

Approved March 18, 1987
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Robert S. Wunsch at
Chairperson

7:30 a.m./~~p.m.~~ on March 6,, 1987 in room 313-S of the Capitol.

All members were present except:

Committee staff present:

Jerry Donaldson, Legislative Research Department
Mike Heim, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Mary Jane Holt, Secretary

Conferees appearing before the committee:

The Chairman announced the Committee would consider bills which have been previously heard for final action.

H.B. 2418—Health care providers; insurance, coverage, regulation, peer review, risk management

Representative Sebelius moved to amend H.B. 2418 by adding psychiatric hospital to the definition of a health care provider in New Section 1. The motion was seconded by Representative Wagon. The motion passed.

Representative Snowbarger moved and Representative Buehler seconded to adopt the amendments in the balloon submitted by the Kansas Medical Society. The motion passed.

A motion was made by Representative Buehler to report H.B. 2418, as amended, favorably for passage. Representative Crowell seconded the motion.

Representative Sebelius moved to strike on page 25, "include with its quarterly" in lines 48 and 49. Representative Peterson seconded and the motion passed.

Representative Whiteman moved to reinsert patient histories in line 692 on page 19. Representative Sebelius seconded, and the motion passed.

Representative Sebelius moved and Representative Adam seconded to delete the new language in lines 782-784 on page 21. The motion failed, 8 years, 10 nays.

Representative Solbach moved to insert the word "only" in line 782 in the new language where appropriate. Representative Kennard seconded the motion. The motion failed, 8 years, 9 nays.

A vote was taken on the motion by Representative Buehler to report the bill, as amended, favorably for passage. The motion passed. Representative Peterson requested to be recorded as voting no.

H.B. 2376—Division of property in divorce actions; retirement benefits

Representative Jenkins made a motion to amend H.B. 2376 with a Substitute H.B. 2376. Substitute H.B. 2376 amends K.S.A. 23-201 and includes the present value of any vested or unvested military retirement pay. The motion was seconded by Representative Whiteman. The motion passed.

A motion was made by Representative Sebelius to report Substitute H.B. 2376 favorably for passage. Representative Jenkins seconded and the motion passed.

H.B. 2386—Statute of limitations, 10 year period of repose

Representative Fuller moved and Representative Walker seconded to report H.B. 2386 favorably for passage. The motion passed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,
room 313-S, Statehouse, at 7:30 a.m. ~~pm~~ on March 6, 19 87

H.B. 2428-Person incompetent to stand trial, notice of release from commitment

A motion was made by Representative Roy to amend H.B. 2428 by including language suggested by S.R.S. starting on line 47 of the bill that the treatment facility from which the defendant is to be discharged shall submit an opinion on whether that person is competent to stand trial. Representative Kennard seconded, and the motion passed.

Representative Roy moved and Representative Peterson seconded to report H.B. 2428, as amended, favorably for passage. The motion passed.

The Committee meeting adjourned at 8:30 a.m. The meeting will reconvene upon adjournment of the House.

The Committee met on adjournment of the House at 12:00 to continue considering bills for final action.

H.B. 2463-Protection from abuse act amendments

Representative Wagnon moved to amend H.B. 2463, lines 56 and 57, by striking the words "shall explain to plaintiffs not represented by counsel the procedure for filing the petition and"; and on page 3, line 84, strike the words "the clerk of". The motion was seconded by Representative Sebelius. The motion passed.

A motion was made by Representative Whiteman to amend H.B. 2463 by striking the 30 days in line 81 and putting back the 10 days, and to include language in the bill that at the hearing the defendant will be allowed to present any evidence to show why the temporary order should be permitted. Representative Bideau seconded the motion. The motion passed.

Representative Whiteman moved and Representative Peterson seconded to report H.B. 2463, as amended, favorably for passage. The motion passed.

H.B. 2488-S.R.S. validation of reports of abuse

Representative Wagnon moved to amend H.B. 2488 by striking the language in line 98 and inserting "and pursuant to K.S.A. 77-601 et seq. Representative Sebelius seconded the motion. The motion passed.

Representative Walker moved and Representative Wagnon seconded to report H.B. 2488, as amended, favorably for passage. The motion passed.

H.B. 2462-Termination of parental rights and relinquishment of child

Representative Snowbarger explained amendments to H.B. 2462 as proposed by the Kansas Childrens Service League, (see Attachment I).

A motion was made by Representative Snowbarger to approve the amendments to H.B. 2462. Representative Solbach seconded the motion. The motion passed.

Representative Snowbarger moved to report H.B. 2462, as amended, favorably for passage. The motion was seconded by Representative Whiteman. The motion passed.

H.B. 2288-Availability of S.R.S. file to guardian ad litem before hearing under code for care of children

The Chairman explained an amendment proposed by S.R.S. to Section 1. Not less than 48 hours, excluding Saturday, Sunday and legal holidays before a hearing pursuant to this code, the guardian ad litem shall be provided an opportunity to review any records or reports in the custody of the Department of S.R.S. which are necessary to the conduct of such hearings.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,
room 313-S, Statehouse, at 3:30 ~~am~~ p.m. on March 6, 19 87

Representative Bideau moved to adopt the amendment proposed by S.R.S. except instead of "the guardian ad litem shall be provided an opportunity" insert the words "upon request of the guardian ad litem he or she shall be provided an opportunity". The motion was seconded by Representative Walker. The motion passed.

A motion was made by Representative Bideau to report H.B. 2288, as amended, favorably for passage. Representative Douville seconded the motion. The motion passed.

H.B. 2176-Prohibiting negligence suit by child against parent

Representative O'Neal moved to amend H.B. 2176 to exempt those actions arising out of a negligent operation of an automobile. The motion was seconded by Representative Snowbarger. The motion passed, 9 yeas, 8 nays.

A motion was made by Representative Sebelius to report H.B. 2176 adversely. Representative Peterson seconded the motion. The motion failed, 8 yeas, 9 nays.

Representative Douville moved and Representative Snowbarger seconded to report H.B. 2176, as amended, favorably for passage. The motion passed, 9 yeas, 8 nays. Representatives Adam, Kennard, Peterson, Sebelius, Solbach and Wagnon requested to be recorded as voting no.

H.B. 2240-Forfeitures; controlled substances, simulated controlled substances and drug paraphernalia

A motion was made by Representative Sebelius to report H.B. 2240 favorably for passage. Representative Peterson seconded, and the motion passed.

H.B. 2095-Access to public records

Representative O'Neal explained an amendment to H.B. 2095, (see Attachment II).

Representative O'Neal moved to amend language in H.B. 2095 beginning on line 40 to give the public the opportunity to look at records at a public meeting before action is taken. Representative Buehler seconded the motion. No vote was taken on the motion.

H.B. 2532-Penalty for theft of \$3,000 or more.

Representative Peterson moved to report H.B. 2532 favorably for passage. Representative Bideau seconded and the motion passed.

The minutes of February 16, 17, 18, 19, 23, 24, 25, 26 and 27 were approved.

The Committee meeting was adjourned at 1:00 p.m.

HOUSE BILL No. 2462

By Committee on Judiciary

(By request)

2-23

0018 AN ACT concerning children; relating to termination of parental
0019 rights and adoption; amending K.S.A. 38-1129 and K.S.A. 1986
0020 Supp. 59-2102 and 59-2278 and repealing the existing sec-
0021 tions.

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

0023 Section 1. K.S.A. 38-1129 is hereby amended to read as fol-
0024 lows: 38-1129. (a) If a mother desires to relinquish or consents to
0025 the adoption of a child who does not have (1) a presumed father
0026 under subsection (a)(1), (2) or (3) of K.S.A. 38-1114 and amend-
0027 ments thereto, (2) a father whose relationship to the child has
0028 been determined by a court, or, (3) a father as to whom the child is
0029 a legitimate child under prior law of this state or under the law of
0030 another jurisdiction or (4) a father who notoriously or in writing
0031 acknowledges paternity and who voluntarily relinquishes or
0032 consents to adoption of the child, the agency to which the child
0033 has been or is to be relinquished, or the mother or the person
0034 having custody of the child, shall file a petition in the district
0035 court to terminate the parental rights of the father, unless the
0036 father's relationship to the child has been previously terminated
0037 or determined not to exist by a court, or the father voluntarily relinquishes or consents to adoption
of the child.

0038 (b) In an effort to identify the father, the court shall deter-
0039 mine, by deposition, affidavit or hearing, the following: Whether
0040 the mother was married at the time of conception of the child or
0041 at any time thereafter, whether the mother was cohabiting with a
0042 man at the time of conception or birth of the child, whether the
0043 mother has received support payments or promises of support
0044 with respect to the child or in connection with her pregnancy or
0045 whether any man has formally or informally acknowledged or

OR

0046 declared his possible paternity of the child.

0047 (c) If, after the determinations are made as provided in sub-
 0048 section (b), the father is identified to the satisfaction of the court,
 0049 or, if more than one man is identified as a possible father, each
 0050 shall be given notice of the proceeding in accordance with
 0051 subsection (e). ~~If any of them fails to appear or, if appearing, the~~
 0052 ~~father or a possible father fails to appear at the time stated in~~
 0053 ~~the notice, the court may grant a continuance for good cause~~
 0054 ~~shown for not to exceed 7 days for the purpose of allowing the~~
 0055 ~~father or possible father to make an appearance. If, upon the~~
 0056 ~~continuance, the father or possible father still fails to appear,~~
 0057 ~~the court shall at that time terminate his parental rights with~~
 0058 ~~reference to the child. If the father or a possible father appears~~
 0059 ~~but fails to claim custodial rights, his parental rights with refer-~~
 0060 ~~ence to the child shall be terminated. If the father or a man~~
 0061 ~~representing himself to be the father claims custodial rights, the~~
 0062 ~~court shall proceed to determine parentage and custodial rights.~~
 0063 The court may order that the father's consent is not required for
 0064 relinquishment or adoption upon a finding of any of the follow-
 0065 ing:

0066 (1) The father abandoned or neglected the child after having
 0067 knowledge of the child's birth.

0068 (2) The father is unfit as a parent.

0069 (3) The father has made no reasonable efforts to support or
 0070 communicate with the child after having knowledge of the
 0071 child's birth.

0072 (4) The father failed without reasonable cause to provide
 0073 support for the mother during the six months prior to the child's
 0074 birth.

0075 (5) The father abandoned the mother after having knowledge
 0076 of the pregnancy.

0077 (6) The birth of the child was the result of rape of the mother.

0078 (d) If, after the inquiry, the court is unable to identify the
 0079 father or any possible father and no person has appeared claim-
 0080 ing to be the father and claiming custodial rights, the court shall
 0081 enter an order terminating the unknown father's parental rights
 0082 with reference to the child.

any of them fails to appear or, if
 appearing,

at the hearing.

0083 (e) Notice of the proceeding shall be given ~~by certified mail,~~
0084 ~~return receipt requested,~~ to every person identified as the father
0085 or a possible father, ~~in any manner the court directs.~~ Proof of
0086 notice shall be filed with the court before the petition is heard. If
0087 no person has been identified as the father or a possible father,
0088 the court shall order publication notice of the hearing as deemed
0089 appropriate.

0090 (f) The court shall appoint an attorney to represent any un-
0091 known father.

0092 Sec. 2. K.S.A. 1986 Supp. 59-2102 is hereby amended to read
0093 as follows: 59-2102. (a) Before any minor child is adopted,
0094 consent to the adoption must be given by:

0095 (1) The living parents of the child;

0096 (2) the mother of the child, if the father's consent is found
0097 unnecessary under K.S.A. 38-1129 *and amendments thereto*;

0098 (3) one of the parents, if the other has failed or refused to
0099 assume the duties of a parent for two consecutive years or is
0100 incapable of giving consent;

0101 (4) the legal guardian of the child, if both parents are dead or
0102 if they have failed or refused to assume the duties of parents for
0103 two consecutive years;

0104 (5) the department of social and rehabilitation services, a
0105 person or the executive head of an agency or association, if the
0106 rights of the parents have been legally terminated, *or if the*
0107 *parents have voluntarily relinquished the child to the depart-*
0108 *ment, person, agency or association for the purpose of adoption,*
0109 and custody of the child has been legally vested in the depart-
0110 ment, person, agency or association with authority to consent to
0111 the adoption of the child;

0112 (6) the judge of any court having jurisdiction over the child as
0113 a ward of the court, if parental rights have not been terminated;
0114 and

0115 (7) the child sought to be adopted, if over 14 years of age and
0116 of sound intellect.

0117 (b) In determining whether a parent's consent is required
0118 under subsection (a)(3) or (4), the court may disregard incidental
0119 visitations, contacts, communications or contributions.

in any manner the court directs.)

Proposed Amendment to H.B. 2095

Substitute the following language for the amended language beginning in line 0040:

At any meeting where a public record is distributed to a majority of a quorum of a body having authority to take action or make recommendations with regard to the matters to which such record pertains, and where action is taken or scheduled to be taken at the same meeting, access to such record shall be granted prior to the close of discussion and action on such matters in an open meeting. Nothing herein shall be construed to prevent a body from taking action on a matter to which such record pertains at the same meeting where such record was first distributed.