

Approved 2/21/90
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at
Chairperson

10:00 a.m./p.m. on February 15, 1990, 19 in room 526 of the Capitol.

All members were present except:

Committee staff present:

Norman Furse, Revisor's Office
Bill Wolff, Legislative Research
Sandra Nash, Committee Secretary

Conferees appearing before the committee:

The Chairman asked for conferees for S.B. 634. Mr. Carl Schmitthenner, of the Kansas Dental Association appeared as a proponent. Mr. Schmitthenner said that the bill would allow the Kansas Dental Board to develop rules and regulations concerning the administration of general anesthesia. (Attachment 1).

Senator Ehrlich asked if this would give the dentists the authority for intravenous.

Mr. Schmitthenner said that is generally the way they are administering general anesthesia. It's not an expansion.

Senator Ehrlich asked if they are trained at the present time to do that?

Mr. Schmitthenner said it is part of their training. It is used very infrequently by the broad spectrum.

Senator Ehrlich asked what would happen to the patient that would be receiving this? Does it total put him out?

Mr. Schmitthenner said yes.

Senator Ehrlich asked if it could be done in a local dentist office?

Mr. Schmitthenner said it is being done in a dentist office now.

Senator Ehrlich asked why the bill then?

Mr. Schmitthenner said they don't need additional authority. It will let the Kansas Dental Board develop rules and regulations so that there would be additional limitations that would govern this, like life-saving equipment in the office, etc.

Staff Furse stated there were a couple other sections, one of which is in the dental practices act that allow dentist to delegate the administration of anesthesia to nurses and his assistant. And the other one is in the Healing Arts Act where we have a special authorization for dentists to take training. I wonder if we don't need to, along with this, to modify that language so that they couldn't delegate the administration of more than they authorized to do here. I think that one just says anesthesia or something like that. And the Healing Arts Act to tie that down to those who can administer general anesthesia.

Mr. Schmitthenner said those people in the Healing Arts Act are anesthesiologist and they don't fall into this. The delegate under the other provision, the nurse anesthetist and they again have a different set of training standards.

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Staff Furse said the problem was it just said they could delegate administration of anesthesia. And my questions is **basically if** we are going to have a couple categories of dentists, some that could do general and some who can't.

Mr. Schmitthenner said we need to say "a dentist certified by the Board."

Mr. Furse said they can't delegate more than they are certified themselves.

The Chairman asked for the wishes of the Committee on S.B.634. Senator Salisbury asked if the Revisor was suggesting some clarification.

Senator Ehrlich said yes.

Staff Furse said we need to pick up the section in the Dental Practices Act for the delegation, currently, of the dentist to dental assistant general anesthesia and say that the delegation authority is limited to the authority that the dentist under 65-1444. So it would be amending another statute and putting in this bill to relate back to 1444. And then another technical thing, we refer to "regulations" in this bill. It should be "rules and regulations."

Senator Burke made the motion to adopt the technical changes suggested by staff for S.B. 634. Senator Reilly seconded the motion. The motion carried.

Senator Salisbury made the motion to pass S.B.634 favorably as amended. There was no second. Staff Furse will bring S.B.634 back to the Committee as amended.

The Chairman asked Staff Furse to present the Committee bill request by the gentleman from Kansas City.

Staff Furse called the attention of the Committee to a previous person appearing before the Committee to request changes to statutes pertaining to parentage rights. This scout master of Kansas City who told the Committee of some problems he had with respect to determination of parenting. He was quite concerned. The Chairman asked Staff Furse to visit with Mr. Woods after the Committee meeting. He had some materials and court cases and had his own experience. Mr. Woods' problem was one of he had been adjudicated to be the father of the child and he contested that he was and pointed out some legal problems in regard to that the Feds had captured an income tax refund to pay off a debt he owed.

Staff Furse said there were a couple legislative approaches with respect to the parentage act which could be taken. One would be an amendment to the act on page one which provides for blood tests to assist in determining the alleged father of the child. Currently the blood tests are conducted on the order of the court by qualified expert examiners. That test then can be challenged in court, if you give 20 days notice before trial. One possibility in the statute would be to require, currently not required, the verified written report of the expert be provided to all parties not less than 45 days before trial. Included, along with written notice, that the validity of such report may be challenged in accordance with the provisions of this section. This section does give the authority for individuals to challenge the report, but they have to give 20 days notice before the trial. Currently, of course, the report would be made available to the parties but

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there's no requirement that there's any notice to that they have the right under statutes.

The second possible change would be on page 2, which would allow the judgement or order of the court if based on the blood tests conducted under previous section, would allow the court to reopen the case and a new trial under the parentage act be ordered at any time subsequent to the judgment upon a showing by any party to the action or proceedings that new, scientific evidence exists concerning such blood tests which warrants a new trial.

This would address Mr. Woods' situation and provide that the judge may reopen it if there is some kind of scientific evidence available concerning the tests which would warrant a new trial.

The other matter than concerned Mr. Woods, was the set off, and that's controlled by federal law. (Attachment 2)

The Chairman asked for the wishes of the Committee on 9 RS 2526. Senator Burke made a motion to introduce 9 RS 2526 as a Committee bill. Senator Anderson seconded the motion. The motion carried.

The Chairman asked if there were any other requests for Committee bills.

Senator Langworthy requested a bill coming out of the Sub-Committee on Foster Care, looking at the issue of increasing the speed of the appeals process after a decision has been made on a child being separated from the parents and having a rehearing with a jury upon request. And also in that same bill would be if a child is separated from the parents, look at strengthening the statutes to look at relatives first before putting children in foster homes.

Sentor Reilly seconded the motion. The motion passed.

The Committee meeting adjourned at 10:20a.m.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2/15/90

(PLEASE PRINT)

NAME AND ADDRESS

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Please continue on next page



KANSAS DENTAL ASSOCIATION

Testimony Before the
Senate Health and Welfare Committee
February 15, 1990
Senate Bill No. 634

Mr. Chairman and Members of the Committee:

I am Carl Schmitthenner, Executive Director of the Kansas Dental Association.

The Kansas Dental Association supports the provisions of Senate Bill No. 634.

This bill allows the Kansas Dental Board to develop rules and regulations concerning the administration of general anesthesia.

In 1986, the Kansas Dental Association's special committee on the administration of anesthesia developed recommendations for the use of general anesthesia in a dental office, and the recommendations were accepted by the Executive Council of the Association and published in the Journal of the Kansas Dental Association.

These recommendations are in keeping with a policy statement by the American Dental Association which read in part: ". . . State Dental Boards have a clear responsibility to ensure that only dentists who are properly trained, experienced and currently competent are permitted to use conscious sedation, deep sedation and general anesthesia within their jurisdictions."

We offer this amendment to the Kansas statutes which will enable the Kansas Dental Board to prepare the regulations necessary to fulfill this responsibility.

We assume that those regulations will be similar to the recommendations which are currently in place, but that is not at issue today.

We ask your support for passage of Senate Bill No. 634.

Thank you.

5200 Huntoon
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913-272-7360

SPH+W
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SENATE BILL NO. _____

AN ACT concerning determination of parentage; relating to blood tests used to determine paternity; amending K.S.A. 38-1118 and K.S.A. 1989 Supp. 38-1121 and repealing the existing sections.

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

Section 1. K.S.A. 38-1118 is hereby amended to read as follows: 38-1118. Whenever the paternity of a child is in issue in any action or judicial proceeding in which the child, mother and alleged father are parties, the court, upon its own motion or upon motion of any party to the action or proceeding, shall order the mother, child and alleged father to submit to blood tests. If a paternity action is filed by the secretary of social and rehabilitation services under K.S.A. 39-755 or 39-756, and amendments thereto, the court shall order blood tests on the motion of the secretary of social and rehabilitation services or any party to the action. If any party refuses to submit to the tests, the court may resolve the question of paternity against the party or enforce its order if the rights of others and the interests of justice so require. The tests shall be made by experts qualified as examiners of blood types who shall be appointed by the court. The verified written report of the court-appointed experts shall be provided to all parties to the action or proceedings not less than 45 days before trial along with written notice that the validity of such report may be challenged in accordance with the provisions of this section. The verified written report of the court-appointed experts shall be considered to be stipulated to by all parties unless written notice of intent to challenge the validity of the report is given to all parties not less than 20 days before trial. If such notice is given, the experts shall be called by the court as witnesses

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to testify as to their findings and shall be subject to cross-examination by the parties. Any party or person at whose suggestion the tests have been ordered may demand that other experts, qualified as examiners of blood types, perform independent tests under order of the court, the results of which may be offered in evidence. The number and qualification of the other experts shall be determined by the court.

Sec. 2. K.S.A. 1989 Supp. 38-1121 is hereby amended to read as follows: 38-1121. (a) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes. The judgment or order of the court if based at least in part upon blood test results under K.S.A. 38-1118 and amendments thereto may be reopened and a new trial under the Kansas parentage act ordered by the court at any time subsequent to the judgment upon a showing by any party to the action or proceedings that new, scientific evidence exists concerning such blood tests which warrants a new trial.

(b) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued.

(c) Upon adjudging that a party is the parent of a minor child, the court shall make provision for support and education of the child including the necessary medical expenses incident to the birth of the child. The court may order the support and education expenses to be paid by either or both parents for the minor child. When the child reaches 18 years of age, the support shall terminate unless: (1) The parent or parents agree, by written agreement approved by the court, to pay support beyond that time; or (2) the child reaches 18 years of age before completing the child's high school education in which case the support shall not terminate, unless otherwise ordered by the court, until June 1 of the school year during which the child became 18 years of age if the child is still attending high school. Provision for payment of support and educational expenses of a child after reaching 18 years of age if still attending high

school shall apply to any child subject to the jurisdiction of the court, including those whose support was ordered prior to July 1, 1988. If an agreement approved by the court prior to the effective date of this act provides for termination of support before the date provided by subsection (c)(2), the court may review and modify such agreement, and any order based on such agreement, to extend the date for termination of support to the date provided by subsection (c)(2). The judgment shall specify the terms of payment and shall require payment to be made through the clerk of the district court or the court trustee except for good cause shown. The judgment may require the party to provide a bond with sureties to secure payment. The court may at any time during the minority of the child prospectively modify or change the order of support as required by the best interest of the child. The court shall enter such orders regarding custody and visitation as the court considers to be in the best interest of the child.

(d) In entering an original order for support of a child under this section, the court may include a requirement that an additional amount be paid to reimburse the expenses of support and education of the child from the date of birth to the date the order is entered and the necessary medical expenses incident to the birth of the child.

(e) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts including, but not limited to, the following:

- (1) The needs of the child.
- (2) The standards of living and circumstances of the parents.
- (3) The relative financial means of the parents.
- (4) The earning ability of the parents.
- (5) The need and capacity of the child for education.
- (6) The age of the child.
- (7) The financial resources and the earning ability of the

child.

(8) The responsibility of the parents for the support of others.

(9) The value of services contributed by the custodial parent.

(f) The provisions of K.S.A. ~~1987--Supp.~~ 23-4,107 and amendments thereto shall apply to all orders of support issued under this section.

(g) An order granting visitation rights pursuant to this section may be enforced in accordance with K.S.A. ~~1987-Supp.~~ 23-701~~7~~ and amendments thereto.

Sec. 3. K.S.A. 38-1118 and K.S.A. 1989 Supp. 38-1121 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.