would there be by filing a contested action by grandparents to force visitation on the parents? Dr. Modlin replied, yes, I can see difficulties. Depends on the individual case; could go either way; could be problem with grandparents. That is possible.

Brenda Hoyt testified in favor of the bill. She pointed out the bill still leaves the district court the discretion, if in the best interests of the child. The bill does give grandparents affirmative rights if they pursue them. Children do need to know they belong to everyone. If you don't make the effort, the court assumes you don't care. This gives children affirmative recognition that the grandparents really do care. The chairman inquired, regarding the family relationship, if it has deteriorated to the point an action would be necessary, would there be much healing effect? What about the divisive effect rather than the healing? She replied, there are a number of cases; we mostly hear of the extreme ones. She said we assume there are a lot of cases where families deal with a divorce in a hostile setting. A committee member inquired, is the attorney general in support of a bill which would permit court action by grandparents for visitation rights for grandchildren where there is no deceased parent or broken marriage? She replied, they support the concept, when it is advisable in the eyes of the court; in the instance where the grandchild's parents are very young, and the parents are not providing all of the child's needs. The committee member inquired, in court? She replied, she thinks so. In response to a question, she

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~pm~~ on February 17, 1984

Senate Bill 681 continued

replied, children always listen to custody fights. A committee member inquired, when a child is given up for adoption, are all rights of grandparents severed forever? She replied, generally, yes, if the child is completely adopted. A staff member inquired, is the attorney general in favor of the concept of allowing other close relatives other than grandparents to petition for visitation rights? She replied, she did not discuss this directly with the attorney general. Her views are, she would say that there would be some reluctance on their part that everyone can go in and cause disruption.

Jon Willard testified in support of the bill. A copy of his remarks is attached (See Attachment No. 1). He stated he is an attorney in Olathe and has practiced law for thirteen years. Following his testimony, he added, the unmarried parents need the support of the grandparents, but with boyfriends or they are remarried, the parent decides the grandparents are not needed, and refuses visitation. This is very disruptive to the children. The chairman inquired, do you feel we can pass laws to deal with every situation? Mr. Willard replied, I don't think we can. During his experience he has seen situations in juvenile court involving abused children where grandparents, having a very supportive role, and had been denied that relationship. The chairman inquired, in your practice have you ever observed parents who have trouble letting go of their children? This type of person might be more likely to use this? He replied, I think that is possible. He said he felt it won't be misused, and the matter will come down to the court to make the decision. We need a mechanism available. A committee member inquired, what is the state's responsibility to inject the court into the family? He replied, I see this a logical extension to cover the situation where we don't have a divorce but have a similar situation; it doesn't fall under a category in the law. The committee member inquired, how do you know it's in the best interests of the child? Mr. Willard replied, this is simply to cover cases where there are children who don't fit into the right category of the law. It's no easier than in those custody situations. Another committee member inquired, can this be viewed as giving the judge another tool to work with in protecting the best interests of the child?

Suzanne Hardin testified in support of the bill. A copy of her testimony is attached (See Attachment No. 2). A committee member inquired, is there a possibility that problems of the parents might have been induced by the same parents who are now trying to impose their will on their grandchildren? She explained her personal experience, with the peer pressure and peer popularity of drugs that was involved.

Senate Bill 593 - Immunity from civil liability in hazardous materials emergencies.

Ken Johnson testified in support of the bill. He noted there is a similar house bill, HB 2855, and the definitions in this bill more thoroughly cover the subject.

K. R. Rissler and Tom Whitaker stated they reiterate Mr. Johnson's remarks.

Kathleen Sebelius appeared in opposition to the bill. She introduced Gary McCollister.

Mr. McCollister testified in opposition to the bill. He stated it is being proposed to encourage assistance in rendering emergency care. He said he didn't see any reason to carve out immunity for a person to provide emergency care. The industry has its own method of procuring to render emergency care or assistance. The industry knows this risk occurs, but they are prepared and available to respond to it. We should not be asked to spread risk when someone performs a simple act of negligence. He feels it an insurable risk. The chairman inquired, is it possible there might develop too many laundry lists of situations where not liable? If something is not on specific list, you are liable? Mr. McCollister replied, I think that could be the situation.

John Brookens was recognized to correct a statement he had made during testimony on the district attorney bill. He had reported the county attorney of Pottawatomie County was paid \$15,000, and he found out he was raised to \$21,000, and he is now paid more than the County Noxious Weeds Supervisor.

The meeting adjourned.

GUESTS

2-17-84

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Ken J. Schum	707 Topoka	KLPGA
A.R. Kusler		
Jean Knorr	Topoka	K.B.A.
Valter Sletten	Topoka	KTCB
GARY D. McCallister	Topoka	KPR
Mr. Tolson	Lawrence	Sen Stevens
Brenda Hoyt	Topoka	A.G.
Don & Willy	Clatsop	
H.C. Madlin M.D.	Topoka	Merringer Foundation
Suzanne H. Hardin	Kansas City	grandparent
Cynthia A. Robinson	K.C.	Ks action for children
Ann Brooks	Topoka	K B A
M. H. Green	"	Capital Journal
Paul Altu	Topoka	" "
Tom Whitaker	Topoka	Ks Motor Carriers Assn
Barry Massey	"	Associated Press

TESTIMONY OF JON S. WILLARD
TO SENATE JUDICIARY COMMITTEE
February 17, 1984
213B E. Sante Fe, Box 575
Olathe, Kansas 66061

2-17-84

Attach. #1

1. Legislature has recognized the importance of grandparent visitation in regard to divorce situations.

2. There is no present provision for grandparent visitation to be granted except where a divorce has taken place.

3. There exists a need for grandparents to have legally protected visitation privileges, even where no divorce has occurred.

4. We know both from statistical figures provided by experts and from our common sense that the relationship between grandparent and grandchild is a very special one and very important to both parties.

5. It is especially important to the child that where a relationship has been established that it not be summarily terminated by a parent who may be acting without any justification.

6. This bill would allow the court to protect grandparent visitation when the court found that to be in the best interests of the child.

7. This legislation would cover an area which has not previously been addressed by our statutes.

Attach. 1

2-17-84

Attach. # 2

SB 681 could help our family of 32 members - four generations- who are being affected by restricted visitation with our grandchildren.

While laws concerning divorce, death and adoption by a stepparent serve many families needs, and bills 614 & 615 would serve many custody cases, SB 681 would serve the rest of the families and protect the children's rights to continue in loving relationships with their grandparents.

SB 681 would address the problems grandparents are facing with their children who are now the parents of their grandchildren. The past 20 years has seen the disintegration of family ties due to drugs and rebellion against everything traditional and time proven. The results have been teen age parents, unwed mothers, common law live-ins. These all directly relate to the need for SB 681.

These parents do not have their lives in order. They still rebel against family. They use the family and then strike out when family tries to voice their concerns. It is the grandchildren who suffer the most. They are usually in a very close psychological relationship with the grandparents because the parents most often leave their children with the grandparents for extended lengths of time. When

the grandchildren love the grandparents the parents feel threatened and angry and force their children away from seeing the grandparents. The children suffer emotionally.

The Grandparents Care group in Kansas City (Kansas side) have 50 sets of grandparents who are wanting Kansas laws and SB 681, 614 and 615. These grandparents have and are experiencing trauma by being denied seeing their grandchildren. They suffer in silence hoping "tomorrow" they can be with their grandchildren. The grandchildren suffer, too. The grandparents also want to be in a loving relationship with the parents of the grandchildren.

SB 681 would also serve as an incentive to encourage mediation that could prevent the emotional trauma of separation before it could affect the grandchildren.

We have had to stand by helplessly since 1975 and watch our grandchildren being emotionally affected. They must be allowed a close relationship with us. SB 681 would answer our needs.

Suzanne H. Hardin
8229 Nall Avenue
Prairie Village, Ks. 66208
(913) 648-4906

Attch. 2