

Approved 2 5-96  
Date

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs

The meeting was called to order by Senator Edward F. Reilly, Jr. at  
Chairperson

11:10 a.m./p.m. on February 13, 1990 in room 254-E of the Capitol.

All members were present ~~except~~:

Committee staff present:

Mary Torrence, Revisor of Statutes Office  
Mary Galligan, Legislative Research  
Emalene Correll, Legislative Research  
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

The minutes of the February 7 and February 8 meetings were approved.

The minutes of the February 6 meeting were corrected to show the motion regarding SB 461 was only to adopt the amendments offered by Senator Walker.

Staff reviewed a proposed committee bill dealing with reporting of abortions. It would use the term "medical care facility" rather than "hospital," M.D.'s and D.O.'s would be required to keep records, and names and addresses of facilities, and names of persons reporting would be kept confidential. (Attachment 1)

A motion was made by Senator Daniels and seconded by Senator Strick to introduce the bill. The motion failed.

A letter to Attorney General Stephan regarding Amendment of Kansas Unclaimed Property Act was distributed. (Attachment 2)

A motion was made by Senator Bond and seconded by Senator Morris that the proposed amendment be introduced as a committee bill. The motion carried.

A suggested amendment to K.S.A. 75-712 from the Attorney General's office was distributed. (Attachment 3)

A motion was made by Senator Daniels and seconded by Senator Bond that the amendment be introduced as a committee bill. The motion carried.

A proposed bill was presented by Senator Daniels pertaining to crimes relating to the injury or death of an unborn child. (Attachment 4)

A motion was made by Senator Strick and seconded by Senator Daniels to introduce the proposed bill. The motion carried.

Terry Humphrey, Kansas Manufactured Housing Association, made a request for introduction of a bill dealing with K.S.A. Chapter 8 Automobiles and Other Vehicles. (Attachment 5)

A motion was made by Senator Bond and seconded by Senator Morris that the bill be introduced. The motion carried.

Ben Coates, Kansas Sentencing Commission, reviewed for the committee the Kansas Sentencing Commission Interim Report to the Legislature, a copy of which is on file in the Federal and State Affairs office.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs,  
room 254-E, Statehouse, at 11:10 a.m./~~p.m.~~ on February 13, 1990.

Continued hearing on: SB 516 - Repeal of various alcoholic beverage statutes

Staff reviewed the statutes which would be repealed. There would be no effect with the possible exception of 41-329 and 41-501a. There is a permanent injunction against enforcement of 41-329; 41-501a provides that an individual living on a military installation will pay gallonage tax. The others are simply cleanup.

A motion was made by Senator Morris and seconded by Senator Bond that the bill be amended by removing the two statutes mentioned above and that it be recommended favorably. The motion carried.

The Chairman announced that the scheduled hearing on SB 517 would be postponed.

The meeting was adjourned at 12:00 noon.

GUEST LIST

COMMITTEE: Senate Federal & State Affairs DATE: 2-13-90

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
RICHARD TAYLOR	TOPEKA	LIFE AT BEST.
TUCK DUNCAN	<del>TOPEKA</del>	<del>KS WSWA</del>
Jim Conant	Topeka	KS. ABC
BEN COAKES	TOPEKA	KS Saving Comm
Clara Remyer	Salatha	Right to Life of KS
Angel Peeler	Emporia	KS Sentencing Comm
M. Mike Warner	Topeka	" "
BOB ADERSON	"	KS. MANUFACTURED HOUSING ASSOC.
Kevin Tipton	Denver	FJSCS
Terry Humphrey	Topeka	KNHA
Neal Whitaker	Topeka	KCBWA

SENATE BILL NO. \_\_\_\_\_

By

AN ACT requiring certain reports concerning the termination of pregnancies; amending K.S.A. 65-445 and K.S.A. 1989 Supp. 65-430, 65-2837, 65-5809, 65-6311 and 74-5324 and repealing the existing sections.

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

Section. 1. K.S.A. 65-445 is hereby amended to read as follows: 65-445. (a) Every hospital medical care facility shall keep written records of all pregnancies which are lawfully terminated within such-hospital the medical care facility and shall annually submit a written report thereon to the secretary of health and environment in the manner and form prescribed by said the secretary. Every person licensed to practice medicine and surgery shall keep a record of all pregnancies which are terminated by such person in a location other than a medical care facility and shall annually submit a written report thereon to the secretary of health and environment in the manner and form prescribed by the secretary.

(b) Each such report shall include the number of pregnancies terminated within-such-hospital during said such period of time, and-such-other-information-as-may-be-required-by-the-secretary-of health-and-environment, but-said and shall include, but shall not be limited to, the following information:

- (1) The county and state in which the woman whose pregnancy has been terminated resides;
- (2) the woman's age, race and marital status;
- (3) the number of prior pregnancies and prior abortions of the woman;
- (4) the gestational age of the unborn child;
- (5) the type of procedure performed or prescribed; and

(6) the length and weight of the aborted unborn child, when measurable.

(c) The report shall not include the names of the persons whose pregnancies were so terminated. The names and addresses of medical care facilities and persons required to report under this section shall be confidential and shall not be disclosed by the secretary.

New Sec. 2. (a) Every person licensed to practice medicine and surgery who is called upon to provide medical care or treatment to a woman who is in need of medical care because of a complication or complications resulting, in the good faith judgment of the person licensed to practice medicine and surgery, from having undergone an abortion or attempted abortion shall prepare a report thereof and file the report with the secretary of health and environment within 30 days of the date of such person's first examination of the woman. Such report shall be on forms prescribed by the secretary and shall contain the following information:

- (1) Age of patient;
- (2) number of pregnancies the patient may have had prior to the abortion;
- (3) number and type of abortions the patient may have had prior to this abortion;
- (4) name and address of the facility where the abortion was performed;
- (5) gestational age of the unborn child at the time of the abortion, if known;
- (6) type of abortion performed, if known;
- (7) nature of complication or complications;
- (8) medical treatment given;
- (9) the nature and extent, if known, of any permanent condition caused by the complication; and
- (10) such other information as the secretary may require.

(b) Every board-certified psychiatrist, licensed psychologist, licensed social worker or registered professional

counselor who is called upon to provide psychiatric, psychological, psychotherapy, social work consultation or counseling to a woman who, in the good faith judgment of the psychiatrist, psychologist, social worker or counselor is in need of care or counseling as a result of undergoing an abortion or attempted abortion shall prepare a report thereof and file the report with the secretary of health and environment within 30 days of the date of the interview with the woman. Such report shall be on forms prescribed by the secretary and shall contain the following information:

- (1) Age of the woman;
  - (2) number of pregnancies the woman may have had prior to the abortion;
  - (3) number and type of abortions the woman may have had prior to this abortion;
  - (4) a diagnostic evaluation of the woman's condition; and
  - (5) such other information as the secretary may require.
- (c) A report under subsection (a) or (b) of this section to the secretary of health and environment shall not contain the name of the patient. The names and addresses of persons required to report under this section shall be confidential and shall not be disclosed by the secretary.

New Sec. 3. The secretary of health and environment shall on or before December 31 each year report to the governor and the legislature a statistical summary of information obtained by the secretary under K.S.A. 65-445 and section 2, and amendments to such section. Such statistical information shall be presented in a manner so as not to identify directly or indirectly any individual, medical care facility or other medical facility.

Sec. 4. K.S.A. 1989 Supp. 65-430 is hereby amended to read as follows: 65-430. The licensing agency may deny, suspend or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements established under this law, a failure to report any information required to be reported by K.S.A. 65-445, including the failure

to report such information under K.S.A. 65-445 and amendments thereto at the time required for the reporting, 65-28,121 or 65-4216 and amendments to such sections, or a failure to maintain a risk management program as required by K.S.A. 1987 Supp. 65-4922 and amendments thereto, after notice and an opportunity for hearing to the applicant or licensee in accordance with the provisions of the Kansas administrative procedure act. In addition to any other licensing action which may be imposed for a violation of this section, any medical care facility which willfully fails to report information required to be reported under K.S.A. 65-445 and amendments thereto shall for the first failure to report have its license suspended for a period of six months, for a second failure to report have its license suspended for a period of one year and for a third failure to report have its license revoked.

Sec. 5. K.S.A. 1989 Supp. 65-2837 is hereby amended to read as follows: 65-2837. As used in K.S.A. 65-2836 and amendments thereto and in this section:

(a) "Professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board.

(2) Repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board.

(3) A pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice medicine.

(b) "Unprofessional conduct" means:

(1) Solicitation of professional patronage through the use of fraudulent or false advertisements, or profiting by the acts of those representing themselves to be agents of the licensee.

(2) Representing to a patient that a manifestly incurable disease, condition or injury can be permanently cured.

(3) Assisting in the care or treatment of a patient without

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the consent of the patient, the attending physician or the patient's legal representatives.

(4) The use of any letters, words, or terms, as an affix, on stationery, in advertisements, or otherwise indicating that such person is entitled to practice a branch of the healing arts for which such person is not licensed.

(5) Performing, procuring or aiding and abetting in the performance or procurement of a criminal abortion.

(6) Willful betrayal of confidential information.

(7) Advertising professional superiority or the performance of professional services in a superior manner.

(8) Advertising to guarantee any professional service or to perform any operation painlessly.

(9) Participating in any action as a staff member of a medical care facility which is designed to exclude or which results in the exclusion of any person licensed to practice medicine and surgery from the medical staff of a nonprofit medical care facility licensed in this state because of the branch of the healing arts practiced by such person or without just cause.

(10) Failure to effectuate the declaration of a qualified patient as provided in subsection (a) of K.S.A. 65-28,107 and amendments thereto.

(11) Prescribing, ordering, dispensing, administering, selling, supplying or giving any amphetamines or sympathomimetic amines, except as authorized by K.S.A. 65-2837a and amendments thereto.

(12) Conduct likely to deceive, defraud or harm the public.

(13) Making a false or misleading statement regarding the licensee's skill or the efficacy or value of the drug, treatment or remedy prescribed by the licensee or at the licensee's direction in the treatment of any disease or other condition of the body or mind.

(14) Aiding or abetting the practice of the healing arts by an unlicensed, incompetent or impaired person.



(15) Allowing another person or organization to use the licensee's license to practice the healing arts.

(16) Commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice.

(17) The use of any false, fraudulent or deceptive statement in any document connected with the practice of the healing arts.

(18) Obtaining any fee by fraud, deceit or misrepresentation.

(19) Directly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered, other than through the legal functioning of lawful professional partnerships, corporations or associations.

(20) Failure to transfer medical records to another physician when requested to do so by the subject patient or by such patient's legally designated representative.

(21) Performing unnecessary tests, examinations or services which have no legitimate medical purpose.

(22) Charging an excessive fee for services rendered.

(23) Prescribing, dispensing, administering, distributing a prescription drug or substance, including a controlled substance, in an excessive, improper or inappropriate manner or quantity or not in the course of the licensee's professional practice.

(24) Repeated failure to practice healing arts with that level of care, skill and treatment which is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances.

(25) Failure to keep written medical records which describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results.

(26) Delegating professional responsibilities to a person when the licensee knows or has reason to know that such person is not qualified by training, experience or licensure to perform them.

(27) Using experimental forms of therapy without proper informed patient consent, without conforming to generally accepted criteria or standard protocols, without keeping detailed legible records or without having periodic analysis of the study and results reviewed by a committee or peers.

(28) Prescribing, dispensing, administering or distributing an anabolic steroid or human growth hormone for other than a valid medical purpose. Bodybuilding, muscle enhancement or increasing muscle bulk or strength through the use of an anabolic steroid or human growth hormone by a person who is in good health is not a valid medical purpose.

(29) Failure to report information required to be reported under K.S.A. 65-445 or section 2, and amendments to such sections including the failure to report such information at the time required for its reporting. In addition to any other disciplinary action which may be imposed for a violation of this subsection, any person who willfully fails to report information required to be reported under K.S.A. 65-445 or section 2, and amendments to such sections, shall for the first failure to report have such person's license suspended for a period of six months, for a second failure to report have such person's license suspended for a period of one year and for a third failure to report have such person's license revoked.

(c) "False advertisement" means any advertisement which is false, misleading or deceptive in a material respect. In determining whether any advertisement is misleading, there shall be taken into account not only representations made or suggested by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertisement fails to reveal facts material in the light of such representations made.

(d) "Advertisement" means all representations disseminated in any manner or by any means, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of professional services.

Sec. 6. K.S.A. 1989 Supp. 65-5809 is hereby amended to read

as follows: 65-5809. The board may refuse to issue, suspend, limit, refuse to renew or revoke any registration or specialty designation granted under the professional counselors registration act for any of the following reasons:

(a) Use of drugs or alcohol, or both, to an extent that impairs the individual's ability to engage in the practice of professional counseling;

(b) the individual has been convicted of a felony and, after investigation, the board finds that the individual has not been sufficiently rehabilitated to merit the public trust;

(c) use of fraud, deception, misrepresentation or bribery in securing any registration issued pursuant to the provisions of the professional counselors registration act or in obtaining permission to take any examination given or required pursuant to the provisions of the professional counselors registration act;

(d) obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(e) incompetence, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a professional counselor;

(f) violation of, or assisting or enabling any individual to violate, any provision of the professional counselors registration act or any rule and regulation adopted under such act;

(g) impersonation of any individual holding a registration or allowing any individual to use a registration or diploma from any school of a person registered under the professional counselors registration act or a diploma from any school of an applicant for registration under the professional counselors registration act;

(h) revocation or suspension of a registration or other authorization to practice counseling granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized by the professional

counselors registration act;

(i) the individual is mentally ill or physically disabled to an extent that impairs the individual's ability to engage in the practice of professional counseling;

(j) assisting or enabling any person to hold oneself out to the public or offer to hold oneself out to the public as a registered professional counselor who is not registered under the provisions of the professional counselors registration act;

(k) the issuance of the registration was based upon a material mistake of fact;

(l) violation of any professional trust or confidence;

(m) use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(n) unprofessional conduct as defined by rules and regulations adopted by the board; or

(o) the registrant has had a registration, license or certificate as a professional counselor revoked, suspended or limited, or has had other disciplinary action taken, or an application for a registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof; or

(p) failure to report information required to be reported under section 2 and amendments thereto, including the failure to report such information at the time required for its reporting.

In addition to any other disciplinary action which may be imposed for a violation of this section, any registered professional counselor who willfully fails to report information required to be reported under section 2 and amendments thereto shall for the first failure to report have such person's license suspended for a period of six months, for a second failure to report have such person's license suspended for a period of one year and for a third failure to report have such person's license

revoked.

Sec. 7. K.S.A. 1989 Supp. 65-6311 is hereby amended to read as follows: 65-6311. (a) The board may suspend, limit, revoke or refuse to issue or renew a license of any social worker upon proof that the social worker:

(1) Has been convicted of a felony and, after investigation, the board finds that the licensee has not been sufficiently rehabilitated to merit the public trust;

(2) has been found guilty of fraud or deceit in connection with services rendered as a social worker or in establishing needed qualifications under this act;

(3) has knowingly aided or abetted a person, not a licensed social worker, in representing such person as a licensed social worker in this state;

(4) has been found guilty of unprofessional conduct as defined by rules established by the board;

(5) has been found guilty of negligence or wrongful actions in the performance of duties; or

(6) has had a license to practice social work revoked, suspended or limited, or has had other disciplinary action taken, or an application for a license denied, by the proper licensing authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof; or

(7) has failed to report information required to be reported under section 2 and amendments thereto, including the failure to report such information at the time required for its reporting.

(b) Proceedings to consider the suspension, revocation or refusal to renew a license shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) In addition to any other disciplinary action which may be imposed for a violation of this section, any licensed social worker who willfully fails to report information required to be reported under section 2 and amendments thereto shall for the first failure to report have such person's license suspended for

a period of six months, for a second failure to report have such person's license suspended for a period of one year and for a third failure to report have such person's license revoked.

Sec. 8. K.S.A. 1989 Supp. 74-5324 is hereby amended to read as follows: 74-5324. The board may suspend, limit, revoke or refuse to issue or renew a license of any psychologist upon proof that the psychologist: (a) Has been convicted of a felony involving moral turpitude; or (b) has been guilty of fraud or deceit in connection with services rendered as a psychologist or in establishing qualifications under this act; or (c) has aided or abetted a person, not a licensed psychologist, in representing such person as a psychologist in this state; or (d) has been guilty of unprofessional conduct as defined by rules and regulations established by the board; or (e) has been guilty of negligence or wrongful actions in the performance of duties; or (f) has knowingly submitted a misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement; or (g) has had a registration, license or certificate as a psychologist revoked, suspended or limited, or has had other disciplinary action taken, or an application for registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof; or (h) has failed to report information required to be reported under section 2 and amendments thereto, including the failure to report such information at the time required for its reporting.

In addition to any other disciplinary action which may be imposed for a violation of this section, any licensed psychologist who willfully fails to report information required to be reported under section 2 and amendments thereto shall for the first failure to report have such person's license suspended for a period of six months, for a second failure to report have such person's license suspended for a period of one year and for a third failure to report have such person's license revoked.

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New Sec. 9. Any person who willfully delivers or discloses to the secretary of health and environment any report, record or information under K.S.A. 65-445 and amendments thereto which is known by such person to be false is guilty of a class C misdemeanor.

New Sec. 10. Nothing in this act shall be construed as creating or recognizing a right to legal abortion.

New Sec. 11. If any provision, word, phrase, or clause of this act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions, words, phrases, clauses or application of this act which can be given effect without the invalid provision, word, phrase, clause or application, and to this end the provisions, words, phrases, and clauses of this act are declared to be severable.

Sec. 12. K.S.A. 65-445 and K.S.A. 1989 Supp. 65-430, 65-2837, 65-5809, 65-6311 and 74-5324 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

DICKSTEIN, SHAPIRO & MORIN

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RECEIVED

ATTORNEY GENERAL

JAN 29 9 36 AM '90

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January 26, 1990

BY FEDERAL EXPRESS

Honorable Robert T. Stephan  
Attorney General  
Judicial Center, Second Floor  
Topeka, Kansas 66612

Re: Amendment of Kansas Unclaimed Property Act

Dear Bob:

In connection with one of the unclaimed property cases in which we represent the State of Kansas, Delaware v. New York in the United States Supreme Court, we have undertaken a further review of Kansas's unclaimed property statute in light of the defenses raised and legal positions taken by the State of New York and the legal theory recently advanced by California, et al. and the contentions of the federal government in its summary judgment motion. We have concluded that the statute must be amended if Kansas is to prevail in Delaware v. New York.

Under the theory of the case in Delaware v. New York most likely to be accepted by the Supreme Court, and advocated by Kansas and 32 other States, when the last known address of the owner is unknown, a State is entitled to escheat or take custody of presumptively abandoned intangible property issued or distributed by it or any of its political subdivisions, or by issuers incorporated or created in that State. Because the holder of such property usually is an out-of-State brokerage firm or clearinghouse in the chain of distribution, Kansas's unclaimed property statute must be amended to specifically authorize it to take property in this type of a situation.

A copy of the recommended amendment is enclosed for your convenience. We also are providing the proposed amendment to Treasurer Joan Finney. Because of the sensitive nature of this amendment to the pending litigation, please try to limit publicity and discussion with other States.

Senate F&SA  
2-13-90  
Att. 2



Proposed Amendment to Kansas  
Abandoned Property Statute  
Providing for Recovery of Unclaimed Property

§ \_\_\_\_\_ \* Property originated or issued by this State, any political subdivision hereof or any entity incorporated, organized or created herein.

(a) All intangible property, including but not limited to any interest, dividend, or other earnings thereon, less any lawful charges, held by a business association, federal, state or local government or governmental subdivision, agency or entity, or any other person or entity, regardless of where the holder may be found, if the owner has not claimed or corresponded in writing concerning the property within three years after the date prescribed for payment or delivery, is presumed abandoned and subject to the custody of this State as unclaimed property if:

- (1) The last known address of the owner is unknown; and
- (2) The person or entity originating or issuing the intangible property is this State or any political subdivision of this State, or is incorporated, organized or created in this State.

(b) The provisions of subsection (a) shall not apply to property which is or may be presumed abandoned and subject to the custody of this State pursuant to any other provision of law containing a dormancy period different than that prescribed in subsection (a).

(c) The provisions of subsection (a) shall apply to all property held at the time of enactment, or at any time thereafter, regardless of when such property became or becomes presumptively abandoned.

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\* We suggest that this amendment be inserted between Kansas Statutes Sections 58-3909 and 58-3910.

January 26, 1990

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EXPLANATION OF AMENDMENT

1. The Amendment is necessary to permit the State to recover the unclaimed property at issue in Delaware v. New York, No. 111 Original, pending before the United States Supreme Court.

2. Although current State law may cover dividends, interest and similar property at issue in the litigation, it does not permit recovery from most out-of-state holders when such holders did not originate the unclaimed funds and are merely intermediaries.

3. The amendment is limited to circumstances where the last known address of the unclaimed property owner is unknown.

4. The amendment applies only to property and situations not otherwise covered by existing State law.

5. (a) The dormancy period is three years because the New York dormancy period is three years. If this becomes a problem with the legislature, the litigation will not be undermined by modifying the three year dormancy period to conform to the traditional State dormancy period.

(b) In circumstances where the same property would be covered both by existing law and this Amendment except for different dormancy periods, existing law controls.

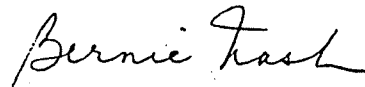
6. The Amendment applies to property held at the date of enactment, irrespective of when the property became abandoned, as well as to property becoming abandoned after enactment.

January 26, 1990

Honorable Robert T. Stephan  
January 26, 1990  
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Please call me if you have any questions, or if you believe it would be helpful for me to communicate with any of your legislative or executive branch officials.

Very truly yours,



Bernard Nash

BN:mea

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K.S.A. 75-712, if amended, would provide:

75-712. Same; powers and duties; reports of investigations.

It shall be the duty of the members of the bureau to make full and complete investigations at the direction of the attorney general. Each member of the bureau shall possess all powers and privileges which are now or may be hereafter given to the sheriff's of the State of Kansas. In addition, the powers and privileges of all members of the bureau shall include, in the course of an investigation, the ability to administer oaths and affirmations to witnesses and to acknowledge signatures of witnesses. The bureau shall be vested with the duty of acquiring, collecting, classifying, and preserving criminal identification and other crime records, and the exchanging of said criminal identification records with the duly authorized officials of governmental agencies, of states, cities and penal institutions. Reports of all investigations made by the members of the bureau shall be made to the attorney general of the State of Kansas.

Senate F&SA  
2-13-90  
Att. 3

## SENATE BILL NO. \_\_\_\_\_

By Senator Daniels

AN ACT concerning crimes and punishments; defining and classifying certain crimes relating to the injury or death of an unborn child.

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

Section 1. As used in this act:

(a) "Bodily harm" means physical pain or injury, illness or any impairment of physical condition.

(b) "Great bodily harm" means bodily injury which creates a high probability of death, or which causes serious permanent disfigurement or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily harm.

(c) "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ or which causes a fracture of any bodily member.

(d) "Unborn child" means the unborn offspring of a human being from the time of conception until birth.

(e) "Unlawful sexual act" shall have the meaning ascribed to such term under K.S.A. 21-3501 and amendments thereto.

(f) "Vehicle" means any self-propelled vehicle, aircraft or watercraft.

Sec. 2. (a) Criminal vehicular operation resulting in death to an unborn child is operating a vehicle in a grossly negligent manner or in a manner while under the influence of alcohol or drugs, or a combination of alcohol and drugs, in violation of K.S.A. 8-1567 and amendments thereto which results in death to an unborn child.

(b) Criminal vehicular operation resulting in death to an unborn child is a class E felony.

Sec. 3. (a) Criminal vehicular operation resulting in injury to an unborn child subsequently born alive is operating a vehicle in a grossly negligent manner or in a manner while under the influence of alcohol or drugs, or a combination of alcohol and drugs, in violation of K.S.A. 8-1567 and amendments thereto which results in injury to an unborn child subsequently born alive.

(b) Criminal vehicular operation resulting in injury to an unborn child subsequently born alive is a class E felony.

Sec. 4. (a) Murder of an unborn child in the first degree is the killing of an unborn child committed maliciously, willfully, deliberately and with premeditation or committed in the perpetration or attempt to perpetrate any felony.

(b) Murder of an unborn child in the first degree is a class A felony.

Sec. 5. (a) Murder of an unborn child in the second degree is the malicious killing of an unborn child committed without deliberation or premeditation and not in the perpetration or attempt to perpetrate a felony:

(b) Murder of an unborn child in the second degree is a class B felony.

Sec. 6. (a) Voluntary manslaughter of an unborn child is the unlawful killing of an unborn child, without malice, which is done intentionally upon a sudden quarrel or in the heat of passion:

(b) Voluntary manslaughter of an unborn child is a class C felony.

Sec. 7. (a) Involuntary manslaughter of an unborn child is the unlawful killing of an unborn child, without malice, which is done unintentionally in the wanton commission of an unlawful act not amounting to felony, or in the commission of a lawful act in an unlawful or wanton manner.

(b) As used in this section, an "unlawful act" is any act which is prohibited by a statute of the United States or the state of Kansas or an ordinance of any city within the state, which statute or ordinance is enacted for the protection of human life or safety.

(c) Involuntary manslaughter of an unborn child is a class D

felony.

Sec. 8. (a) Aggravated battery against an unborn child is an aggravated battery, as defined in K.S.A. 21-3414 and amendments thereto, committed against a pregnant woman and the infliction of great bodily harm on an unborn child who is subsequently born alive.

(b) Aggravated battery against an unborn child is a class C felony.

Sec. 9. (a) Battery against an unborn child is a battery, as defined in K.S.A. 21-3412 and amendments thereto, committed against a pregnant woman and the infliction of substantial bodily harm on an unborn child who is subsequently born alive.

(b) Battery against an unborn child is a class B misdemeanor.

Sec. 10. (a) Assault of an unborn child is:

(1) Committing an act with intent to cause fear in a pregnant woman of immediate bodily harm or death to the unborn child; or

(2) intentionally inflicting or attempting to inflict bodily harm on an unborn child who is subsequently born alive.

(b) Assault of an unborn child is a class A misdemeanor.

Sec. 11. (a) Causing injury to an unborn child in the commission of a felony is causing great or substantial bodily harm to an unborn child while perpetrating or attempting to perpetrate any felony.

(b) Causing injury to an unborn child in the commission of a felony is a class D felony.

(c) As used in this section, "felony" does not include a violation of K.S.A. 21-3410 or section 8, and amendments thereto.

Sec. 12. Sections 4 to 11, inclusive, do not apply to any act described in K.S.A. 21-3407 and amendments thereto.

Sec. 13. This act shall be part of and supplemental to the Kansas criminal code.

Sec. 14. This act shall take effect and be in force from and after its publication in the statute book.

KANSAS MANUFACTURED HOUSING ASSOCIATION

TESTIMONY BEFORE THE SENATE

FEDERAL AND STATE AFFAIRS COMMITTEE

TO: Senator Edward Reilly, Chairman and  
Members of the Committee

FROM: Terry Humphrey, Executive Director  
Kansas Manufactured Housing Association

DATE: February 13, 1990

RE: Request for Introduction of a bill dealing with K.S.A.  
Chapter 8 Automobiles and Other Vehicles.

Mr. Chairman and members of the Committee, I am Terry Humphrey, Executive Director of the Kansas Manufactured Housing Association and I appreciate the opportunity to make a bill request to your committee.

As you know the manufactured housing industry has changed greatly over the past 60 years. In the 1930's and 40's our industry produced "trailers". In the 1950's, 60's and early 70's our industry produced "mobile homes". Since 1976 according to federal law our industry has produced manufactured homes. Yet, because of our beginnings, our product has been considered a "mobile home" and an extension of the automobile.

However, today manufactured homes are clearly not vehicles and they are typically transported once, from the factory to the home site or from a sales center to the home site. Yet do to our history, many aspects of the law still refer to manufactured housing as an extension of the vehicle.

Specifically I am referring to K.S.A. Chapter 8 - Automobiles and Other Vehicles. Under the provisions of Chapter 8 much of the manufactured housing industry is regulated. The provisions cover vehicle registration and titling; traffic rules; and licensure of vehicle sales and manufacturer. Under Chapter 8, Article 24 - Licensure of Vehicle Sales and Manufacturer, the industry is defined and licensed to do business. For the most part the licensing provisions that have been established for the motor vehicle dealer apply to manufactured home dealer. However, in the last several years the motor vehicle industry has made changes to these provisions and those changes are not always

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appropriate for the manufactured housing industry. As a result we have been exempted from many of the changes, often causing confusion and some anxiety on the part of all concerned. Again in the 1990 Legislative Session more revisions are being proposed to these Statutes and again manufactured housing will need to be exempted.

In light of this, KMHA has gone to the Director of the Motor Vehicle Division to ask permission for manufactured housing statutes to be separated from motor vehicle statutes. The Director agreed that by separating these provisions all interests would be better served. It is envisioned that the Department of Motor Vehicles would still handle our provisions but we would be separate and distinct from motor vehicles.

Therefore, I am respectfully requesting that the Federal and State Affairs Committee introduce a bill that would clearly define manufactured housing and separate it from motor vehicle statutes. I appreciate your attention to this matter and I will attempt to answer any questions that you may have. Thank you.