

Approved March 31, 1987
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Robert Frey at
Chairperson

12:00 ~~XX/XX~~ Noon on March 30, 1987 in room 519-S of the Capitol.

~~All~~ members were present ~~except~~: Senators Frey, Burke, Langworthy, Parrish, Talkington and Yost.

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department
Gordon Self, Office of Revisor of Statutes

Conferees appearing before the committee:

Representative Dale Sprague
John Peterson, Kansas Association Licensed Private Child Care Agencies
Roberta McKenna, SRS Youth Services
Marjorie Van Buren, Office of Judicial Administrator
Lynn Barclay, Kansas Children's Service League

House Bill 2488 - SRS validation of reports of abuse.

Representative Dale Sprague presented background information on the bill. According to the AG's opinion, validating an individual as a child abuser without affording that individual sufficient notice and an opportunity to be heard, violates that individual's constitutional right to due process. Representative Sprague stated it would be helpful to allow a way to get off of the list.

John Peterson, Kansas Association Licensed Private Child Care Agencies, explained his proposed amendment. A copy of the amendment is attached (See Attachment I). He stated House Bill 2392 that was rereferred to this committee deals with the same section as House Bill 2488. The language he proposed would accomplish the same thing as what is in House Bill 2392 but would allow discretion within SRS to adopt corrective action plan or rules and regulations to allow for expungement. Mr. Peterson stated House Bill 2392 was introduced at the request of SRS.

Roberta McKenna, SRS Youth Services, testified the need for expungement is an opportunity for corrective action plans to maintain child care directly. There are people who have completed their corrective action plan, and they are being removed from the profession. She said we don't have people trained to go into the field. After passage of time they were no longer of danger to the children, and they should have a way to get their names off the list. They would like to be able to keep that person in the field, work with him and return him when he is ready. During committee discussion, a committee member inquired, you put the burden on SRS to offer ability to correct their action? Miss McKenna stated they want to narrow the number of names that get on that list. They are working with the attorney general's office in formulating rules and regulations on the corrective action plan. The chairman stated it seems the legislature would be interested in controlling details of corrective action plans as expungement. The legislature is strict about people who abuse children and go out and work with children again. The chairman said language is needed in positive terms as is done in diversion programs. Roberta McKenna stated they would welcome any input.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 519-S, Statehouse, at 12:00 ~~XXXXX~~ ^{Noon} on March 30, 1987

House Bill 2474 - Removal of guardian or conservator.

Marjorie Van Buren, Office of Judicial Administrator, pointed out the language in lines 40 and 41 and explained the amendment. She explained her handout is a letter from Judge Robert Gernon (See Attachment II). In the letter Judge Gernon stated, in appropriate cases, the change effected by this bill would allow the court on its own motion in the shortest possible length of time to replace a conservator so that the assets of the conservatee might be better accounted for and protected.

House Bill 2462 - Termination of parental rights and relinquishment of child.

Lynn Barclay, Kansas Children's Service League, testified they had requested this bill be introduced, and they also support the House committee amendments. She stated the bill would solve problems that cause unnecessary delays in the placement of infants for adoption. A copy of her testimony is attached (See Attachment III). Committee discussion was held concerning the language in lines 38 and thirty-nine.

House Bill 2488 - SRS validation of reports of abuse.

Senator Talkington moved to amend the bill in line 47 after "thereto" by adding "and (A) the person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by SRS, or (B) the record has not been expunged and pursuant to rules and regulations adopted by the secretary of Social and Rehabilitation Services". Senator Burke seconded the motion, and the motion carried.

Senator Talkington moved to report the bill favorably as amended. Senator Burke seconded the motion, and the motion carried.

House Bill 2474 - Removal of guardian or conservator.

Senator Talkington moved to amend the bill in line 41 to change "removed" to "replaced". Senator Parrish seconded the motion, and the motion carried.

Senator Burke moved to report the bill favorably as amended. Senator Talkington seconded the motion, and the motion carried.

House Bill 2462 - Termination of parental rights and relinquishment of child.

Senator Parrish moved to amend the bill by striking new language in lines 38 and 39 and reinserting the language in lines 31 through 33. Senator Burke seconded the motion, and the motion carried.

Senator Burke moved to report the bill favorably as amended. Senator Parrish seconded the motion, and the motion carried.

The meeting adjourned.

A copy of the guest list is attached (See Attachment IV).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE

DATE: 3-30-87
noon

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Roberta Sue McKenna	2700 W 6 th S. W 66606	SFS - Youth Services
Janet [unclear]	Topeka	: KCCD
Lori Callahan	Topeka	Am. & Mo. Assoc.
Theresa Shively	Topeka	KANSAS NARAL
KEITH R LANDIS	"	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Marjorie Van Buren	Topeka	: OJA
Bill Sujan	Topeka	KFL
Kemi Souler	Olathe	KFL
John Nuten	Topeka	Ks Assn Pkts Ch. / Co. Ag. Ks
Lynn Barclay	Topeka	KCSL
Rep Dale Sengue		
Matt Lynch	Topeka	Judicial Council
Avie Price	Topeka	KBA

Attch. IV
Senate Judiciary
3-30-87

3-30-87

Person

PROPOSED AMENDMENT TO HOUSE BILL 2488

In line 47 after the word "thereto" by adding:

and (A) the person has failed to successfully complete a corrective action plan which had been deemed appropriate and approved by SRS, or (B) the record has not been expunged pursuant to rules and regulations adopted by the secretary of Social and Rehabilitation Services

MMP02267OK13

Attch. I
Senate Judiciary
3-30-87



STATE OF KANSAS
22ND. JUDICIAL DISTRICT
BROWN, DONIPHAN, MARSHALL, NEMAHA COUNTIES

ROBERT L. GERONON
DISTRICT JUDGE
P.O. BOX 417
HIAWATHA, KS 66434
913-742-7481

February 26, 1987

VERDELL HAWS, C.S.R.
OFFICIAL COURT REPORTER

JULIE MEYER
ADMINISTRATIVE ASSISTANT

Ms. Marjorie Van Buren
Office of Judicial Administration
Kansas Judicial Center
301 West 10th
Topeka, KS. 66612

RE: House Bill 2474

Dear Marjorie:

I would hope that the committee studying the above numbered bill, and the entire legislature, will give favorable consideration of this bill.

In my view, this bill would help streamline the process of requiring accountability in conservatorship cases.

Under the present system, if an individual or an entity in a fiduciary relation is the conservator for an individual and does not follow statutory accounting requirements, it is cumbersome and time consuming to replace that conservator.

In our own experience in this district, at one time we attempted to track down each conservator and require updated accountings. To our surprise we found that some conservators had left the state, and some themselves were in an incapacitated condition and incapable of following up on their duties to the conservatee. Others simply refused to respond to any court request.

In appropriate cases, the change effected by this bill, would allow the court on its own motion, in the shortest possible length of time, to replace a conservator so that the assets of the conservatee might be better accounted for and protected.

As you recall, over the past year at meetings of the District Judges' Legislative Coordinating Committee, when this issue was discussed, it has received a favorable comment from the judges who work with this type of case.

I urge the committee and the legislature to look favorable upon this change. Those the law seeks to protect will be better protected by this change.

Sincerely,

Robert L. Gernon
District Judge
22nd Judicial District

RLG:jm

*Attach. II
Senate Judiciary
3-30-87*

KANSAS CHILDREN'S SERVICE LEAGUE

to protect,
enhance and promote
the welfare of
children
—since 1893

TESTIMONY ON HB 2462

by Lynn Barclay, Advocacy Coordinator
Kansas Children's Service League
Before Senate Judiciary Committee
March 30, 1987

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Jerry Coppel
1365 N. Custer
P.O. Box 517
Wichita, Kansas 67201
316/942-4261

Kansas Children's Service League supports HB 2462, a bill that we requested to be introduced. We also support the House Committee amendments. The amended bill passed in the House with a vote of 122-0.

HB 2462 would solve four problems that cause unnecessary delays in the placement of infants for adoption. The bill would:

1. Allow voluntary relinquishment by an unmarried father.

Under current law, it appears that proceedings to terminate parental rights of a father can be avoided only if the mother voluntarily relinquishes and she is married to the father or has tried to marry him, or paternity has been established by a court. HB 2462 would amend the law to exempt from a termination of parental rights proceeding any father who voluntarily relinquishes or consents to the adoption of his child.

2. Eliminates possible delays caused by a father's failure to appear at termination proceedings after adequate notice is given.

Under current law, the court is directed to terminate parental rights if the alleged father or fathers fail to appear at the termination proceedings. But, perhaps because no time limits are given, some courts have continued the proceedings due to failure to appear. HB 2462 would clarify that rights will be terminated at the initial hearing if the father fails to appear.

3. Eliminates the requirement for licensed child-placing agencies to go through a termination of parental rights proceeding if both parents have voluntarily relinquished for the purpose of adoption.

KSA 59-2102 (a) appears to require that licensed child-placing agencies obtain consent of the parents and also obtain termination of parental rights under KSA 38-1129. HB 2462 would indicate that consent to the adoption may be given

*attach. III
Senate Judiciary*



TESTIMONY ON HB 2462

by Lynn Barclay, Advocacy Coordinator

Kansas Children's Service League

Before Senate Judiciary Committee

March 30, 1987

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by SRS or a licensed child-placing agency if the rights of the parents have been legally terminated or voluntarily relinquished to the agency for the purpose of adoption and custody of the child has been legally vested in the agency.

4. Ceases requirement for notice of the adoption to be given to the natural parents if they have already voluntarily relinquished or had parental rights terminated.

KSA 59-2278 (b) currently requires that notice of the final adoption hearing be given to "all interested parties." This has been interpreted at times to mean that the natural parents must be given notice. HB 2462 would indicate that no notice of any proposed adoption of the child need be given to a natural parent if that parent's parental rights have been terminated or if that parent has voluntarily relinquished for the purpose of adoption.

Catch III