

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Senator Jan Meyers at
Chairperson

10 a.m. ~~pm~~ on March 27, 1984 in room 526-S of the Capitol.

All members were present ~~except~~

Committee staff present:

Emalene Correll, Legislative Research Department
Arden Ensley, Revisor of Statutes office

Conferees appearing before the committee:

Robert Barnham, SRS (~~MARRIUM~~)
Dick Morrissey, Director, Bureau of Adult and Child Care, DH&E
Barbara Sabol, Secretary, DH&E
Teresa Rupp, Executive Director, Child Care Association of Wichita/Sedgwick
County
Ethel May Miller, Kansas Association for Retarded Citizens
Jack Snavelly, Alliance of Christian Children's Home, Inc.

Others present: see attached list

HB 2695 - licensing of boarding homes for children and family day care
centers, prevention of child abuse

Robert Barnham, SRS, testified in support of HB 2695, and distributed testimony stating that the purpose of this bill is to prevent child care facilities or homes from providing care for children when there is a person who has committed an act of child abuse in the home; and to ensure DH&E access to any report of confirmed child abuse in the possession of SRS. Mr. Barnham pointed out two possible problems with the bill: federal regulations regarding disclosure of child abuse/neglect records are stringent and specific, and it is possible Kansas could be found out of compliance with the federal confidentiality regulations by enactment of these amendments; and the statutory requirement that SRS divulge to another state agency (DH&E) confidential information about persons who have not had due process regarding the information. (Attachment #1).

SCR 1650 - Modifying K. A. R. qualifications for adult care home
administrators

Dick Morrissey, Director, Bureau of Adult and Child Care, DH&E, testified in opposition to SCR 1650, and stated that SCR 1650 is technically incorrect in attributing the adoption of the subject regulation to the Secretary of DH&E, as the regulations governing the licensing of adult care home administrators are adopted by the Board of Adult Care Home Administrators. The argument that many other states allow the substitution of work experience for college credit is not entirely correct; many of those states require work experience in addition to college credit in order to qualify for a license. There is ample evidence that the qualifications and capabilities of administrators have a direct impact on the quality of care provided in nursing homes. DH&E recommends that SCR 1650 be reported unfavorably. (Attachment #2).

HB 2695 hearing continued -

Barbara Sabol, Secretary, DH&E, testified in support of HB 2695 as amended,

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

room 526-S, Statehouse, at 10 a.m. ~~pm~~ on March 27, 1984

and feels that it would improve their ability to ensure quality care in homes for children. There was discussion of the amendment offered by the House and a question concerning screening of foster grandparents. Secretary Sabol said that foster grandparents are usually not in individual homes, but just in facilities.

Teresa Rupp, Executive Director, Child Care Association of Wichita/Sedgwick County, testified in support of HB 2695, but cited specific concerns about wording of the bill; liability problems involving day care centers; and the issue of enforcement. Ms. Rupp said that this bill does not address those homes that are neither licensed nor registered and operate outside the law. There is a need for better enforcement of the laws we have, as well as this proposed law, and until there are negative consequences attached to illegal operation of an unlicensed, unregistered day care home, the problem of abuse of children will not even be adequately addressed, much less eliminated. (Attachment #3).

Ethel May Miller, Kansas Association for Retarded Citizens, testified in support of HB 2695, and said that their association is interested in all kinds of service to children and they are delighted that this bill does not discriminate against the disabled.

Senator Meyers asked the committee to turn its attention to the hospital bills - HB 2004, 2005, 2006, 2007, 2178 and 2736. Emalene Correll, Legislative Research Department, reviewed each of the bills.

Senator Gordon moved that HB 2004 be reported favorably. Senator Hayden seconded the motion and it carried.

Senator Johnston moved that HB 2005 be reported favorably. Senator Vidricksen seconded the motion and it carried.

Senator Bogina moved that HB 2006 be reported favorably. Senator Hayden seconded the motion and it carried.

Senator Johnston moved that HB 2007 be reported favorably. Senator Bogina seconded the motion and it carried.

Senator Hayden moved that the amendments to HB 2178, which were suggested by Emalene Correll, be adopted. Senator Bogina seconded the motion and it carried.

Senator Johnston moved that HB 2178 be reported favorably, as amended. Senator Gordon seconded the motion and it carried.

Emalene Correll said that HB 2736 was one of the hospital districts that doesn't operate a hospital, and the subject matter is covered in HB 2003. Therefore, this bill is not needed.

HB 2098 - Restricting advertising by other than licensed child placing agency

Jack Snavely, Alliance of Christian Children's Home, Inc., wished to propose some amendments concerning the wording in HB 2098. Chairman Meyers suggested that the committee wait to work this bill until Norman Furse is present, in order to work out the amendments with Mr. Snavely.

SCR 1650 - Modifying K. A. R. qualifications for adult care home administrators

There was discussion concerning allowing credit hours as a substitution for work experience. Senator Meyers said that discussion of this bill would have to continue tomorrow, due to lack of time.

Senator Hayden moved that the minutes of March 26, 1984, be approved. Senator Gordon seconded the motion and it carried.

The meeting was adjourned.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3-27-84

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

John Smalley
Sharon Leatherman

ACEH
PHCA

Linda Schmidt
Ethel May Miller

Washburn Univ. Nursing Student
Ks. Div. for Retarded Citizens

CHARLES V. HAMM
ROBERT C BARNUM

KANS. Dept. of Health & Environment
YOUTH SERVICES, SBS

Marilyn Bradt
Dick Morrissey

KINHI
KDAE

KETH R LANDIS
TERESA I. RUDD

CHRISTIAN SCIENCE COMMITTEE
ON PUBLICATION FOR KANSAS
CHILD CARE ASSOC. OF WICHITA
WICHITA, Ks.

D. Sabal
Pat M...

WAVE
Lyle

Randy Attwood
Dave Kump

The Daily News - Olathe
" " "

Lynelle King
Steve M...

Ks State Nurses' Assn.
KTLA

Edward G. Greer

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Statement Regarding House Bill 2695

1. Title of Bill:

Provides the Secretary of Health and Environment access to necessary child abuse/neglect records in conjunction with licensing procedures and the names of alleged perpetrators of confirmed abuse/neglect which are to be furnished by the Department of Social and Rehabilitation Services to the Department of Health and Environment for consideration in the licensing or registering of child care facilities.

2. Purpose of Bill:

To prevent child care facilities or homes from providing care for children when there is a person who has committed an act of child abuse as confirmed by the State Department of SRS residing in the home; and to ensure the Secretary of Health and Environment access to any report of confirmed child abuse in the possession of the Department of SRS concerning certain persons residing in a boarding home for children or a family day care home.

3. Why the Bill:

To strengthen the licensing and registration statutes (65-516 and 65-519) in order to protect children who might come under the care of a person previously involved in a confirmed abuse and neglect situation.

4. Background of the Bill:

KSA 1983 Supp. 65-516 and 65-519 currently state that no person shall maintain a boarding home or a family day care home or register a day care home if any person residing in the facility or home has been convicted of child abuse or has been convicted of a sexual offense. The Kansas Code for Care of Children, KSA 1983 Supp. 38-1501 through 38-1593 provides that the Department of SRS take immediate steps to protect a child or children when there are reasonable grounds to believe abuse/neglect exist. One procedure to ensure the protection of children is to maintain a child abuse/neglect federal registry which contains the names of those persons the Department of SRS has reason to believe have committed an act of child abuse or neglect - a confirmed report. Such incidents are reports and not legal convictions. Since the child abuse/neglect registry information is not routinely available to the State Department of Health and Environment there may be child care facilities operating within the state in which a person resides who has been identified as having previously committed an act of child abuse as confirmed by the Department of SRS. Children in care in these facilities may be at risk of abuse or neglect in such situations. Since the act currently refers only to persons convicted of child abuse, it has not been possible to consider reports of confirmed child abuse/neglect in the licensing or registering of a child care facility.

5. Possible Problems with the Bill:

The federal regulations regarding the disclosure of child abuse/neglect reports and records are stringent and specific. It is possible Kansas could be found out of compliance with the federal confidentiality regulations by the enactment of these amendments.

A second possible problem in this bill is its statutory requirement that the Department of SRS divulge to another state agency (Department of Health and Environment) confidential information about persons who have not had due process regarding the information.

6. SRS Recommendation:

Youth Services recommends support of this bill.

Robert C. Harder, Secretary
Office of the Secretary
Social and Rehabilitation Services
296-3271
1-23-84

Atch. 1

#2 - 3-27-84

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON SENATE CONCURRENT RESOLUTION NO. 1650

SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

PRESENTED March 23, 1984

The Board of Adult Care Home Administrators consists of seven members appointed by the Secretary of Health and Environment and is attached to the Department of Health and Environment for administrative support.

SCR No. 1650, as drafted, is technically incorrect in attributing the adoption of the subject regulation (K.A.R. 28-38-19) to the Secretary of Health and Environment. The regulations governing the licensing of adult care home administrators are adopted by the Board pursuant to K.S.A. 65-3503.

In 1981, the Board initiated a long term policy of upgrading the educational requirements for administrators by establishing the present requirement for sixty college credit hours. The amendment to remove the substitution of work experience for college credit is consistent with the Board's long term care policy.

The argument that many other states allow the substitution of work experience for college credit is not entirely correct; many of those states require work experience in addition to college credit in order to qualify for a license.

There is ample evidence that the qualifications and capabilities of administrators have a direct impact on the quality of care provided in nursing homes. The Board has acted responsibly to implement a long-range effort to phase in new requirements for educational preparation prior to licensing and their actions are consistent with the national trend in this developing profession.

Department's Position: The Department of Health and Environment recommends that the Committee report SCR No. 1650 unfavorably.

Atch. 2

TESTIMONY REGARDING HOUSE BILL 2695

Presented To

Senate Committee on Health and Welfare

March 27, 1984

We are generally in support of House Bill 2695 and its intent to protect children in care, and we particularly support the importance of making SRS records on abuse available to the Department of Health and Environment. However, we have some specific concerns about the wording of the bill, many of which center around the concept of "validated" acts of abuse against children. Currently the Department of Social and Rehabilitation Services uses the word "confirmed" to indicate that indeed an act of abuse has occurred, and a "confirmed" act of abuse results in the perpetrator's name being placed permanently on a register of persons not allowed to operate licensed or registered day care for children. Does the choice of a different word in this bill indicate a different meaning? If so, what exactly shall "validation" consist of? What will occur when the perpetrator of the act cannot be determined?

Under current child care licensing laws, day care centers are included in the definition of "boarding home for children", which indicates that this bill will affect day care centers as well as family day care homes. While we agree that this is important, a question remains. If a day care center operator is responsible for screening staff on the basis of Paragraphs (1) through (6) and happens to hire an individual whose record with the Department of Social and Rehabilitation Services indicates a validated act of abuse, what are the probable consequences to the center? Can its license be revoked on the basis of hiring an employee whose record of validated abuse is not accessible? Centers are, of course, concerned with the safety of the children in care, but they must also be concerned about their own liability. This liability problem

also applies to family day care home providers, who are required to have substitutes.

Our final, and greatest, concern is with the issue of enforcement. While this bill would allow the State of Kansas to take a more active role in dealing with the problem of abuse as it may occur in registered family day care homes, there still is no apparent recognition that probably three times as many individuals operate day care homes that are neither licensed nor registered, as operate homes that are licensed or registered. There is a crying need for better enforcement of the laws we have, as well as this proposed law. Until the State Department of Health and Environment is adequately staffed to investigate reports of unlicensed, unregistered care, and until there are negative consequences attached to illegal operation of an unlicensed, unregistered day care home, the problem of abuse of children in day care will not even be adequately addressed, much less eliminated.

Respectfully submitted,

Child Care Association of Wichita/Sedgwick County
Teresa I. Rupp, Executive Director