Approved 2-25-92
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 20, 1992 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research
Norman Furse, Revisor's Office
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Senator Wint Winter
Nancy Jorn, Lawrence-Douglas County Health Department
Cynthia Breitenbach, Women's Recovery Center, Topeka
Lynn Madison, Bethany Medical Center, Kansas City
James Cain, Superintendent of School, USD 287, Pomona
Andrew O'Donovan, SRS

Chairman Ehrlich called the meeting to order at 10:00 a.m.

The Chairman asked for Committee bill requests. No requests were made.

Hearing on:
SB 532 - Providing for education, treatment programs and services concerning pregnancy and the effects of using certain substances.

Senator Wint Winter, one of the sponsors of **SB 532**, stated the bill addresses a serious problem of substance abuse in pregnancy. Provisions of the bill would include a public awareness campaign, continuing education and educational materials, toll free information line, professional counselling of all pregnant women and identifying women at risk, require local health departments to provide service coordination to the referred pregnant women and her family, require pregnant women be first priority users of available substance abuse treatment, and protection of newborn children who show documented evidence at birth of exposure to controlled substances or alcohol through mandatory referral to SRS's child protective services for family evaluation and services as indicated. (Attachment 1)

Nancy Jorn, Maternal-Infant Program Coordinator, Lawrence-Douglas County Health Department, submitted written testimony and appeared in support of **SB 532**. Ms. Jorn stated there is a growing concern about the problem of substance abuse in pregnancy and gave facts regarding the use of cocaine, alcohol and tobacco during pregnancy. (Attachment 2) Committee discussion was held on the identification process, steps involved for prenatal care, and SRS involvement in protection of substance abused newborns.

Cynthia Breitenbach, Program Coordinator of Women's Recovery Center in Topeka, submitted written testimony in support of **SB 532** and stated reports of drug exposed babies have increased 3-4 times between 1985 and 1989, and reports of drug exposed births in the metropolitan Kansas City area has increased over 500% in the two years between 1986 and 1988. A study conducted in the Kansas City area revealed 14% of women in a public hospital delivery room tested positive for drugs and urged support for the bill. (Attachment 3) Committee discussion related to drug abusers being intimidated by the system and fail to seek prenatal care, and the degree that other social agencies are involved. Ms. Breitenbach agreed that a multi-disciplinary approach should be written into the bill.

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.

Lynn Madison, Social worker at Bethany Medical Center, Kansas City, expressed her support for **SB 532**. She stated that cocaine was the primary drug of choice among the pregnant women involved, and their ages are in the middle to late twenties. She would also like to see follow-up work done after the baby is born. Ms. Madison stated some women fear legal action or prosecution and will go over the state line to Truman Medical Center in order not to be identified. More and more women seem to be willing to work with the health department as they become aware that the approach is prevention and support rather than prosecution. Most of these patients are non-traditional and have no medical provider. Social workers will go out "on the street" and find pregnant women in neighborhoods and soup kitchens who are not getting prenatal medical care. This type of service is the only one of its kind in the state.

Jim Cain, Superintendent of Schools for West Franklin USD 287 in Pomona, Kansas, submitted written testimony in support of **SB 532** and told of his adopted son, a victim of parental use of drugs, tobacco and alcohol, who spent his entire life without the ability to feel emotions, except anger, and is still unable to develop normal peer relations. (Attachment 4)

Andrew O'Donovan, Alcohol and Drug Abuse Services, SRS, submitted written testimony in support of **SB 532** with suggested amendments that would change language in the bill to overcome some unintended consequences. Mr. O'Donovan stated they are concerned that in the interest of identifying and serving these children and their parents, some sections of the bill would impede the existing protection system and likely have an opposite effect than that intended. Therefore, language which would ensure an appropriate and timely response by child protection services and match the resources and kind of intervention to the situation presented is recommended. (Attachment 5)

The Chairman stated that due to the time element, continued hearing on **SB 532** will be held upon adjournment of the Senate, February 20, 1992.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
DATE 2-20-92 A.M.

(PLEASE PRINT) NAME AND ~~ADDRESS~~	ORGANIZATION
Lila Paslay	ARC/KS
Bobby Geers	ARC/KS
Harold Riehm	KAOM - TOPEKA
Lisa M. Searcy	Washburn Social Work Student
Marilyn Bradt	KINH
George Goebel	AARP-SLC-CCTF
[illegible] Bryden	NOW
Maureen Collins	Planned Parenthood
JAMES CAIN	WEST FRANKLIN USD 287
[illegible] Kenney	KDHE
Rita Kay Ryan	KDHE
C. Tucker Allen	Top. Sn. Co. Health Dept [illegible]
Cynthia Breitenbach	Women's Recovery Center
Eva Lee	St. Mary College - Leavenworth, KS
Joseph Kroll	KDHE
John Grace	KAHA
Terri Roberts	KSNA

Senate Bill No.______

States across the country have struggled with the problem of substance abuse in pregnancy which results in developmentally disabled infants, early deaths, exorbitant health care costs, and an overloaded foster care system. While abuse of controlled substances, especially cocaine, has drawn media attention, the abuse of cigarettes and alcohol damages significantly more infants each year.

The punitive sanctions advocated by some have the inherent risk of driving pregnant substance abusers out of the health care system with the counter-productive result being more damaged infants due to lack of prenatal care.

Through the provisions of this bill Kansas takes a progressive, public health oriented approach to the problem of substance abuse in pregnancy. Prevention through education, priority for treatment, and service coordination for pregnant substance abusers are key components of the legislation.

Provisions of the bill include:

1) Public awareness campaign regarding the preconception and perinatal effects of using cigarettes, alcohol, and controlled substances.

2) Provision of continuing education and educational materials regarding prenatal substance abuse to health care providers.

3) Toll free information line to facilitate referral for treatment.

4) Requirement that health care professionals counsel all pregnant women as to the effects of perinatal substance abuse, identify pregnant women at risk for perinatal substance abuse, and inform such women of the option of referral with consent to local health departments for service coordination.

5) Requirement for local health departments to provide service coordination to the referred pregnant woman and her family including coordination of social services, health care, mental health services and education and rehabilitation services.

6) Requirement that pregnant women be first priority users of available substance abuse treatment, that publicly funded treatment facilities not refuse to treat women solely because they are pregnant, and that family oriented substance abuse treatment be available. Further, that records regarding such women be confidential and not be used in any criminal prosecution.

7) Protection of newborn children who show documented evidence at birth of exposure to controlled substances or alcohol through mandatory referral to SRS's child protective services for family evaluation and services as indicated.

Senate P. H&W
attachment #1
2-20-92 AM

LAWRENCE–DOUGLAS COUNTY HEALTH DEPARTMENT

336 Missouri, Suite 201
Lawrence, Kansas 66044–1389
913-843-0721

TESTIMONY BEFORE THE SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
February 20, 1992

Presented by: Nancy Jorn
Maternal-Infant Program Coordinator
Lawrence-Douglas County Health Department

I appreciate the opportunity to testify before this committee in support of Senate Bill 532.

During the six years in which I have coordinated the Maternal-Infant Program in Douglas County, I have experienced a growing concern about the problem of substance abuse in pregnancy.

THE FACTS ARE DISTRESSING:

- Cocaine exposed infants make up 1-3% of all live births in the U.S. each year (30,000 to 60,000 babies).
- Fetal alcohol syndrome is the leading cause of mental retardation in the U.S.
- 10% of infant deaths and 25% of low birthweight births are due to use of tobacco during pregnancy.
- 14.8% of pregnant women tested positive when randomly screened for alcohol, opiates, cocaine, and marijuana (16.3% positive in public clinics, 13.1% in private clinics) in a 1989 study.

TWO BASIC APPROACHES BY OTHER STATES:

- **coercion and punishment** (incarceration, fines, etc.)
  - short term solution
  - doesn't address complex nature of substance abuse
  - doesn't promote becoming a healthy parent
  - foster care is likely for infant & costly to taxpayers
  - scares women away from prenatal care
  - creates dilemmas regarding discriminatory treatment of women who are pregnant
- **education and treatment**
  - more likely to result in **healthy babies and healthy families**
  - is the approach favored by Senate Bill 532

KEY PROVISIONS OF SENATE BILL 532

1. **Public Awareness Campaign**

   - damage often done early in pregnancy
   - important to increase public perception of risks of prenatal substance abuse

Senate P.H.&W.
attachment #2
2-20-92 AM

2. **Education & Guidance for Health Care Professionals**

- issues and information have changed since many clinicians received basic education
- clinicians miss diagnosis in 3 of 4 alcohol abusing obstetric patients
- education of clinicians will assure accurate patient education, history taking, and counseling to improve referral to and compliance with drug treatment programs

3. **Education & Risk Identification for Pregnant Women**

- all pregnant patients must be counseled about risks of perinatal substance abuse
- all patients must be screened for risk for perinatal substance abuse
- must not rely on stereotypes - can't tell a substance abuser just by looking

4. **Service Coordination and Treatment for Pregnant Substance Abuser**

Service coordination

- at risk women are referred with consent to local health departments for service coordination
- Maternal-Infant (M & I) Programs already offer multi-disiplinary service coordination and will facilitate referral to substance abuse treatment facilities
- M & I followup to infant's first birthday provides continuity

Substance abuse treatment

- first priority for pregnant women for treatment facilities
- no refusal for treatment based solely on pregnancy
- records are confidential; not to be used in criminal prosecution
- focuses current resources on pregnant women first while encouraging expansion of availability of family oriented treatment

5. **Protection of Substance Abused Newborns**

- mandates referral of substance abuse newborns to SRS Child Protective Services and mandates a child protective service investigation.
- creates safety net for newborn if parent is not successfully rehabilitated

In conclusion, Senate Bill 532 provides a comprehensive, public health oriented approach to the problem of substance abuse in pregnancy.

I encourage you to vote to implement this approach in Kansas.

TESTIMONY ON BEHALF OF SB 532

My name is Cynthia Breitenbach, and I am Program Coordinator of Women's Recovery Center in Topeka. Our program provides residential treatment to chemically addicted women and their children. I would like to provide testimony on behalf of Senate Bill 532.

The incidence of prenatal exposure is increasing dramatically. National estimates indicate that between 10 and 16% of all births are prenatally exposed to alcohol/drugs. Reports of drug exposed babies have increased 3-4 times between 1985 and 1989. Studies have shown the incidence to occur regardless of locale, race or income. Reports of drug exposed births in metropolitan Kansas City has increased over 500% in the two years between 1986 and 1988.

In the metropolitan Kansas City area, a study conducted by Children's Mercy Hospital revealed 14% of women presenting for delivery in a public hospital tested positive for drugs. This compared to 12.9% in New York City and 13.5% in San Francisco. Truman Hospital in Kansas City reports that 10-15% of all births in 1990 were drug exposed.

This is not surprising in that law enforcement officials report that the metro-Kansas City area has the third highest rate of cocaine abuse by women in the United States, with only Washington, DC, and New York City reporting higher rates.

Treatment for cocaine babies at Truman Medical Center in 1989 cost $750,000 more than insurance and government reimbursements. At Children's Mercy Hospital, neonatal intensive care for the average crack exposed infant cost twice as much as the care of other neonatal intensive care babies. The average stay for drug exposed babies is 33

Senate P. H&W
attachment #3
2-20-92 AM

days at a cost of $70-$95,000.

Researchers are learning more and more about physical defects, health problems, learning and emotional disabilities that are attributed to alcohol and other drug exposure during fetal development. Additionally, parental dependence on alcohol or other drugs is frequently associated with physical abuse and emotional neglect of children during their crucial formative years.

The consequences of maternal substance abuse/infant drug exposure will be felt by every system involved with their care--schools, health care providers, child protective services and foster care. According to their officials, schools in Kansas City Kansas and Missouri are preparing for increased numbers of young children with special needs.

These children have already impacted foster care caseloads. Wyandotte County reports an increase of 240 cases during the past two years. National estimates reveal approximately fifty percent of foster care cases are a result of parental drug abuse.

The strategies outlined in SB 532 are promising in respect to prevention/education and intervention. We also support pregnant addicts receiving first priority in receiving substance abuse treatment, which is a current policy of Women's Recovery Center. Approximately 10% of the clients we have served to date have been pregnant. However, the intervention strategies will place increased demands on existing treatment programs that currently maintain waiting lists. Ideally, new chemical dependency treatment facilities designed specially to meet the multiple needs of pregnant addicts would strengthen the service system and the outcome of these women and babies.

My name is Jim Cain. I am Superintendent of Schools for West Franklin USD 287 in Pomona, Kansas. I am here to testify in support of Senate Bill # 532.

Any educator can tell you of the problems children encounter when they are the victims of parental use and abuse of drugs, tobacco, and alcohol. This is true when the use is preconception, perinatal, or during childhood.

However I want to tell you of the impact on the family. My family consists of my wife and three adopted children. The youngest of our children is David who is 13. We originally received David as a foster child at age 5 1/2 months. He had been the victim of parental use of drugs, tobacco, and alcohol from preconception until removal from the biological family. At 5 1/2 months he was small, malnourished, and developmentally delayed. At age 2 we adopted David. By then he had caught up to age expectancy physically.

David has spent his entire life without the ability to feel emotions, except anger. He is unable to develop normal peer relations. He has trouble following directions. Yet David is a handsome, normal appearing young man. If he were here you would pick him out as having good self esteem, pride, and above average physical characteristics.

To arrive at the point where we are in David's life has been a long endurance test. He has been in a private psychiatric hospital on three occasions and was just discharged in January after 19 months of state hospitalization. The net effect financially is overwhelming. I can't even give you accurate figures as the costs come from so many different needs and are met by different entities. I am safe in saying that my insurance company, the state and federal government, and I have spent over $100,000 each to attempt to meet his needs. He will need some such services and support for most or all of his life. The financial impact on us as a society for one child will ultimately reach into the millions of dollars. How many such children can we afford?

However the true cost is the destruction of David's life as David is above average in intelligence. He is athletic, and attractive. He is talented in a variety of areas. He lacks the ability to use his talents because of his emotional impairments. Without the mental scars caused by his biological parents, David's potential would be unlimited. Our society doesn't have many 13 year olds like David, but we do have lots of infants and small children.

Somehow we have to reduce or eliminate the number of children like David. I'm not certain that Senate Bill #532 will accomplish that task but it certainly is an appropriate beginning. I simply ask that you take that beginning with the approval of the bill.

Senate P. H&W
attachment #4
2-20-92 AM

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Donna Whiteman, Secretary

Committee on Public Health and Welfare
Roy Ehrlich, Chairperson

February 20, 1992
Testimony in Regard to S.B. 532

Presented by: Andrew O'Donovan
Acting Commissioner
Social and Rehabilitation Services/Alcohol and Drug Abuse Services

AN ACT concerning the use of certain substances; providing for public education concerning the perinatal effects of using certain substances; providing education and treatment programs for pregnant women relating thereto; establishing risk assessment profiles to identify high-risk pregnancies; authorizing service coordination services to certain families; providing for the protection of certain children.

On behalf of the Secretary of the Kansas Department of Social and Rehabilitation Services (SRS), I am Andrew O'Donovan, Acting Commissioner of SRS/Alcohol and Drug Abuse Services testifying in support of S.B. 532.

Purpose of the bill:
The bill provides for education, early identification, and intervention concerning the perinatal use of tobacco, alcohol and controlled substances (drugs) by pregnant women. Its aim is to lessen the impact on children from alcohol and substance abuse by their mothers prior to birth and to provide for protection, when necessary, following birth.

The Kansas Legislature can be proud of their leadership in funding alcohol and drug programs and services for women and their children that support the Kansas Department of Health and Environment (KDHE) in implementing S.B. 532. These services include:

- A working agreement with KDHE to develop public education campaigns; deliver cross-training on topics such as AIDS; and pilot programs to reach high-risk populations. This partnership can be utilized to focus more on prevention and on treating women of child-bearing age.

- Policies to allow pregnant women and clients with the HIV virus/AIDS first priority in accessing substance abuse treatment services.

- Six specially-designed residential treatment programs for addicted women and their children.

- The state's network of 12 Alcohol and Drug Regional Prevention Centers to assist in delivering educational programs and to reduce high-risk behavior in families and communities.

Background:

Senate P. H&W
attachment #5
2-20-92 AM

The Department strongly supports the conduct of a public awareness campaign in regard to the preconceptual and perinatal effects of tobacco, alcohol and controlled substances. We acknowledge the Department's role in coordinating and providing information and services, within the limits imposed by appropriations. We agree that there are circumstances connected with the use and abuse of alcohol and other drugs which place children at risk and may subject them to neglect or even abuse. To this degree we support the concept of S.B. 532.

We will suggest some changes in the language of the bill to overcome some unintended consequences. We are concerned that in the interest of identifying and serving these children and their parents some sections of the bill will impede the existing protection system and will likely have an opposite effect than that intended.

Mothers who abuse drugs or alcohol do not in all cases pose a further threat to their children after birth and we need the flexibility to determine in which situation to intervene and what kind of intervention is most appropriate. Mothers are sometimes motivated to end their addiction, may be able to function sufficiently that the child is not in danger, or may be able to participate in a plan for someone else to care for or assist in caring for the child at times when the mother is unable to do so. In some cases the father or members of the family of the parents are able to provide care.

If a child has been impaired as the result of prenatal exposure to alcohol or substance abuse by the mother, it is a medical matter, not a protection matter except as the child's condition may contribute to the family's inability to care for the child.

Child protection agencies across the nation have generally concluded that the offer of community-based services, in which the protection agency may or may not participate, is the first-line response to the tragedy of alcoholism and substance abuse. Only if and when these efforts prove ineffective is the protective agency involved.

We have therefore recommended language which would ensure an appropriate and timely response by child protection services and which would match the resources and kind of intervention to the situation presented. The recommendations are attached.

Effect of passage:
Without the recommended amendment the bill would:

- o Cause some mothers to forego medical care in order to avoid being reported for child abuse, thus increasing the risk to their child.
- o Influence medical practitioners to make inappropriate and unnecessary referrals, thus further burdening the child protection system.
- o Result in cases being referred to the most intrusive service (child abuse and neglect investigation) without a showing of reason to believe abuse or neglect was occuring.
- o Impede the Department's existing risk assessment and case assignment procedures by specifying the time within which an investigation shall take place. Imposition of a specific time period for response (72 hrs.) impedes the agency's existing risk assessment and response time procedures. This could conceivably result in reports involving drug exposed children where there was no emergency taking precedence over reports of children who were

physically or sexually abused and in greater imminent danger. We ask that the bill be modified to permit the Department to utilize established and widely accepted procedures for assessing the level of risk and assigning a response time.

Recommendation:
We recommend passage of S.B. 532 with the proposed changes.

Donna L. Whiteman
Secretary
Department of Social and
Rehabilitation Services

(913) 296-3271

DLW:dr

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Donna Whiteman, Secretary

Committee on Public Health and Welfare
Roy Ehrlich, Chairperson

February 20, 1992
Supplemental Testimony in Regard to S.B. 532

Suggested amendments to Section 9

Sec. 9. (a) Any physician or other health care provider shall refer to the appropriate treatment facility, the local health department or to the secretary of social and rehabilitition services ~~child protective service~~ families in which a newborn child may have been exposed to a controlled substance listed in schedules I, II and III of the uniform controlled substances act or alcohol as evidenced by:

(1) Medical documentation of signs and symptoms consistent with controlled substances or alcohol exposure in the child at birth; or

(2) results of a confirmed toxicology test for controlled substances performed at birth on the mother or the child; and

(3) a written assessment made or approved by a physician, health care provider or by the department of social and rehabilitation services which documents the child as being at risk of abuse or neglect.

(b) Nothing in this section shall preclude a physician or other individual from reporting abuse or neglect of a child as required under K.S.A. 38-1522 and amendments thereto.

~~(c) Upon notification pursuant to subsection (a), the secretary of social and rehabilitation services shall conduct a child protective service investigation and intervene according to regulations of the secretary of social and rehabilitation services based on the results of the investigation. Child protective services shall be initiated within 72 hours of notification. If the local health department was involved with the family during the perinatal period, the secretary of social and rehabilitation services and the local health department will coordinate provision of services to the family.~~

(c) When any person furnishes information to the state department of social and rehabilitation services that a family appears to be in need of services, the department shall make an assessment of the family situation to determine whether the interests of the child requires further action to be taken. When practicable, the inquiry shall include a preliminary investigation of the circumstances which were the subject of the information, including the home and environmental situation and the previous history of the child. If reasonable grounds to believe abuse or neglect exist, immediate steps shall be taken to protect the health and welfare of the abused or neglected child as well as that of any other child under the same care who may be harmed by abuse or neglect.

(d) When, after assessment, the department determines the child is not in need of protection but the family is in need of services, the department may offer services within the limits of appropriations therefor, may refer the family to community resources, or may assist the family in obtaining services available in the community. If a treatment program or the local health department was involved with the family during the perinatal period, the

secretary of social and rehabilitation services and the treatment program or local health department will coordinate provisions of services to the family.

(e) If the department offers services or refers the family for services and the family refuses to accept any services or fails to assume their responsibilities, and the department believes the child or other children in the same care may be in need of protection, the department shall refer the matter to the county or district attorney for the purpose of filing a petition alleging the child is in need of care.

(f) Any health care provider complying with the provisions of this section, in good faith, shall have immunity from any civil liability that might otherwise result by reason of such actions.

(g) Referral and associated documentation provided for in this section shall be confidential and shall not be used in any criminal prosecution.