

Approved 2/26/85
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by REPRESENTATIVE JOE KNOPP at
Chairperson

3:30 ~~xxxx~~ a.m./p.m. on February 6, 1985 in room 526-S of the Capitol.

All members were present except:

Representatives Douville, Fuller and Solbach were excused.

Committee staff present:

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

Conferees appearing before the committee:

David Furnas, Kansas Press Association
Dr. Robert Harder, Secretary, Department of Social & Rehabilitation Services

David Furnas, Kansas Press Association, presented a bill request which relates to the disclosure of sources of information by persons connected with or employed by the news media or press in the gathering of information for publication or broadcast. See Attachment No. 1.

Representative Adam made a motion, and Representative Wunsch seconded it, to introduce the bill. The motion carried.

HB 2010 - Relating to criminal procedure; concerning release prior to trial.

Representative Bideau made a motion to have the language changed in this bill. In lines 28 and 29, he wanted to delete "conditioned upon" and substitute "condition secured" in its place. In line 30 after "ordered", he wanted to insert "and to secure safety of the community". Also, on page two, line 55, he wanted to insert "and to secure safety of the community" after "appearance". The motion carried.

Mary Ann Torrence, Revisor's Office, pointed out that a technical amendment needed to be made in line 33. She stated that the words from starting in line 32 with "next" through the remainder of the sentence be taken out and replaced with "time required by the court". Representative Bideau moved that the technical amendments be made and Representative O'Neal seconded it. The motion carried.

Representative Bideau made a motion that the bill as a whole be passed as amended and Representative O'Neal seconded it. The motion carried.

HB 2054 - Amending the Kansas code for the care of children.

The Chairman called attention to the committee that lines 25 and 26 extend the protection on past the initial report to any reports dealing with the ongoing investigation.

Representative Wunsch moved that the bill be reported favorably and Representative Vancrum seconded. The motion carried.

HB 2055 - 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, Secretary, SRS, stated the definition of a court appointed special advocate as "a responsible adult other than an attorney guardian ad litem who is appointed by the court to represent the best interests of the child as provided in paragraph (a) in a proceeding pursuant to article 15, chapter 38 in the Kansas Statutes Annotated and who is to observe until discharge by the court". He said the special advocate is not the same as a guardian ad litem and does serve at the pleasure of the court until discharged by the court. Attachment No. 2 shows the request for language change in this bill.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,
room 526-S, Statehouse, at 3:30 ~~xxx~~ a.m./p.m. on February 6, 1985

Representative Wunsch made a motion to adopt this amendment and Representative Walker seconded it. Motion carried.

Representative Wunsch noted that this bill has no time limitation in it and since the other bill does, he wondered if this was the only distinguishing feature between the two.

The Chairman stated that Representative Kathryn Sughrue had language in her bill to say that if after two years from the time of the first plan of reintegration, the matter shall hold a hearing to determine whether parental rights of either or both parents shall be terminated.

The two year provision was considered but based upon the discussion concerning this, the committee decided it was not a necessary option at this point.

Representative Wagnon moved to report the bill on a whole favorably and Representative Whiteman seconded it. The motion carried.

HB 2056 - Concerning the Kansas code for the care of children; relating to educational decisions with regard to certain children.

Dr. Harder gave some background on this bill.

A motion was made by Representative Whiteman and seconded by Representative Shriver that line 24 be changed by adding "where the parent is not available or not interested".

A substitute motion was made by Representative Cloud, and Representative Shriver seconded it, that line 24 be amended by adding "where the parent fails or refuses to make an educational decision". The motion carried.

HB 2059 - Amending the Kansas code for care of children; relating to mental care and treatment decisions.

Dr. Harder said the SRS would like to have the flexibility, if the child is in their care and custody, and if they could work with the child on an outpatient basis in a mental health center or place them on a psychiatric unit in a general hospital, to do that without a full scale hearing as if this was a voluntary commitment.

Dr. Harder proposed that the SRS research page 2, line 65, and come back with more specific recommendations instead of taking the committee's time.

The Chairman announced that the committee would take this up again on Monday, February 11, 1985. He also stated that tomorrow they would hear Representative Douville's bill, HB 2083, on the right of children and parents to engage in litigation against each other.

The meeting was adjourned at 4:30 p.m.

Kansas Press association / service, inc.

p.o. box 1773 • 701 jackson street • topeka, kansas 66601 • 913/233-7421

February 6, 1985

In 1973, a bill was introduced which would have provided for a statutory shield law which would establish a privileged relationship between journalists and their sources. The need for such legislation was not clearly identified at that time and the proposal has laid dormant since then.

This past summer, an incident occurred which has renewed interest in the concept of a Shield Law. Without going into the details of the situation, in summary, reporters were called to testify as part of an apparent fishing expedition to identify their source.

While larger newspapers with legal resources clearly could have fought this attempt on constitutional grounds, smaller newspapers in the state of Kansas are faced with the balancing of their first amendment protections and the economic burdens a lengthy legal battle would have.

The impact of these situations is that because of the threat of being called to testify and forced to reveal sources it could be argued there is a chilling effect upon a reporter's ability to delve into some issues. A Shield Law provides a statutory protection in those cases.

The concept of a Shield Law is not without need for discussion, but the first step is to place on the agenda a bill which can serve as a point of departure.

I have attached a copy of the bill introduced in 1973 to be used for drafting purposes. It is our request a bill using this language be introduced this year as a committee bill.

Attachment No. 1
House Judiciary
February 6, 1985

SENATE BILL No. 85

By Senator Saar

1-16

AN ACT relating to the disclosure of sources of information by persons connected with or employed by the news media or press in the gathering of information for publication or broadcast.

Be it enacted by the Legislature of the State of Kansas:

1 Section 1. No person connected with or employed by the news
2 media or press in the gathering of information for publication or
3 broadcast shall be required to disclose the source of any informa-
4 tion procured or obtained for such purpose, in any legal proceed-
5 ing, trial or investigation before any court, grand jury, coroner's
6 inquest, or any officer thereof, before the state legislature or any
7 committee thereof, before any commission, department or bureau
8 of the state, or before any county or city governing body, officer,
9 agency or committee thereof.

10 Sec. 2. When any person shall have claimed the privilege con-
11 ferred by this act, neither he nor the news organization with which
12 he is engaged, employed or connected shall be thereafter permitted
13 to plead or prove the sources of information so withheld, except in
14 mitigation of damages in an action for libel or slander based on
15 the publication or broadcast of the matter as to which the sources
16 of information are so withheld if the informant consents in writing.

17 Sec. 3. This act shall take effect and be in force from and after
18 its publication in the statute book.

HOUSE BILL No. 2055

By Committee on Judiciary

1-22

Attachment No. 2
House Judiciary
February 6, 1985

0017. AN ACT amending the Kansas code for care of children; relating
0018 to confidentiality of certain records and reports; concerning
0019 certain plans to be submitted to the court; amending K.S.A.
0020 1984 Supp. 38-1507 and 38-1565 and repealing the existing
0021 sections.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. K.S.A. 1984 Supp. 38-1507 is hereby amended to
0024 read as follows: 38-1507. (a) All records and reports concerning
0025 child abuse or neglect received by the department of social and
0026 rehabilitation services or a law enforcement agency in accord-
0027 ance with K.S.A. ~~1983~~ 1984 Supp. 38-1522 and amendments
0028 thereto are confidential and shall not be disclosed except under
0029 the following conditions:

0030 (1) Upon the order of any court after a determination by the
0031 court issuing the order that the records and reports are necessary
0032 for the conduct of proceedings before it and are otherwise
0033 admissible in evidence, except that access shall be limited to *in*
0034 *camera* inspection unless the court determines that public dis-
0035 closure of the information contained in the records and reports is
0036 necessary for the resolution of an issue then pending before it.

0037 (2) The secretary or the law enforcement agency where the
0038 report is filed may authorize access to the records and reports to:

0039 (A) A person licensed to practice the healing arts who has
0040 before that person a child whom the person reasonably suspects
0041 may be abused or neglected;

0042 (B) ~~a judge of court appointed representative~~ having the
0043 legal responsibility or authorization to care for, treat or, super-
0044 ~~or report to the court concerning~~ a child who is the subject
0045 of a report or record;

special advocate who reports to the court or an agency
or