

Approved 1/29/85
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Joe Knopp at
Chairperson

3:30 ~~am~~/p.m. on January 24, 1985 in room 526-S of the Capitol.

All members were present except:

Representatives Cloud, Duncan and Luzzati were excused.

Committee staff present:

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

Conferees appearing before the committee:

Dr. Robert Harder, Secretary of Department of Social and Rehabilitation Services
Mr. Barnum

The Chairman introduced Dr. Harder who made the presentation of the following bills:

HB 2054 - An act amending the Kansas Code for Care of Children.

Dr. Harder stated the purpose of this proposal and answered questions about loss of work time when an employee was not actually out making an investigation, repeated violations of this, school-appointed employees who work with the SRS, and problems with a teacher going against a school policy to report a child-abuse case when an SRS person is appointed to do the investigating. Attachment No. 1 covers this bill.

HB 2055 - An act amending the Kansas Code for Care of Children; relating to confidentiality of certain records and reports; concerning certain plans to be submitted to the court.

Dr. Harder stated that the SRS is suggesting this proposal to accomplish two goals. The first is to make it possible for volunteers to be officially sanctioned by the court and to have access to confidential records. The second reason is to set very definite measurable goals in terms of reintegration of a child back into the home if that is a good alternative.

The Chairman referred to another bill that stated if progress is not made within two years, termination proceedings are started. Since there is no time limit in this proposal, he asked Dr. Harder's opinion on such a limit. Dr. Harder did not oppose putting in a time limit but said there may be an exception where a case may take longer than the stated time. To set this in "concrete" would not allow for any exceptions.

Dr. Harder asked for a specific change in line 0042 of HB 2055 from "court appointed representative" to "court appointed special advocate". Mr. Barnum, who appeared with Dr. Harder, defined a "special advocate" as a volunteer assistant to a guardian ad litem who would be court appointed when questioned by Representative Solbach. Attachment No. 2 provides further information on this bill.

HB 2056 - An act concerning the Kansas Code for Care of Children; relating to educational decisions with regard to certain children.

Dr. Harder stated the situations where the SRS would be allowed to make educational decisions on behalf of a child as follows: 1.) the child is in care and custody of SRS; 2.) parental rights have not been severed; 3.) whereabouts of parents are not known; and 4.) if whereabouts of parents are known but the parents are not following or may not have an interest in the child. Further information on this bill is provided in Attachment No. 3.

HB 2059 - An act amending the Kansas Code for Care of Children; relating to mental care and treatment decisions.

Dr. Harder stated that there are courts that do not want to make decisions and some that do want to make decisions concerning the involuntary commitment of hospitalization of a child up to age 18. Dr. Harder feels that the SRS will have the power to make this decision without further special proceedings of the court with passage of these proposals.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,
room 526-S, Statehouse, at 3:30 ~~XX~~ p.m. on January 24, 1985

The Chairman announced the next meeting on Tuesday, January 29, 1985.

The meeting was adjourned at 4:10 p.m.

1. Title

An act concerning juveniles; amending the Kansas Code for Care of Children; amending KSA 1983 Supp 38-1525 and 38-1584 and repealing the existing sections.

2. Purpose

The primary purpose of this bill is to amend KSA 38-1525(a) by adding language which specifies that employers may not sanction employees who cooperate in the ongoing investigation of child abuse/neglect. The current statute provides this protection to employees who report suspected incidents of child abuse/neglect; however, some employers/employees do not believe that this protection from sanctions extends beyond the initial report.

In addition, this bill amends KSA 38-1584 to delete the erroneous reference to KSA 38-119 and inserts KSA 38-112 et. seq.

3. Background

This bill is needed because certain administrative situations require employees to notify their administrator of suspected abuse/neglect and the administrator makes the report. The Kansas Code for Care of Children specifies mandated reporters and to whom they are to report (SRS or law enforcement). Mandated reporters are any of the following persons who have reason to suspect that a child has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse: persons licensed to practice the healing arts or dentistry; persons licensed to practice optometry; persons engaged in postgraduate training programs approved by the state board of healing arts; certified psychologists; Christian Science practitioners; licensed professional or practical nurses; teachers, school administrators or other employees of a school; chief administrative officers of medical care facilities; persons licensed by the secretary of health and environment to provide child care services to the employees of persons so licensed at the place where the child care services are being provided; licensed social workers; firefighters; emergency medical services personnel; and law enforcement officers. Mandating reporters and specifying to whom they are to report guards against any intentional or unintentional screening of what gets reported by the administrator. Recognizing the importance of direct reporting of suspected child abuse/neglect by the person with the most direct information, the legislature provided employees freedom from negative sanction by employers. This amendment broadens that protection to include employees who cooperate in an ongoing investigation of child abuse/neglect. These persons may or may not be the reporter but may have information related to the incident being investigated.

An erroneous citation is contained in KSA 38-1584 and this amendment would correct this error. Due to a typographical error in KSA 38-1584, a reference is made to KSA 38-119 rather than KSA 38-112. Section 38-119 was repealed in 1983. This amendment would delete KSA 38-119 and insert KSA 38-112 which refers to the care for and surrender of children for adoption by an authorized agent of a corporation that is organized under the laws of Kansas.

4. Effect of Passage

The amendments contained in this bill make no substantive changes in the Code or in program and they have no fiscal impact.

5. Recommendation:

SRS recommends passage of this bill.

Attachment No. 1
House Judiciary
January 24, 1985

Robert C. Harder, Secretary
Office of the Secretary
Social and Rehabilitation Services
296-3271
January 24, 1985

State Department of Social and Rehabilitation Services
YOUTH SERVICES

Statement Regarding H.B./S.B. 2055

1. Title

An act concerning the Kansas Code for Care of Children; relating to reports, records and reintegration plans; amending KSA 1984 Supp 38-1507 and 38-1565 and repealing the existing sections.

2. Purpose

The purpose of this bill is to amend the Kansas Code for Care of Children to: (a) allow SRS to share confidential information on a child with a court appointed volunteer and (b) allow SRS and/or the court to develop placement plans for children other than reintegration, when return to parents is not a viable alternative.

3. Background

(a) In order to carry out the state mandates contained in the Kansas Code for Care of Children and the federal mandates in Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, which assures that children do not get placed or remain unnecessarily in foster care placements, all available public, private and volunteer resources must be utilized. As a part of this state's expanded effort to assure that permanent plans are made for children who are in foster care, a federal grant has been received and a task force has been appointed by the Kansas Supreme Court which includes representation from the legislative, judiciary, and executive branches of government as well as volunteer advocates and interested groups. The task force was formed to insure that actions are taken to preclude children becoming lost in the judicial or social service systems. The task force focuses on decision points in the permanency planning process of both the judicial and social service systems in order to encourage that actions are timely and consistent. The permanency planning process consists of those activities which establish a goal and time lines to assure that children who are in out-of-home placement will either be returned to the parental home or placed for adoption without delay. For some of the older children the most appropriate permanency plan is to assist the youth in becoming self supporting and independent. This Permanency Planning Task Force recommends the expansion in Kansas of the usage of court appointed special advocates (CASA). CASA is a term coined by the National Council of Juvenile and Family Court Judges, Children In Placement Project to describe volunteers who function as a child's advocate. Throughout the United States more than 100 CASA groups have been formed. Each is tailored to fit the laws of the state and the community they serve. Currently in Kansas there are operational CASA programs in Wichita and Hutchinson. At least two other communities (Topeka and Olathe) are in the process of developing such programs. These specially trained volunteers take on the responsibility of advocating for individual children and assist in the development and implementation of permanency plans. To perform their functions effectively these volunteers must have access to information contained in SRS records. SRS has no statutory authority to share this information.

Attachment No. 2
House Judiciary
January 24, 1985

The passage of this amendment would make it possible for SRS to share confidential information with the court appointed special advocate without the necessity of obtaining a court order, thus streamlining court and SRS functions.

(b) SRS and the courts need to have flexibility to make plans for children in the custody of the Secretary that are in line with the reality of individual case situations. Currently, the Kansas Code for Care of Children requires that when parental rights have not been terminated, the permanency plan for the child must be reintegration with family. This is not a realistic plan for all children; neither is the termination of parental rights when adoption is not the goal. For some children the most realistic and appropriate plan for permanency is continued placement with relatives; long term foster care; or self-support and independence.

Following the letter of the law puts the courts and SRS in a position of having to prepare plans to reintegrate a child with family when this is not a realistic goal. The request for this amendment in no way lessens the commitment to maintaining a child in or returning children to their parental home. It does, however, recognize the need for more flexible alternatives for some children.

At any given time there are about 2800 children in the custody of SRS who are in out of home placements and for whom parental rights have not been terminated. For most of these children reintegration is the appropriate plan but for a small percentage (less than 10%) greater flexibility is needed.

4. Effect of Passage

Neither of these amendments make a substantial change in the Code or program but they would assist the implementors in assuring that children are appropriately cared for. This bill has no fiscal impact.

5. SRS Recommendation

SRS recommends passage of this bill.

Robert C. Harder
Office of Secretary
Social and Rehabilitation Services
296-3271
January 24, 1985

COURT APPOINTED SPECIAL ADVOCATE

JOB DESCRIPTION

REQUIREMENTS:

1. Must be at least 21 years old.
2. Must complete application providing 3 references other than relatives.
3. Must participate in pre-training interview.
4. Must participate in at least 75% of training.
5. Application, references, and interview must indicate an ability to be objective, to function professionally, and a concern for the welfare of our children as the primary motivation.
6. Must observe in Court for a minimum of two hours.
7. Must respect confidentially of all parties.
8. Must be committed to serving as a CASA for at least one year.
9. Must not discriminate or display attitudes of a discriminatory nature.

DUTIES:

1. Advocate for best interests of the child(ren) at all times.
2. Sign oath of appointment as soon as possible after accepting case.
3. Read social and legal files pertaining to case.
4. Interview court services officer, placement and protective services workers, parents, foster parents, child, and other interested parties.
5. Explain role to all parties unfamiliar with the CASA project.
6. Be aware if court's instructions are being followed.
7. Maintain regular contact with the child.
8. Consult with staff if problems occur.
9. Report any concerns that you have not been able to resolve with the appropriate parties to the Guardian Ad Litem.
10. Maintain record of all contacts and interviews.
11. Submit Report to Court at least 3 days in advance of hearing.
12. Be available to testify in court and attend staffings.
13. Encourage permanency planning.
14. Follow-up on case until a permanent solution has been reached (i.e. adoption or return to a rehabilitated home or long-term foster care in some cases).
15. Attend in-service trainings.
16. Return monthly time sheets to CASA office.

HOURS:

At the CASA's discretion, with the exception of Court and SRS staffings.

RESPONSIBLE TO:

CASA director and ultimately to the judge.

State Department of Social and Rehabilitation Services

Statement Regarding H.B./S.B. 2056

1. Title

An act concerning the education decision of children pursuant to the Kansas Code for Care of Children.

2. Purpose

This change in the Kansas Code for Care of Children would clarify that for children in the custody of SRS, the agency could be responsible to make educational decisions for the child.

3. Background

PL 94-142, which provides Title I funding for special educational services, requires the development of an Individual Education Plan (IEP) for each exceptional child. This IEP must be completed and signed by the parent or guardian before special educational services can be provided to the child. When a parent or legal guardian is not available to the schools, which is the case many times when the child is in SRS custody, no one can legally sign the child's IEP. This means the child may not receive special educational services in a timely way.

At the present time the Special Education statutes permit the appointment of an educational advocate for a child in the guardianship of SRS (Parental Rights Terminated).

No such remedy is currently available for children in need of care in the custody of SRS (Parental Rights Not Terminated) when the parent or legal guardian is not available.

This proposed legislation is a result of the combined efforts of SRS and the Department of Education.

4. Effect of Passage

It is believed that this bill would impact on approximately 900 children in need of care, in SRS custody, and in need of special educational services.

The present statutory arrangement means some children will not receive timely special educational services because the parents are not available.

With the passage of the bill, the legal custodian can be responsible for making educational decisions.

✓ By policy, SRS will try to involve the parents as much as possible in the educational planning.

5. SRS Recommendation

This bill is recommended. It gives the agency the authority to make educational decisions for the child in need of care in SRS custody when the parents are not available.

Robert C. Harder
Office of the Secretary
Social and Rehabilitation Services

296-3271
January 24, 1985

Attachment No. 3
House Judiciary
January 24, 1985