

Approved: 4/10/98
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Carmody at 3:30 p.m. on March 19, 1998 in Room 313-S of the Capitol.

All members were present except: Representative Kline (excused)
Representative Powell (excused)
Representative Mayans (excused)
Representative Adkins (excused)
Representative Krehbiel (excused)
Representative Mays (excused)
Representative Wilk (excused)

Committee staff present: Jerry Ann Donaldson, Legislative Research Department
Mike Heim, Legislative Research Department
Jill Wolters, Revisor of Statutes
Jan Brasher, Committee Secretary

Conferees appearing before the committee:
Chuck Simmons, Secretary, Department of Corrections
Representative Pauls
Judy Mitchell, Hutchinson-(written testimony only)
Mary Kluss-(written testimony only)
Margaret Pelz-(written testimony only)
Shannon Manzanares, SRS
Roberta Sue McKenna, SRS
Reverend Moses
Greg DeBacker, National Congress of Fathers and Children
Pat Oakes
Joseph Ledbetter, National Congress of Fathers and Children
Roberta Hagemann

Others attending: See attached list

The Chair called the meeting to order.

SB 518-The Kansas consumer protection act does not apply to the disposal of governmental surplus property

Charles Simmons, Secretary of Corrections, testified in support of **SB 518**. Secretary Simmons stated that this bill as amended by the Senate, amends the provisions of the Kansas Consumer Protection Act governing warranties for surplus property sold by governmental entities, including the state, counties, municipalities, school districts and federal government. The conferee showed a copy of a surplus catalog listing the items for sale. The conferee stated that this bill allows a government entity to sell surplus property "as is." This bill removes the application of certain Customer Protection provisions from the sale of government surplus property with a few exceptions. (Attachment 1)

HB 3003-Visitation rights of grandparents; cases considered domestic cases not juvenile cases.

Representative Pauls, a sponsor of **HB 3003**, stated that this bill makes certain changes in the current law regarding: grandparent's visitation rights; step-parents' visitation rights; and the status of grandparents in Child in Need of Care cases. Representative Pauls stated that this bill changes "may" to "shall" which requires a court to order grandparent visitation with a minor child when it is in the child's best interest and when a substantial relationship exists between the child and the grandparents. Representative Pauls stated that this bill allows reasonable visitation unless the court finds that visitation would seriously endanger the child's physical, mental, moral or emotional health. Representative Pauls stated that this bill codifies and clarifies the present practice of having actions regarding grandparent visitation handled as a domestic case for purposes of docketing and hearing. The conferee stated that the bill requires that any grandparent be found to be an "interested party" in juvenile court. Representative Pauls stated that the difficulty under current law is finding the grandparents an "interested party." (Attachment 2)

The Committee members discussed with Representative Pauls issues concerning the language "seriously

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 3:30 p.m. on March 19, 1998.

endanger." The Committee members also discussed the standard set with the term, "in the best interest of the child." The Committee members discussed with Representative Pauls the definition of the term, "interested party." Issues concerning grandparents' visitation in CINC cases were discussed by the Committee. Discussion regarding the judge's discretion in deciding visitation rights followed. The Committee addressed issues concerning visitation rights of step-parents. The Committee members also discussed the balance between grandparents' rights and parental rights.

The Chair referred to written testimony in support of **HB 3003** from those who could not come to the hearing because of inclement weather. Written testimony was provided by the following: Judy Mitchell, Hutchinson ([Attachment 3](#)); Mary Kluss ([Attachment 4](#)); and Margaret Pelz, ([Attachment 5](#)). The written testimony concerned specific situations where grandparents were denied visitation.

The Reverend Don Moses, PSA 4, Kansas Silver Haired Legislature, testified in support of **HB 3003**. Rev. Moses requested that the committee consider an amendment that would delete language in Sec. 1 (a) and make available the opportunity for grandparents of children born to unmarried parents to have the rights of grandparents visitation when a breach has occurred between the parents. The conferee discussed a case where the mother of the child died and the son-in-law denied the mother's parents visitation to the grandchild. ([Attachment 6](#))

Greg DeBacker, National Congress of Fathers and Children, testified in support of **HB 3003**. The conferee stated that this bill will help the losing party's parents in a divorce case maintain visitation with the grandchildren. The conferee stated that this bill is needed now.

Pat Oakes from Olathe, Kansas testified in support of **HB 3003**. The conferee spoke of an order that was filed July 11, 1997 which denied her the right to see her granddaughter who was adopted by her stepfather. The conferee stated that the granddaughter wanted to have a relationship with her, but if the granddaughter calls her, the granddaughter risks going back to the Juvenile Center. ([Attachment 7](#))

During discussion with Committee members, the conferee acknowledged that this bill will not resolve her particular situation, but that it is very important to the grandchild to maintain contact with the grandparents.

Jean Taylor, Silver Haired Legislature, testified in support of **HB 3003**. The conferee related a situation in her family with her sister not being able to see her granddaughter since the child's mother remarried.

Marion Bourell from Hutchinson testified in support of **HB 3003**. The conferee told of his situation where a relationship of an "interested party" could not be established with his six month old granddaughter because the mother of the child did not allow him or his wife to see the child. The conferee stated that under those circumstances it is impossible to establish "interested party" status. The conferee stated that the juvenile judge has not scheduled a hearing in this case so there is little prospect of establishing a relationship with this child and the grandparents are missing out of the joy of this infant's life. ([Attachment 8](#))

Joseph Ledbetter, National Congress of Fathers and Children, testified in support of **HB 3003**. The conferee stated that because of the Courts this law is necessary. The conferee stated that grandparents and fathers should be treated with fairness and equality. The conferee stated that grandparents can be very important people to a child. ([Attachment 9](#))

Roberta Hagemann, Silver Haired Legislature Committee on Children and Families, testified in support of **HB 3003**. The conferee requested that in Section 1 the words, "and when a substantial relationship between the child and the grandparent has been established" be eliminated. The conferee stated that during hearings of the Silver Haired Legislature testimony was given regarding a grandmother who was denied the right to see her grandchild and who had also not been able to establish a "substantial relationship." ([Attachment 10](#))

Roberta Sue McKenna, Attorney for the Kansas Department of Social and Rehabilitation Services testified to express concerns of that Department with **HB 3003**. The conferee stated that this bill would have a major impact upon privacy rights of parents and their children. The conferee stated that the department is concerned about the probable impact on child abuse and neglect reports from providing automatic interested party status to grandparents. The conferee expressed concerns her department has with language in Section 3 regarding the definition of the juvenile intake and assessment worker being misplaced in the Kansas Code for Care of Children. ([Attachment 11](#))

The Chair closed the hearing on **HB 3003**.

The Chair opened discussion on **SB 514**.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 3:30 p.m. on March 19, 1998.

SB 514: **Salary of district attorneys.**

Representative Presta made a motion, seconded by Representative Kirk to recommend SB 514 favorably for passage. The motion carries.

SB 518: **The Kansas consumer protection act does not apply to the disposal of governmental surplus property**

A motion was made by Representative Shriver, seconded by Representative Ruff to recommend SB 518 favorably for passage. The motion carries.

The Chair appointed a subcommittee to consider **HB 2717**. Those are the subcommittee are: Representative Mayans, Chair, Representative Klein, Representative Haley, and Representative Swenson.

The Chair opened discussion on **HB 3006**.

HB 3006: **Child in need of care; notice to foster parents, preadoptive parents and relatives providing care; reintegration; permanent guardianship; extended out of home placement.**

Representative Shriver requested more information regarding the fiscal impact of this bill and more information from the Department of Social Rehabilitation Services.

Representative Presta made a motion, second by Representative Gilmore to recommend HB 3006 favorably . Discussion on the motion follows.

Representative Pauls stated that according to SRS grandparents should be included as "interested parties" on page 10, line 11 and other places, they were left out due to a drafting error. Representative Pauls discussed with a representative whether it was the intent of the SRS to include grandparents in that list. The Secretary of SRS stated that she had no objection to including grandparents in that list for notification of hearing. The Chair determined that there is a motion on the bill and that a House Floor amendment could be made to include grandparents on that list.

Representative Shriver discussed with Representative Klein his objection to the bill. In response to the Chair's request, Secretary Chronister stated that she would be glad to provide the information requested by Representative Shriver.

Representative Klein made a substitute motion to place the bill on the Consent Calendar. The motion fails for lack of a second.

Representative Presta's motion with Representative Gilmore's second to recommend HB 3006 favorably carries with Representative Shriver recorded as voting no.

The Chair adjourned the meeting at 5:00 p.m.

The next meeting is scheduled for March 20, 1998.

HOUSE JUDICIARY COMMITTEE
GUEST LIST

DATE: 3-19-98

NAME	REPRESENTING
Charles Simmons	Dept. of Correction
Leonard Ewell	" " "
Pat Oakes	Grandparent Rights
Marion G. Bourell	Grandparents Rights
Betty J. Bourell	Grandparent Right
GREG DEBACKER	National Congress for Fathers & Children
Roberta Hagemann	Kansas Silver Haired Council
Jean Taylor	National Silver Haired
DON MOSES	KS Council Silver Haired ^{Leg.} Leg.
Don Banning	Silver Haired Support
Joseph J. Della	FATHERS
XXXXXXXXXX	Byron Patten - SH Legis.
TK Shiver	Ks Legal SERVICES
John K. Taylor	Grandparent
Ron Seiber	Dept of Admin
Mark Gleeson	OJA
Ann Dukes	Div of Bud.
Diane M. Brabell	KTRA
Roberta Sue McKenna	SRS - legal



DEPARTMENT OF CORRECTIONS
OFFICE OF THE SECRETARY
Landon State Office Building
900 S.W. Jackson — Suite 400-N
Topeka, Kansas 66612-1284
(913) 296-3317

Bill Graves
Governor

Charles E. Simmons
Secretary

MEMORANDUM

DATE: March 19, 1998
TO: House Judiciary Committee
FROM: Charles E. Simmons
Secretary of Corrections
RE: SB 518

SB 518, as amended by the Senate, amends the provisions of the Kansas Consumer Protection Act governing warranties for surplus property sold by governmental entities, including the state, counties, municipalities, school districts and federal government. SB 518 permits governmental entities to sell surplus property "as is" without any implied warranties of merchantability or fitness for a particular use, provided the governmental entity has given conspicuous written notice of the warranty disclaimer. Additionally, any warranty disclaimer for motor vehicles must be affixed on a window of the motor vehicle in conformity with the federal regulations found at 16 CFR 455.2 and 16 CFR 455.3.

Passage of SB 518 is sought due to discussions between the Department and the Attorney General regarding the applicability of the Consumer Protection Act to governmental entities. At issue is whether under current law, agencies that consign surplus property to the Department for disposal are assigning that property for sale in the ordinary course of their business. If the assignment is being made in the ordinary course of the agency's business, arguably the provisions of the Consumer Protection Act are applicable. Under current law, the Consumer Protection Act prohibits the sale of property "as is". SB 518 would clarify that governmental entities may sell surplus property without any warranty if the disclaimer of the warranty is conspicuously made in writing. SB 518, as amended by the Senate, would not exempt governmental entities from the other provisions of the Consumer Protection Act. For example, the prohibition against a supplier taking advantage of a consumer's physical infirmity, ignorance, illiteracy, inability to understand the language of an agreement or similar factor would still be applicable.

House Judiciary
3-19-98
Attachment 1

The disposal of state surplus property is a function of the Department of Corrections through a division of Kansas Correctional Industries. The property disposed through the Department's Surplus Property Program is diverse and includes motor vehicles, heavy equipment, shop and maintenance equipment, food service equipment, computers, office equipment and furniture, audiovisual equipment and medical equipment. Surplus property is first offered to state agencies and other governmental entities. Surplus property is offered to the public only if no governmental entity is interested in the property. Therefore, property sold to the public is not suitable for use by the state or other governmental entities, usually due to the equipment being outdated, damaged, or past the point where the useful life of the product justifies continued maintenance. The property is not new, state of the art equipment sold at a premium price. Many of the purchasers of surplus property are interested in using the equipment for parts. Consistent with the state of the property sold, notices are conspicuously placed in all advertisements, posted at the property center, and stated on the sale invoice, that "all property is sold 'as is, where is' with no warranty whatsoever, expressed or implied". These notices are sufficient to exclude the warranty of merchantability pursuant to K.S.A. 84-2-316 of the Uniform Commercial Code.

It is the Department's belief that purchasers of surplus property understand the surplus property being offered for sale is not in premium condition and view the property in the same manner as items sold at auction or at a garage sale. However, if the warranty provisions of the Consumer Protection Act are applicable to the sale of government surplus property, the posting of "as is, where is" notices would be unlawful. Additionally, either the governmental agency consigning surplus property or the Department would be required to inspect each item and prepare a written description of all defects discovered. Any defect not discovered and disclosed in writing to the purchaser would be subject to a full warranty of merchantability.

The Department's surplus property program consists of five full time state employees and nine inmate workers. Their duties include receipt and storage of the surplus property, maintaining the sale records for the property, forwarding the consigning agency's share of the sale price to that agency, advertising and showing the property to potential buyers. Some surplus property sold through the program is never delivered to the surplus property center, but rather remains at the consigning agency's location. In order to inspect and document the condition of all property sold through the property center, the Department estimates that an additional 6 full time positions at an annual cost of \$146,376 would be necessary. In order to inspect items requiring specialized expertise, an additional \$135,050 per year would be expended in contracting for those services. These additional expenses would not include the cost for inspection and documentation of property that remained in the possession of a consigning agency prior to sale. During the first six months of FY98, the surplus property program has only generated a profit of \$9,124. The profits and losses experienced by the program for prior years is set out in the following table. All amounts have been rounded to the nearest thousand dollars.

FY97	\$191,000
FY96	\$223,000
FY95	(\$7,000)
FY94	(\$42,000)
FY93	(\$46,000)

The Department urges favorable consideration of SB 518.



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER:
BUSINESS, COMMERCE AND LABOR
JOINT SENATE & HOUSE COMMITTEE
ON ADMINISTRATIVE RULES AND
REGULATIONS
MEMBER:
JUDICIARY
TRANSPORTATION
WORKERS COMPENSATION FUND
OVERSIGHT COMMITTEE

JANICE L. PAULS
REPRESENTATIVE, DISTRICT 102

TOPEKA ADDRESS:
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(913) 296-7657

HUTCHINSON ADDRESS:
1634 N. BAKER
HUTCHINSON, KANSAS 67501-5621
(316) 663-8961

Testimony Before the
House Judiciary Committee
Regarding

House Bill 3003

by

Representative Janice L. Pauls
District 102

March 19, 1998

Thank you Mr. Chairman for setting this bill for hearing. The issue of grandparents' rights is an urgent matter for the committee to address.

HB 3003 is a bill which makes certain changes in the current law regarding: grandparent's visitation rights; step-parent's visitation rights; and the status of grandparents in Child in Need of Care cases.

Grandparents may presently bring a court case to be granted visitation rights with their grandchildren. (This type of action is usually brought if the parents are not divorced.) The bill changes "may" to "shall" on page 1, line 16, which requires a court to order grandparent visitation with a minor child when it is in the child's best interest and when a substantial relationship exists between the child and the grandparents.

House Judiciary
3-19-98
Attachment 2

Also on page 1, lines 27-29, the law provides that grandparents shall be granted reasonable visitation unless the court, following a hearing, finds that visitation would seriously endanger the child's physical, mental, moral or emotional health.

The change in the law on page 1, lines 33-35 and page 5, lines 10-12, codifies and clarifies the present practice of having actions regarding grandparent visitation handled as a domestic case for purposes of docketing and hearing. The language allows some flexibility for the administrative judge to reassign the case to juvenile court.

Domestic Cases - If the parents are divorced, grandparents and step-parents are able to request visitation through the domestic court. This bill, on page 4, lines 40-43, changes "may" to "shall" and allows reasonable visitation rights for a grandparent unless the court, following a hearing, finds that the visitation would seriously endanger the child's physical, mental, moral or emotional health. Page 5, lines 1-4, provides that the court "shall" give a step-parent visitation if the step-parent has significant emotional ties to the child. (If no significant emotional ties are established, the court "may" allow step-parent visitation.)

Child in Need of Care Cases - This bill on page 3, line 7, requires that any grandparent be found to be an "interested party" in the juvenile court. Current law provides that an interested party in a juvenile court case has standing to participate in the proceedings regarding the child. Also, notices for all court hearings would be sent to the grandparents.

SRS currently makes the recommendation to the court following an investigation as to whether the grandparent is standing in the place of a parent. Many grandparents have spent large amounts of time and money to try to be found an interested party. The current law, K.S.A. 38-1541, only allows a grandparent with whom the child is residing to be an interested party if the court finds the grandparent is acting as a parent to the child.

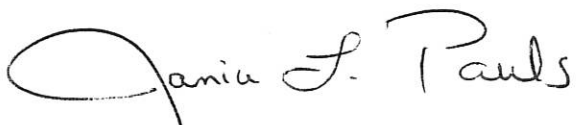
Other language in the bill, such as on page 4, lines 31-34, is revisor clean-up language.

This bill takes an initial step toward increasing a grandparent's rights for visitation and to participate in Children in Need of Care cases.

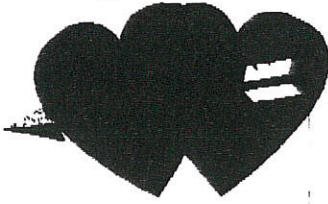
I would urge the committee to favorably consider this bill. There are a number of grandparents across the state who have lost contact with their grandchildren due to not receiving visitation rights and not being allowed to participate in Children in Need of Care cases.

A number of grandparents and other individuals wish to address the committee today, so I'll be glad to either stand for questions now, or wait until other testimony is presented today.

Respectfully submitted,


Janice L. Pauls
Representative, District 102

#3



Caring & Sharing Grandparents

Judy Mitchell

2201 South Eisenhower

Hudson, KS 67501-8127

316-665-5048

E-Mail: judi@ourtownusa.com

Fax: 316-662-4134

Affiliations: Adoption With Wisdom & Honesty, Inc., Kansas Children's Services League,
KCN, The Intergenerational Network, The National Coalition of Grandparents, Inc.

According to the National Coalition of Grandparents there are over 4 million grandparents raising their grandchildren either with or without a parent present. There are probably more than that many grandparents who are not raising their grandchildren who have an adult child who is just mad at them or are involved with the 'system' and who are fighting to just maintain contact with their grandchildren. A few of these grandparents should not have contact with their grandchildren for various reasons but for the majority of them there is no reason for them not to have contact.

Some grandparents have no interest in raising their grandchildren. All they want to do is to remain a grandparent and be a support person for their grandchild whether the child is in foster care or has been adopted. Then there are those other grandparents who want to raise their grandchildren. These grandparents have thought through the idea of raising their grandchildren. They know it is going to change their lives completely, they have weighed the pro's and con's and they are ready for the job.

Grandparents have the right to raise their grandchildren and see them if they are in foster care and do not wish to or cannot raise them IF the parents are found unfit, unable or unwilling to raise their child... The grandparents are next in line... before aunts, uncles, cousins, in-laws or outlaws and MOST CERTAINLY before the STATE. I see this as beyond a law, beyond that by far, moreover it is a birthright of the child, to be with his grandparents.

If we look at the accepted definition from the Websters Collegiate Dictionary of the word 'grandparent' 'grandmother' 'grandfather' we see that it is 'the father or mother of a child's father or mother'. Who else has first priority? The grandmother or grandfather is the mother or the father of the entire family. The grandparents are the core of the family and the child benefits from access to his entire family and his heritage. I can see no other moral or life line right that has more benefit to the child across the board. If the grandparents are found unfit by the courts either because of drugs, alcohol or criminal records, that is another story in itself and then and only then should grandparents be denied either visitation or caring for the grandchild.

According to the new Adoption & Safe Families Act, Public Law 105-89 from the 105th. Congress that President Clinton signed November 19, 1997 grandparents are to be given first choice when a child has been removed from their home because of abuse, neglect or abandonment to be placed into a safe place. This will not only save the State money in the long run but it will benefit the children as they would not be placed with people they do not know. They are also supposed to be considered FIRST when their grandchild is free for adoption.

Passage of the changes to HB #3003 would be of a great benefit to our grandparents but even more than that it would help to our grandchildren as they would not be left out in the cold wondering where their family is and why they have been deserted by the one family member who always loved them unconditionally and was the only stable person or persons in their lives, their grandparents. We grandparents are not so much concerned about our rights as we are about our grandchildren's rights to be able to maintain contact with those who love them and have not hurt them. Visitation with these children is of the utmost importance as is 'interested party status'.

Thank you for considering this bill for the well being of our grandchildren of today and our leaders of tomorrow.

Thank you for caring.

Judy Mitchell

House Judiciary

3-19-98

P. 2

Attachment 3

Legislators

We are writing this for the house bill no.3003. My wife and I have been trying to get some information on our grandson who now is under a child in need of care court hearing and we would like to know what is going on but we can't. We tried to get interested party status but the judge said that she had given that before and regretted it. All we wanted was to know that our grandson was getting the best help he could get but we didn't know this if we weren't able to see the documents that were presented in court. So that is why we think that this bill needs to be passed so grandparents can help their grandchildren get the help that they need.

We also think that the grandparents need the right to have visitation with their grandchildren cause our daughter was never married and the only visitation that we get is what she will let us have. We think that grandparents need to have some visitation with their grandchildren. As we all remember some of the best times in our lives was seeing and doing things with our grandparent and we think all grandchildren should have that chance if there is no problems with the grandparents being close to the children and in the children best interest. So we think that this bill needs to be passed so the grandchildren and grandparents won't lose out on a chance to have some time together.

Bill and Shirley Alumbaugh
1204 west 32
Hutchinson, Kansas
67502

I am a Grandmother that has had to help raise grandchildren and there are thousands more doing the same thing. As of now Grandparents have no rights and it isn't fair that we have to feed them, clothes them pay to send them to school and still have no rights. I have helped raise eight of my grandchildren. I have eighteen grandchildren + three great grandchildren. I have been at the hospitals when all but two were born, in the delivery room when six were born.

I have raised four of my grandchildren 13, 12, 7, + 4 almost all of them lived and in June of 1997 they were put in SRS custody and they placed them there Youthville. We were told we didn't need an attorney so for six months I didn't have one. The children have told there att, Youthville, SRS, they wanted to be with me if they can't be with there mother. As of March 1998 we have been lied to, all the way from SRS to Youthville. The childrens att only shows when ever he wants to. When calls are made they always pass it to someone else and so you get no straight answers. They are always threatening

to take the children and put them in separate Foster homes. I hear from Youthville they have taken 1200 children in the past nine months and are so busy they can't let you see your Grandchildren but once a month. I feel that with as many Grandparents that are having to raise these grandchildren we need to have rights to know what they are doing for our grandchildren, if we as grandparents had rights the federal government, and state government would not have to use all the funds for the SRS and Youthville to care for our grandchildren. I have been told the only right I have as a Grandparent is to love them and thank God they can't take that from me.

Sincerely,
Clint J. Judy

March 16, 1998
Hutchinson Ks.

Dear:

I'am a resident of Hutchinson Ks., and I would like to show my support of Bill #3003, which is the grandparents law Bill. I feel as a parent or grandparents we need to help our grandchildren in any way shape or form.

Please help every one by passing this bill. I feel it will help children and grandchildren all over Kansas.

Thank You

Leland Gould.
Crystal Gould

March 16, 1998
Hutchinson Ks.

Dear:

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Thank You

Guisita Miller

- Theresa Deal*
- Ellen Tipler*
- Judy Barrett*
- Leslie Smith*
- Cheryl Boldt*
- Mary Ann Hickey*
- Ann B. Hall*
- Mary Baker*
- Janice Gerould*
- Linda Shaver*
- Sue Foster*
- Lele D. Black*
- Donna M. Starks*
- John M. Starks*
- Cassy Sims*
- Carolyn Arpa*



126 Reformatory
Hutchinson Ks.
March 16, 1998

Dear:

We are loving grandparents who are in the process of never seeing our 3 grandchildren again. On Jan. 26 1998, Our grandchildren were placed in S.R.S. custody, without visitation rights, for either parents or grandparents. They were a child in need of care case.

Our Son and Daughter-in-law have been charged with 3 counts each of Child Abuse. We feel pretty sure the kids didn't hurt their children in any way shape or form. The kids love their all 3 children very very much.

The children have a lot of false accusations against them, we are sure that you can see why we would like for Bill # 3003 to pass, why we as grandparents need this bill to pass. Please help us grandparents to help our grandchildren, please. We need you to back us, Please.

Thank You

Clyde V. Gould
431 JUSTICE
HUTCHINSON Ks

Leon V. Gould Sr.
Edith S.A. Gould

126 Reformatory
Hutchinson Ks
R-19-98 THU 9:12 AM

13166634134

P. 8

3-7

March 16, 1998
Hutchinson Ks.

Dear:

I'am a resident of Hutchinson Ks., and I would like to show my support of Bill #3003, which is the grandparents law Bill. I feel as a parent or grandparents we need to help our grandchildren in any way shape or form.

Please help every one by passing this bill. I feel it will help children and grandchildren all over Kansas.

Thank You

Shirley A. Novotny



126 Reformatory
Hutchinson Ks.
March 16, 1998

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The children have a lot of false accusations against them, we are sure that you can see why we would like for Bill # 3003 to pass, why we as grandparents need this bill to pass. Please help us grandparents to help our grandchildren, please. We need you to back us, Please.

Thank You

Leon V. Gould Sr.
Edith S.A. Gould

Leon V. Gould Sr.
Edith S.A. Gould

I support the GRANDPARENT House Bill No. 3003

I have personal experience with this as a grandparent. I had temporary custody of my granddaughter from ages 3-10. We had a custody suit that lasted for 3 yrs. Child was then given back to her mom and stepfather as what they considered "THE BEST INTEREST OF THE CHILD". Instead it was for the best interest of the parents. Now 4 yrs. later they are having problems at home, and in school.

We need laws to protect "THE BEST INTEREST OF THE CHILD". Grandparents need to be a part of the child's life as an interested party.

We also need ways to help solve these cases without doing any more damage to the child. The SRS, CASA, and the juvenile authorities and the parents and grandparents need to be able to communicate without being partial to any one party. They need to check out things the grandparents have stated and do not ignore those statements. Those statements could have a very big bearing on the child's case.

My case is a before and after case, and I can see the after affects of how all of this has affected the child.

Thank you for your time and effort on this bill. We do need to protect our grandchildren if at all possible.

CAROLYN STARKS
1106 E. 6th
Hutchinson, Kansas
67501

316 663-9202

March 1998

Karl & Mary Kluss
Nickerson, Ks. 67561

Our Grandson was taken out of his home because of abuse after his Mother moved in a CONVICTED CHILD ABUSER. This person served 3 yrs. and now is on parole for hitting his own 4 week old baby.

Although I hope this whole bill is passed in it's entirety, I want to talk about INTERESTED PARTY STATUS for Grandparents. I think this involves all of us.

The reason I want his status for my Grandchild, and I say for him instead of my husband and I, is because it will benefit him not us if we can oversee that his rights are being met.

My Grandson had been Home Schooled for 3 yrs., regressing in all parts of his education.

At the "Case Planning" there were 8 professionals present. All will tell you they were there for the "BEST INTEREST OF THE CHILD."

All parties (including his Mother) knew of my Grandsons's lack of reading skills. Reading at a 2 or 3rd. grade level.

Twice I stopped my Grandchild from signing documents at this meeting, asking him if he understood what he was signing. "NO" was his answer, "They have me signing stuff all the time."

I, his Grandmother was the only person looking out for his "RIGHTS" stopping the procedure and asking workers in charge to READ the documents to him.

May I ask, would you want your 2 or 3rd grader signing contracts on their own, and no one explaining what is in them.

Our Grandson didn't understand all that was going on in this meeting, nor did he understand the terminology being used. When asked questions, he didn't realize that his answers were being put down in a contract. I tried several times to get workers to explain things so he could understand what was happening.

Youthville took our Grandson for a psychological evaluation, which is almost all reading and answering questions. Knowing full well he couldn't handle that level of reading. Yet, they did not have someone there reading the questions for him so he could answer them properly. Children faced with obstacles they can't handle sometimes SHUT DOWN and that is what he did and later he was punished for it.

Since he has been taken out of the home he has been put on ADHD medication, which his Mother refused to do when he was in the 2nd grade. I do not feel (at this time) my Grandson's Mother should be in control of his educational needs after supposedly Home Schooling him for 3 yrs. Little schooling was done the first year and the last year no attempt at all to school him was made.

As his Grandparents we would like to be able to attend his I.E.P's and be able to see that his EDUCATIONAL NEEDS ARE BEING MET. I feel his Mother should be involved in this, but not in control.

Karl & Mary Kluss ** Page 2

We were told we would be informed about how are Grandson is doing. Now, through Youthville we have been pushed out of most everything and I feel it's because we make sure our Grandson's rights are being met.

We have always been very involved in our Grandson's life. He spent the first 6 years of his life in our home. The last 6 years he has been in contact with us at least 40 hours a week. When he was first placed in a shelter we could see him twice a week. Now we can only have a 1 HOUR SUPERVISED visit a MONTH. While the people who abused him get to be with him on passes.

There was a NEW Case Planning in Feb. We were not allowed to attend that meeting. In our abstinence, who at the Case Planning was looking out for our Grandson's rights.

The INTERESTED PARTY STATUS would give my husband and I the right to sit in on future meetings and to be able to monitor the situation to see that our Grandchild understands what is going on and his basic rights are being met and be able to oversee his Case Plannings, education, doctoring and general well being.

Respectfully Yours,

KARL and MARY KLUSS

March 18, 1998

To our State Legislators,

It is to late to include Stacy's letter to us (her biological grandparents) with Jan Pauls and Robert Krehbiels letters, so I will give my letter to Judy Mitchell to give to you, so you will 'know the rest of the story.'

Stacy being a confused, mixed up teen, didn't end her frustrations by being adopted. Alcohol, drugs and running became part of her life approximately 18 months ago. Stacy was again placed in foster care, was incarcerated three times, and the self esteem continued to drop.

As of 6 weeks ago, Stacy has been reunited with her adoptive parents, is back in school, 4 H, and attends church faithfully. She is receiving counseling and attends two AA meetings a week. February 20 we drove 200 miles to spend two hours with her to 'celebrate six months of sobriety.'

This is the letter we just received from Stacy:

Dear Mommy + Papa,

Thank you for coming to the party. Bandit's so cute. I got a real (2nd) on my flute solo. Then square dancing we got a purple and we messed up a few times, but we just laughed and smiled. Line dancing we got a ~~blue~~ blue. So overall we did a great job. Thanks for supporting my family + I the past year. I love you + God bless. I'll write again.

God bless,

Stacy
Marie

As you hear what our grandparents are saying, please keep in mind Stacy's testimony, and thank you. Our grandchildren NEED the support of grandparents. We can (and do) support Stacy, but, we were not allowed to support Christy.

I plead with you as our State Legislators, to pass the grandparents bill #3003. The only security many of our grandchildren have ever known is their biological grandparents. We will be praying for you, our State Legislators, along with our grandparents on March 19, 1998. As grandparents we keep our dream alive, that we will have a place in our grandchildren's life.

Thank You for listening,

Orval & Beverly Hoyt
Orval and Beverly Hoyt
812 East 6th. St.
Hutchinson, Kansas 67501

Phone: 316-665-7823

Dear Sir;

I am a Grandfather with 6 grand children. My children are good with my grand children but if something was to go wrong I would love to take anyone of them in my home. But the way things are in this world, Money dictates to where the children are to be placed. I understand that SRS is been given money for each child they took out of the home. This means the child is in slavery by the Government.

Reno count brag that they have taken 1200 children since June. This isn't right. Children are being taken and put in different places and Grandparents aren't even told where they are. What kind of Government is this who take lives and tears them apart just because they get extra money.

Jimmy Kruger

To Whom it May Concern;

I don't know if this is going to do any help but I believe that as a Grandparent I have the Right to know what is going on with my Grand Children. When you are told you have no Rights but to Love the Grand Children. That's Not Right. I love my Grand Children and I would do any thing for them. when a parent is out of the picture and a Grandparent is willing and able to take care of the Children without help from the state what is the Grandparent shut out of the picture? This is a question we don't understand. Were their when they are born, when they hurt, when they need anything; We as a Grandparent do the best we can for them just to hear someone, you don't have any Rights.

All we are asking is the Right to take care of our Grand Children. We're not asking to be their parent but to be loved ~~for~~ ^{not} for ~~the~~ what they are. But for what they represent The Future.

A Grandparent
Elizabeth A Martin

74
March 1998

Karl & Mary Kluss
Nickerson, Ks. 67561

Our Grandson was taken out of his home because of abuse after his Mother moved in a CONVICTED CHILD ABUSER. This person served 3 yrs. and now is on parole for hitting his own 4 week old baby.

Although I hope this whole bill is passed in it's entirety, I want to talk about INTERESTED PARTY STATUS for Grandparents. I think this involves all of us.

The reason I want his status for my Grandchild, and I say for him instead of my husband and I, is because it will benefit him not us if we can oversee that his rights are being met.

My Grandson had been Home Schooled for 3 yrs., regressing in all parts of his education.

At the "Case Planning" there were 8 professionals present. All will tell you they were there for the "BEST INTEREST OF THE CHILD."

All parties (including his Mother) knew of my Grandsons's lack of reading skills. Reading at a 2 or 3rd. grade level.

Twice I stopped my Grandchild from signing documents at this meeting, asking him if he understood what he was signing. "NO" was his answer, "They have me signing stuff all the time."

I, his Grandmother was the only person looking out for his "RIGHTS" stopping the procedure and asking workers in charge to READ the documents to him.

May I ask, would you want your 2 or 3rd grader signing contracts on their own, and no one explaining what is in them.

Our Grandson didn't understand all that was going on in this meeting, nor did he understand the terminology being used. When asked questions, he didn't realize that his answers were being put down in a contract. I tried several times to get workers to explain things so he could understand what was happening.

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Since he has been taken out of the home he has been put on ADHD medication, which his Mother refused to do when he was in the 2nd grade. I do not feel (at this time) my Grandson's Mother should be in control of his educational needs after supposedly Home Schooling him for 3 yrs. Little schooling was done the first year and the last year no attempt at all to school him was made.

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House Judiciary
3-19-98
Attachment 4

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Respectfully Yours,

Mary A Kluss
Karlton W. Kluss

5



DATE _____
TIME _____

FAX TRANSMITTAL COVER SHEET

PLEASE DELIVER THE FOLLOWING PAGE(S) IMMEDIATELY TO:

NAME Margaret J. Peltz

LOCATION Rep. Jane Pauly

FROM Margaret J. Peltz

LOCATION _____

YOU WILL RECEIVE 41 PAGES INCLUDING THIS COVER MEMO

IF YOU HAVE ANY PROBLEMS WITH THIS TRANSMISSION, PLEASE CALL

House Judiciary
3-19-98p. 1
Attachment 5

Dickson

7-8 @ 10:30

FILED

APP. DOCKET NO. *121*

SEP 7 3 53 PM '94

CLERK OF THE DISTRICT COURT
18TH JUDICIAL DISTRICT
SEDGWICK COUNTY, KANSAS

IN THE EIGHTEENTH JUDICIAL DISTRICT COURT
DISTRICT COURT, JUVENILE DEPARTMENT
SEDGWICK COUNTY, KANSAS

IN THE INTEREST OF)
JARED STEPSON and SHAYLEEN STEPSON,)
Minor Children under 18 years of age.)

Case No. 92 JC 154

BY _____

MOTION

COMES NOW, Margaret J. Pelz and Ronald M. Pelz, maternal grandmother and step-grandfather, by and through their attorney Richard L. Dickson and respectfully moves the Court for an Order granting them standing in the above captioned matter as interested parties, pursuant to K.S.A. 38-1541.

In support of said Motion the movants allege as follows:

1. That they are the maternal grandmother and step-grandfather of the two minor children in the above case;
2. That they have been involved with these grandchildren through weekend visits, have taken Shayleen to three kinds of therapies and since this case was filed have exercised supervised visits with these children;
3. That the movants have developed close emotional ties with these children;
4. That the movants have cooperated with drug and alcohol evaluations, psychological evaluations and have had a home study completed on their residence;
5. That it would be in the minor children's best interest for movants to be granted the status of interested parties in this case.

WHEREFORE, the movants pray for an order granting them status as interested parties, pursuant to K.S.A. 38-1541.

Respectfully submitted,

Richard L. Dickson
Richard L. Dickson, SCID #08135

EXHIBIT "B"

FILED

APP. DOCKET NO. _____

PAUL ARABIA
Attorney at Law
Post Office Box 275
Wichita, Kansas 67201
(316) 267-3296

COPY

MAR 14 2 58 PM '97

CLERK OF THE DISTRICT COURT
18TH JUDICIAL DISTRICT
SEDGWICK COUNTY, KANSAS
3Y _____

**IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
JUVENILE DEPARTMENT**

CONFIDENTIAL)

In the Matter of JARED M. CARR (formerly Stepson))
(w/m d/o/b 4/13/91))

Case No. 92 JC 154

MINOR CHILD UNDER 18 YEARS OF AGE.)

Case No. 95 JC 134

Pursuant to Chapter 38 of K.S.A

**MOTION BY GRANDPARENTS
FOR STANDING TO PARTICIPATE
IN PROCEEDINGS DUE TO
MURDER OF A MINOR CHILD**

COMES NOW Margaret J. Pelz and Ronald M. Pelz, as maternal grandmother and step-grandfather of Jared M. Carr by and through their attorney, Paul Arabia, who move the court for its order granting them standing in this matter pursuant to K.S.A. 38-1541, and standing in a collateral proceeding regarding Jared M. Carr, who survives his murdered sister, Shayleen N. Carr (w/f d/o/b 5/15/92 - d/o/d 09/13/95) (See attached Exhibit "A").

In support of this motion, movants allege :

1. Margaret J. Pelz is in the fourth degree of relationship to Jared M. Carr as his biologic maternal grandmother.
2. On September 7, 1994, movants filed their first motion to obtain interested party status concerning Jared M. Stepson (later Carr) and the now deceased Shayleen N. Stepson (later Carr). See Exhibit "B" attached). This court, on February 27, 1995, entered it's order finding that it was in the

best interest of the murdered child and the surviving child that the motion for interested party status be overruled (See Exhibit "C" attached), and the natural maternal grandmother of the child was thereby denied any legal involvement in the lives of her grandchildren in the months before Shayleen N. Carr was killed.

3. Thereafter, the parental rights of the natural parents of Jared M. Carr (then Stepson), who is surviving, and Shayleen N. Carr (then Stepson), who was murdered by her adoptive mother on or about September 13, 1995, were terminated upon the recommendation of the Kansas Department of Social and Rehabilitation Services (SRS) (See Exhibit "D" attached), and this court awarded full legal custody of each of the named children, Jared M. Carr and the later brutalized Shayleen N. Carr, to SRS.

4. Thereafter SRS wrongfully consented to the adoption of the surviving Jared M. Carr (then Stepson) and Shayleen N. Carr (now deceased) by Sharon K. Carr and Jimmy L. Carr, husband and wife.

5. That on or about January 22, 1996, murder charges were filed against Sharon K. Carr, the adoptive mother of the dead child, for causing the beating death of Shayleen N. Carr (See Exhibit "E" attached); on the 28th day of September, 1996, Sharon K. Carr was convicted of murdering Shayleen N. Carr (See Exhibit "F" attached); and thereafter received a sentence of life imprisonment for coldly and calculatingly killing her tiny, defenseless daughter (See Exhibit "G" attached).

6. At a point in time unknown to these movants, Sharon K. Carr, the adoptive mother of the murdered child, relinquished her parental rights to Jared M. Carr. (See Exhibit "H" attached).

7. That evidence adduced at the trial, and the old age of the bruises and other injuries suffered by the twenty-six (26) pound little girl, indicated that Jimmy L. Carr, the adoptive father of the murdered minor female child and the adoptive father of Jared M. Carr, knew or should have known of the physical abuse inflicted on Shayleen N. Carr by her adoptive mother, Sharon K. Carr; and Jimmy L. Carr did little or nothing to protect his adopted daughter from his wife's battery, and subsequently failed in his duty as a parent of the murdered girl.

8. That Jared M. Carr was taken into protective custody by the Wichita Police Department

or other authorities at some point after Shayleen N. Carr, the murdered child, was delivered to the Southside Minor Emergency Center on September 12, 1995, and movants believe he remains in foster care. (See Exhibit "I" attached).

9. That at the time the murdered child was presented by her adoptive mother for medical treatment she was suffering from "a right sided gaze," multiple bruises, including those to the face, neck, spine, and buttocks, bilaterally, and after mercifully becoming comatose, she was declared to be brain dead approximately twenty-four (24) hours later, all as shown by the autopsy report attached hereto as Exhibit "J."

10. Movants learned from a friend that the child was admitted to a local hospital after suffering a beating, and upon trying to visit the child in the hospital on what proved to be her death bed, the distraught movants were rebuffed at the door of the intensive care unit by hospital personnel who said that the Carr family had requested no visitors.

11. Shayleen N. Carr died on September 13, 1996, from bleeding and swelling around her spine and brain, which disclosed previous hemorrhages in the toddler's eyes and brain, marked by more than two dozen (24) bruises all over her body (See Exhibit "E" attached); she was buried on September 16, 1995, at Lakeview Memorial Gardens Cemetery when she was barely over three (3) years of age. (See Exhibit "K" attached).

12. Movants, not knowing the condition of their granddaughter, later learned from a former foster mother of the mortally injured child that brain death had occurred and physical death was imminent, so movants called every local funeral home for funeral details only to encounter a refusal to provide any information.

13. Movants finally learned from the county coroner that the body of the child had been transported to Lakeview Memorial Gardens Funeral Home after the autopsy was conducted by the coroner, but Lakeview personnel refused to provide any information concerning funeral arrangements.

14. Movants confirmed the information provided by the coroner by delivering flowers to

Lakeview Memorial Gardens Funeral Home, and on the day they believed that the funeral of the child would occur, arrived at the funeral home at 9:00 a.m. for the purpose of waiting throughout the day until the funeral was actually held, for the reason that they were unable to obtain any information concerning the time of the funeral from funeral home personnel.

15. For at least three (3) months after the death of Shayleen N. Carr movants called the county coroner's office each week to try to obtain a copy of the autopsy report in order to learn the details of the child's death.

16. That because of his involvement in the death of Shayleen N. Carr, Jimmy L. Carr, as adoptive father of Jared M. Carr, should not be permitted to exercise parental control over Jared M. Carr, since Jared M. Carr was residing in the same residence with his sister Shayleen N. Carr, who was then under eighteen years of age, who was physically abused and neglected to the point of becoming a homicide victim at the hands of her adoptive mother.

17. That Jared M. Carr, by virtue of his sharing a residence with his murdered sister, is a child in need of care as defined by pertinent Kansas statutes.

18. That the parental rights of Jimmy L. Carr should be terminated, and the care, custody, and control of Jared M. Carr should be placed in his maternal grandmother, to wit: Margaret J. Pelz and her husband Ronald M. Pelz.

19. That because another court has determined that it was her adoptive mother who inflicted the physical abuse and neglect upon the murdered Shayleen N. Carr, this court should determine whether Jared M. Carr is an abused child in need of care under pertinent Kansas statutes.

20. Standing is also sought in those proceedings now before this court, if any, wherein it has been previously alleged that Jared M. Carr is a child in need of care, and the state, by and through SRS or otherwise, seeks to limit, control or sever the parental rights of Jimmy L. Carr.

21. That the movants have developed close emotional ties with Jared M. Carr.

22. That it would be in the surviving minor child's best interests for the movants to be grant-

ed the status of interested parties in this case.

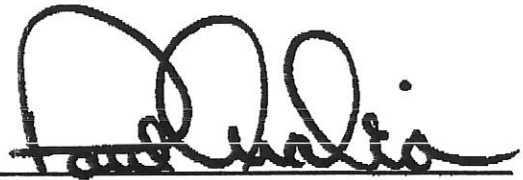
WHEREFORE, and by reason of the foregoing, the movants, and each of them, pray for an order granting them status as interested parties pursuant to K.S.A. 38-1511.



PAUL ARABIA
Attorney for Movants,
Margaret J. Pelz and Ronald M. Pelz

NOTICE OF HEARING

Please take notice that the above and foregoing motion will be heard at a time to be determined by the Court in the Juvenile Department Sedgwick County Kansas, 1015 South Minnesota, Wichita, Kansas 67211, although a hearing on some matter involved in 95 JC 134 has been scheduled at 8:30 a.m. on March 20, 1997.



PAUL ARABIA

230 In Memoriam

230 In Memoriam

SHAYLEEN NICOLE WEATHERMAN

May 15, 1992 - Sept 13, 1995



Age 3, born to Jamie Lynn Caddell and William Weatherman IV (Billy). Shayleen was lost to her biological family forever on September 13, 1995. Surviving members of Shayleen's biological family include: brother, Jared Stepson (age 4); step-sister, Rhiannon Weatherman; maternal grandparents, Margaret (Jeannie) and Ron Peiz and Gary Caddell; paternal grandparents, William III and Diane Weatherman; maternal great-grandparents Don and Billie Hartley and Esther Bennett; paternal great-grandparents, William II and Betty Weatherman; and maternal great-great grandmother, Margaret Hartley.

The biological family mourns the loss of this precious little girl.



EXHIBIT "A"

Tuesday, January 23, 1996

Woman charged with murdering her daughter, 3

By Robert Short

The Wichita Eagle

Murder charges were filed Monday against a 35-year-old Wichita woman who told authorities in September that her 3-year-old daughter was injured when she fell out of bed.

Prosecutors say an autopsy showed that someone caused the fatal injuries by repeatedly shaking and striking the child.

Sharon Carr cried as she heard the

charges against her during an afternoon hearing in Sedgwick County District Court. Her husband, Jimmy, watched from the gallery.

Shayleen Carr died Sept. 13 after spending six days in a coma in a hospital. Her older brother, Jared, was taken out of the home after his sister's death, officials said. Both children had been adopted.

Sharon Carr remained free on \$50,000 bond Monday and was ordered not to have contact with any

children.

The charges came more than four months after Carr drove her conscious but unresponsive 26-pound daughter to a Minor Emergency Center in south Wichita. Carr arrived at the center about 4 p.m. on Sept. 7 and said she had seen Shayleen fall about 20 inches from a bed onto a carpeted floor at their home in the 3200 block of Downtain.

Carr said her daughter's symptoms began immediately after the fall,

authorities said.

Shayleen was later transferred to Wesley Medical Center. There, medical workers noted several bruises on her face, neck, spine and buttocks.

During an autopsy, Deputy Coroner Marcus Nashelsky concluded that Shayleen died from bleeding and swelling around her spine and brain. He also noted hemorrhaging in both eyes.

He concluded that the injuries were probably caused by someone

shaking Shayleen and striking her in the head.

Nashelsky also noted there was evidence that Shayleen may have suffered hemorrhages in the brain and spine months before her death. The autopsy also noted more than two dozen bruises all over her body.

"The pattern of injuries is inconsistent with the explanation given by the caretaker," he wrote.

Sharon Carr will return to court for a preliminary hearing Feb. 5.

EXHIBIT "E"

12A THE WICHITA EAGLE Saturday, September 28, 1996

Mother convicted in 3-year-old's death

■ Defense lawyers tried
to explain away Shayleen
Carr's bruises.

By Robert Short

The Wichita Eagle

A Wichita mother who adopted a foster brother and sister from the state of Kansas put her hand to her mouth and broke into trembling sobs Friday as a court official read the guilty verdict to a crowded courtroom.

Sharon Carr was convicted of causing the death of Shayleen Carr, a 3-year-old girl who had been in the Carr home for more than a year. Sedgwick County prosecutors said the child died of bleeding in the brain caused by shaking and blows to the head.

After Shayleen died Sept. 13, 1995, her 4-year-old brother, Jared, was removed from the Carr home. Since then, court records show, Sharon Carr's husband, Jimmy, has filed for divorce.

After nearly two weeks of testimony, jurors deliberated four hours Friday before returning the guilty verdict.

Carr, who now lives in Lawrence with her parents, will remain free on a \$50,000 bond. She must call her attorney's office in Wichita each day until she is sentenced Oct. 25. She could face life in prison.

Shayleen's biological mother, Jamie Caddell, 20, said that she was happy with the verdict but that many issues surrounding the death remain unresolved.

Shayleen and Jared were taken from Caddell and put into foster care by the Kansas Department of Social and Rehabilitation Services.

According to testimony in the case, Shayleen was taken to a Minor Emergency Center in south Wichita on Sept. 7. The girl slipped into a coma and died six days later.

A nurse at the clinic testified that Shayleen had bruises on her face, neck, ears and left elbow. The nurse said Sharon Carr had claimed the girl was jumping on the bed and fell onto the floor, then became limp.

Later in the trial, a social worker testified that Carr said she had spanked and shaken Shayleen before she fell off a bed. And a medical examiner testified that Shayleen's injuries were consistent with a condition called shaken baby syndrome.

Defense lawyers argued during the trial that Shayleen had developmental and physical problems, including a pre-existing brain injury that never completely healed. The condition left the child susceptible to reinjury, they said.

The bruises on Shayleen could be explained, the defense said. Some of them were caused by playing with her brother, falling from bed and being treated by paramedics and doctors at the hospital, the lawyers said.

As the crowded courtroom emptied Friday, prosecutors hugged each other quietly. One subdued observer leaned over and said to a friend, "It's a win, but it is such a loss."

Robert Short writes about crime and public safety. He can be reached at 268-6340.

EXHIBIT "F"

SATURDAY November 9, 1996

Mother gets life sentence in girl's death

By Lori Lessner
The Wichita Eagle

A Wichita mother wailed uncontrollably Friday when a judge sentenced her to life in prison for killing her daughter, whom she loved most in the world.

In asking the judge for probation, Sharon Carr vehemently denied any wrongdoing in the death of Shayleen Carr, the 8-year-old girl she adopted and raised for more than a year. Prosecutors have said Shayleen died from bleeding in the brain, caused by blows to the head and she would never do anything to hurt her," Carr said, crying. "I did not do this to her. I am innocent. If you put me in prison, I'm not going to make it."

Carr will be eligible for parole after serving 15 years. Sedgewick County Judge Tom Malone said Carr could be released on bond until her appeals end, if her family

See MOTHER, Page 14A

MOTHER

From Page 11A
could post \$50,000 of her \$500,000 bond.

That was unlikely Friday afternoon, as Carr clung to her mother and father in the minutes before she was escorted to the Sedgewick County Jail. Her two sisters and her pastor stood at her side.

A show of strength was hard to come by, as friends and loved ones sobbed with her.

"It's best we be on our way," a sheriff's officer told Carr. "It's only going

to get more emotional the longer we stay."

"Just a little longer," she pleaded from within the crowd of loved ones.

Earlier in the afternoon, Carr's father and sisters testified as to why she deserved probation instead of the first-degree murder sentence. A jury convicted her Sept. 27.

"I do not believe she did this," said her sister, Beverly Leon. "The only dream she ever had was to get married and have kids. She was a straight-A student, and she turned down a scholarship to go to college. I asked her why, and she said, 'That's

not my dream. I just want to have a husband and raise a family.'"

In arguing for probation, defense lawyer Les Hulnick said Carr had no criminal history and was not a danger to the community or society. Prosecutors even conceded that Carr did not intentionally kill her daughter, Hulnick said.

But Judge Malone ruled that no extraordinary circumstances or compelling reasons were presented that would allow him to grant probation.

After Shayleen died Sept. 13, 1995, her 4-year-old brother, Jared, also adopted, was removed from the Carr

home. Carr's husband, Jimmy, has filed for divorce.

According to testimony in the case, Shayleen bruised herself when she fell on the floor after jumping on the bed. A social worker also testified that Carr said she had spanked and shaken Shayleen before she fell off the bed.

Defense lawyers had argued that Shayleen had a pre-existing brain injury that never completely healed and left her susceptible to re-injury.

Lori Lessner writes about crime issues and the courts. She can be reached at 268-6218.

EXHIBIT "G"

Death of toddler prompts abuse probe

By Christine Lutton
The Wichita Eagle

Sharon K. Carr was the sort of woman who never let her children ride their tricycles without helmets on, neighbors said.

She and her husband, Jimmy, had tried to adopt a baby through the church where he teaches Bible school. After that failed, the couple became foster parents to a 4-year-old boy named Jared. He was later joined in the Carr's southwest Wichita home by his biological sister Shayleen, 3, neighbors said.

The couple eventually adopted the children, and Sharon Carr quit her telemarketing job so she could be a full-time mother.

But police say that same woman may be responsible for the death of

her daughter. Shayleen died Wednesday, a week after suffering injuries that police suspect were caused by abuse. Jared has been taken into protective custody.

According to police reports, Carr said Shayleen fell out of the bed where she had been napping about 4 p.m. on Sept. 7. The little girl was taken to the Minor Emergency Center on South Seneca, then taken by ambulance to Wesley Medical Center, where she died.

Hospital officials alerted police to the possibility of abuse after concluding that the child's injuries were not consistent with a fall from bed.

Carr, 34, was booked into Sedgwick County Jail last Friday on suspicion

See **TODDLER**, Page 4D

FRIDAY September 15, 1995

TODDLER

From Page 1D

of aggravated battery and abuse of a child. She was later released after posting \$50,000 bond and told to return to court later this month.

Carr has not been formally charged, and Wichita police said Thursday that their investigation is continuing. Capt. Ron West said he could not speculate on whether prosecutors would file charges in the case, adding that he did not know how long the investigation would last.

Neighbors painted a picture of doting parents who were thrilled when they were able to adopt Shayleen and Jared. Ceceila and Roman Wasinger, who live next door to the Carrs, recalled watching Shayleen, a tiny girl with blond hair, and Jared, a husky child with brown hair, ride their tricycles on the sidewalk outside their house.

If the kids came out to ride with out helmets, Sharon Carr would say, "You march yourself in and get your helmet. You know what can happen," Ceceila Wasinger remembered.

Sharon Carr also reacted protectively when the children stood up on a see-saw attached to their backyard swingset, they said.

"That's what made us think she couldn't have done this," Ceceila Wasinger said.

Two other neighbors who refused to give their names had similar impressions about the family.

Both sets of grandparents had come from out of town to support the Carrs, the Wasingers said. A man who answered the door at the family's neatly kept blue-grey house refused to comment on the case.

Jennifer Keller, a public information officer at the Wichita Social and Rehabilitation Services office, which likely would have placed Shayleen and Jared in the Carrs' home, said she was unable to comment on specific cases.

But Keller emphasized that parents go through "a very rigorous process," including a 30-hour parenting education program and a home visit, before they are approved to adopt or become foster parents.

Douglas Keeling, a lawyer who

handles many adoptions, said parents go through a similar process in private adoptions.

In both SRS and private adoptions, prospective parents' names are checked against a child abuse registry in Topeka to make sure they have no record of such crimes.

"I think that the system under Kansas law right now really takes all the precautions that can be taken to uncover that type of situation," Keeling said. "I don't know what more you could do that would not be a huge imposition on the people who are already qualified."

Contributing: Hurst Laviana, Robert Short and Grace Hobson of The Eagle

EXHIBIT "I"

Office of the Coroner - Medical Examiner

SENEGWICK Co.

9-13-95 DOD

(PAGE 11 of the Report) Case no.: 95-1029

Name: Carr, Shayleen

OPINION

This 3 year old female child, Shayleen Carr, died of shaking and blunt force injuries of the head and neck. The decedent reportedly fell off her bed (approximately 19 inches off the floor) onto the carpeted floor with immediate onset of an altered level of consciousness. The decedent was taken by the caretaker to an outpatient emergency care center which subsequently facilitated transport to a regional medical center by emergency medical personnel.

Radiographic examination of the head revealed bleeding around the brain (subdural hemorrhage) and swelling of the brain (cerebral edema), which was initially most prominent on the left side. Swelling of the brain worsened and the patient's level of consciousness declined. Numerous bruises over body surfaces were noted at initial physical examination. Ophthalmologic examination revealed retinal hemorrhage in the right and left eyes. A complete radiographic skeletal survey revealed no recent or remote skeletal injury. The decedent persisted in a medically induced coma for six days at which time brain death was pronounced and the patient was removed from artificial life support.

The past medical history was significant for premature delivery with prolonged neonatal hospitalization. There was developmental delay which, according to medical records, normalized during the third year of life.

Autopsy revealed a small female child with multiple bruises on the front and sides of the face as well as in the deep scalp of the front, top and back of the head. Extensive recent bleeding around the brain and spinal cord was present. Swelling of the brain and spinal cord were also prominent abnormalities, and were followed by widespread hypoxic damage and brain death. Examination of the eyes revealed recent bleeding into the retinas and around the optic nerves. Multiple bruises were on the back, arms and legs.

Microscopic examination of blood in scalp bruises and around the brain and spinal cord indicated recent occurrence of the hemorrhage (consistent with injury sustained on the day of admission to hospital). Microscopy also revealed a thin subdural fibrous membrane around the cervical and thoracic spinal cord (consistent with subdural hemorrhage months-years prior to death). Bronchopneumonia was widespread and most likely secondary to prolonged ventilator support.

The constellation of injuries of the head and neck indicates coexistent shaking and blunt force injuries. The pattern of injuries is inconsistent with the explanation given by the caretaker.

Name: Carr, Shayleen

Case no.: 95-1029

Toxicologic examination of blood collected around the time of admission to hospital revealed no ethanol or other drugs of abuse. Toxicologic examination of postmortem blood revealed a low level of Pentobarbital (a medication administered to the decedent during hospitalization).

The manner of death is homicide.

Marcus B. Nashelsky

Marcus B. Nashelsky, M.D.
Deputy Coroner-Medical Examiner

MBN:jg

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TESTIMONY IN FAVOR OF HOUSE BILL 3003

The Honorable Representative Tim Cormody, Chair
Kansas House of Representative's Judiciary Committee

Chairman Carmody, Committee Members and Interested Parties:

Today, I come before you to speak in favor of HB 3003. This bill is similar to the Kansas Silver Haired Legislature Bill SHL 1402 which passed the 15th Annual Session (October 16-18, 1997) unanimously on a vote of 103 yes, 0 no and 0 abstaining, with 12 members absent. Copies of our SHL 1402 have been distributed to the committee.

I would request the committee to consider the following amendment:

beginning at line 19, following the word "interested", delete the following, "and when a substantial relationship between the child and the grandparents has been established."

The rationale for this change is to make available the opportunity for grandparents of children born to unmarried parents to have the rights of grandparents visitation when a breach has occurred to between the parents.

As amember of the Kansas Silver Haired Legislature since the 12th Session(1994), and being involved as a conferee or a member of the Committee on Children and Families, I have been involved in th deliberation, development and passage of this legislation. There iks a conferee who comes to give testimony as a grandparent, who has been denied grandparent's rights, due to the language which I haved asked tobe ammended out. The Kansas Silver Haired Legislator from Finney County, John Strauss brought this issue before the Kansas Silver Haired Legislature initially in 1993. Finally, with refinement it was passed out of the 14th Annual Session as SHL 1304. This was introduced to the Kansas House of Representatives as House Bill 2194 by Representative Tanner in 1997.

I speak in strong support of this bill, as ammended. As a long-time advocate for the aging, I believe that grandparents, regardless of whether they are 60+ or younger, need to have full access to the opportunity of visitation with their grandchildren, as set forth in House Bill 3003. I guess that I have an added reason for supporting this legislation, because I, too, became a grandparent this past year.

I, therefore, urge you committee to ammend and pass HB 3003 to the Kansas House of Representatives for adoption as ammended.

Thank you for allowing me to testify before you. I will be willing to answer any questions you might have.

Faithfully yours,
The Reverend Don Moses, PSA 4
KS Silver Haired Legislature

House Judiciary
3-19-98
Attachment 6

~~7~~ 7

To Members of House Judiciary Committee

I am Pat Oakes

I am here today to ask for your help in reconsideration of a bill on grandparents rights that had been filed July 11, 1997. I am a grandmother whom has recently found out that according to this new law I have no rights to my 14 year old granddaughter that has been adopted by her step father in December of 1994. I feel that this bill does not protect the right of grandchildren whom want to have connection with their biological grandparents. In no way it is fair to grandparents to loose their rights to their grandchildren whom they have a bond with. In this day and age of split families grandparents are at the mercy of the custodial parents. If you make the parent angry then they use your new law against the grandparents and most importantly against the grandchild. Is this fair to the grandchild? I am sure you all know how important your grandparents have been to you. In closing I plead with you to reconsider this law. We grandparents should have rights to our grandchildren. Please help us and help the grandkids. I would like to thank you for your time and greatly appreciate any discussion on this matter.

Sincerely

Pat Oakes

Pat Oakes

House Judiciary
3-19-98
Attachment 7

SOWERS v. TSAMOLIAS, ___ Kan. ___ (7-11-1997)

VIEW THIS CASE ONLY

___ P.2d ___

No. 76,459

BARBARA V. SOWERS AND JAMES W. SOWERS, Appellants, v. PETER TSAMOLIAS AND TOULA TSAMOLIAS, Appellees.

Supreme Court of Kansas.

Opinion filed July 11, 1997.

SYLLABUS BY THE COURT

1. Upon review of *Sowers v. Tsamolias*, 23 Kan. App. 2d 270, 929 P.2d 188 (1996), we hold that the Court of Appeals was correct: (1) in affirming the district court's dismissal of plaintiffs' petition for natural grandparent visitation under K.S.A. 38-129 for lack of standing, and (2) in holding that under K.S.A. 59-2118, adoption created a new legal status of parent and child upon the adoptive parents and adopted child and the child no longer remained the child of its natural parents. The child has new parents and new grandparents as well. Whether the natural grandparents can continue contact is left solely to the discretion of the adoptive parents.

2. The interpretation of K.S.A. 38-129 in *In re Adoption of J.M.U.*, 16 Kan. App. 2d 164, 819 P.2d 1244, rev. denied 250 Kan. 805 (1991), is disapproved.

Review of judgment of Court of Appeals in 23 Kan. App. 2d 270, 929 P.2d 188 (1996). Appeal from Atchison district court; PHILIP C. LACEY, judge. Judgment of the Court of Appeals affirming the district court is affirmed as modified. Judgment of the district court is affirmed. Opinion filed July 11, 1997.

Patrick E. Henderson, of Duncan-Senecal Law Offices, Chtd., of Atchison, argued the cause and was on the brief for appellants.

John W. Fresh, of Larry R. Mears, Chartered, of Atchison, argued the cause, and Larry R. Mears, of the same firm, was with him on the brief for appellees.

The opinion of the court was delivered by

SIX, J.:

This case addresses the standing of natural grandparents to assert visitation rights under K.S.A. 38-129 after the minor child, who had been adjudicated a child in need of care, was adopted by foster parents. Barbara V. and James W. Sowers, parents of the natural mother, T., petitioned for grandparent visitation of A.E. following the termination of T.'s parental rights to A.E. and the adoption of A.E. by Peter and Toula Tsamolias. The Sowers are raising B.E., the sister of A.E. The district court granted the Tsamolias' motion to dismiss, and the Court of Appeals affirmed in *Sowers v. Tsamolias*, 23 Kan. App. 2d 270, 929 P.2d 188 (1996). We granted the Sowers' petition for review under K.S.A. 20-3018(b) to resolve the conflict between this case and *In re Adoption of J.M.U.*, 16 Kan. App. 2d 164, 819 P.2d 1244, rev. denied 250 Kan. 805 (1991).

The issue is whether under K.S.A. 38-129, the Sowers have standing to seek grandparent visitation of A.E. We hold they do not. We affirm the Court of Appeals and the district court; however, we disapprove of *J.M.U.* and accordingly modify the Court of Appeals' opinion in this case.

The Court of Appeals' Opinion

The Sowers argued before the Court of Appeals that under K.S.A. 38-129, they were entitled to seek visitation and, alternatively, that the Tsamolias were equitably estopped from denying them visitation. The Court of Appeals found no merit to these arguments. The Sowers do not seek review of the equitable estoppel issue.

In affirming the district court, the Court of Appeals determined that under K.S.A. 59-2118: (1) the adoption of A.E. created a new legal status of parent and child for the adoptive parents and adopted child; (2) the child no longer remained the child of its natural parents; (3) the child has new parents and new grandparents as well; and (4) whether the natural grandparents can continue contact is left solely to the discretion of the adoptive parents. We agree. Because the Sowers' daughter, T., was a person whose parental rights had been terminated, the Sowers had no standing to seek visitation under K.S.A. 38-129.

23 Kan. App. 2d at 277. We acknowledge that a relationship could exist between the child and a biological grandparent at the time of the adoption. However, after A.E.'s adoption, A.E. was no longer the grandchild of the Sowers.

The Sowers contend that K.S.A. 38-129 extends visitation rights to grandparents, notwithstanding adoption, the only statutory criteria being that such visitation is in the child's best interests and that a "substantial relationship" exists between the child and the grandparents. The Sowers also argue that termination of parental rights does not terminate grandparents' rights. According to the Sowers, the Court of Appeals ignored the plain language of K.S.A. 38-129 and placed undue importance on legislative intent expressed in the minutes to the committee hearings preceding the amendments to K.S.A. 38-129. They further contend that the Court of Appeals' decision here conflicts with J.M.U. We agree there is a conflict.

We determine that the Court of Appeals' opinion reached the correct conclusion. We adopt the opinion, except as modified by our disapproval of J.M.U.

J.M.U.

In J.M.U., the paternal grandparent seeking visitation under K.S.A. 38-129 was the mother of the child's deceased father. J.M.U.'s language to the effect that death, divorce, or adoption were not mentioned as prerequisites to grandparent visitation rights was characterized as dicta by the Court of Appeals in this case. 23 Kan. App. 2d at 277. However, in J.M.U., both parents of the child were deceased at the time the grandmother sought visitation. There was no surviving parent who had remarried, or new spouse of a surviving parent who had adopted the child. Thus, K.S.A. 38-129(b) did not apply. The language in K.S.A. 38-129(b) establishes that adoption of the child by the spouse of the surviving parent will not defeat the natural grandparents' visitation rights. However, that language leaves open the question of whether adoption by someone who is not the spouse of a surviving parent would defeat grandparents' visitation rights, when those grandparents are the parents of the deceased parent of the grandchild, as in J.M.U.

We inquire rhetorically, if the failure to mention death, divorce, or adoption as prerequisites in K.S.A. 38-129(a) means that standing to seek grandparent visitation was intended to be extended to natural grandparents, regardless of adoption, then what purpose does K.S.A. 38-129(b) serve?

Although J.M.U. is factually distinguishable, the J.M.U. majority did not rely entirely on K.S.A. 38-129(b) in rendering its decision. Under the reasoning of the J.M.U. majority, the Sowers would have standing to seek visitation here because in the J.M.U. majority view, adoption would not make K.S.A. 38-129 inapplicable. The J.M.U. majority's interpretation of K.S.A. 38-129 that adoption is no longer material to the existence of standing to seek grandparent visitation rights is disapproved.

In his dissent in J.M.U., Judge Rees relied on *Browning v. Tarwater*, 215 Kan. 501, 524 P.2d 1135 (1974), noting that it had never been overruled, modified, or distinguished by this court. "The fundamental holding in *Browning* was that 'adoption proceedings . . . override 38-129.'" 16 Kan. App. 2d at 171-72 (Rees, J. dissenting, quoting *Browning*). Judge Rees' reasoning was adopted by the Court of Appeals in this case.

Valid policy reasons may exist for extending natural grandparent visitation to include post-adoption situations, especially in view of the fact that A.E.'s sibling is living with his natural grandparents, the Sowers. However, such an extension would be judicial legislation. "The legislature is the forum to entertain sociological and policy considerations bearing on the well-being of children in our state." In re Hood, 252 Kan. 689, 694, 847 P.2d 1300 (1993). The 1984 amendment to 38-129 shows legislative intent to extend grandparents' visitation rights. However, we find no evidence in the legislative history that the legislature intended to change the *Browning* holding that adoption law has priority over natural grandparent visitation rights (except in the fact situation set forth in K.S.A. 38-129[b]).

The decision of the Court of Appeals is affirmed as modified. The judgment of the district court is affirmed. We disapprove J.M.U.'s interpretation of K.S.A. 38-129.

#8

March 23, 1998

STATE REPRESENTATIVE
HONORABLE JANICE L. PAULS
STATE HOUSE TOPEKA, Ks. 66612

DEAR REPRESENTATIVE PAULS:

My wife Betty and I were pleased to be able to attend the committee meeting in Topeka on March 19-1998 concerning House Bill # 3003.

The following is my interest on this bill and as I voiced myself before the committee that day.

I have come to Topeka today to support House Bill 3003. I am most interested in grand parents having "Interested Party Status"

My wife and I lost our four month old granddaughter on Dec 19th 1997, she was removed from her home because of a domestic violence situation, at that time she was given to the S.R.S. and the same day put into the clutches of privatization, not once were we as grand parents given a chance to take baby melody into our home now over three months later and our day by day attempt to get melody out of foster care.

AND OUT OF DAY CARE (THE FOSTER MOTHER IS A WORKING MOTHER) THIS BABY HAS BEEN SHUFFLED ALL WINTER LONG AND EXPOSED TO ELEMENTS OF HEALTH PROBLEMS, COLDS ETC.

THREE MONTHS MAY NOT SOUND LIKE A LONG TIME TO THE S.R.S. AS THERE REPRESENTATIVE JUST SAID SHE DID NOT THINK THAT GRANDPARENT SHOULD HAVE "INTERESTED PARTY STATUS" BUT THREE MONTHS IS HALF OF THIS BABY'S LIFE.

WE HAVE FAILED TO GET THIS BABY INTO OUR HOME, WHERE LOVE AND BONDING AND EARLY DEVELOPMENT WOULD PREVAIL, PLUS SAVING THE STATE THOUSANDS OF DOLLARS PAYING FOR CARE SHE DOES NOT NEED

WE ASK THE COMMITTEE TODAY TO LOOK CLOSELY TO H.B # 3003 AND PARTICULARLY TO 3-6-E INTERESTED PARTY STATUS.

SINCERELY YOURS
MARION BOURELL

MARION AND BETTY BOURELL
570 EAST 25th ST
HUTCHINSON KS. 67502

#989

SUPPORT FOR HB3003;

FROM Joseph Ledbetter;

It is shamful that we even need this law, but we do. Unfortunately the Courts, do need told what to do, and this is why we have sentencing guidelines today; because judges refuse to do what is just in so many cases. I speak today of grandparents rights, but also the fact that fathers too should be treated with fairness and Equality at all times. Civil rights should be the goal of both parties, and grandparents and fathers are blood relatives and certainly have inalienable rights to see, and be with their children, and grandchildren. I hope we have bi-partisan support for grandparents which has so far this session eluded their sons after they are divorced.

Joseph Ledbetter, Parent
305 Country Club Drive
Topeka, Kansas 66611
232-6946 ph.

House Judiciary
3-19-98
Attachment 9

~~10~~ 10
Committee
House of Representatives
State of Kansas

In regard to HB3003, I want to thank you for considering this bill. A similar bill SHL1402 was passed in the 1997 session of the Silver Haired Legislature with an amendment which was made in the Committee on Children and Families.

Under Section 1. (a.) The paragraph was amended to end with "the child's best interests". The words "and when a substantial relationship between the child and the grandparent has been established" were eliminated.

The reason for the elimination of these words was that there are sometimes situations where a substantial relationship would be almost impossible to establish.

Testimony was given in the Silver Haired Legislature Committee on Children and Families by a grandmother who was denied the right to see her grandchild and who had also not been able to establish a "substantial relationship".

I would ask your committee to amend HB 3003 by eliminating the words "and when a substantial relationship between the child and the grandparent has been established".

Thank you for letting me speak on this matter.

Roberta Hagemann, Chair
SHL Committee on Children and Families

House Judiciary
3-19-98
Attachment 10

6/11
State of Kansas
Department of Social
& Rehabilitation Services

Rochelle Chronister, Secretary
Janet Schalansky, Deputy Secretary

For additional information, contact:

SRS Office of Research
Suzanne Woods, Director
915 SW Harrison Street, Sixth Floor
Topeka, Kansas 66612-1570
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House Judiciary Committee
Thursday, March 19, 1998

Testimony: House Bill 3003

Children and Family Services
Teresa Markowitz, Commissioner
(785) 368-6448

House Judiciary
3-19-98
Attachment II

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Rochelle Chronister, Secretary

House Judiciary
HB 3003

March 19, 1998

Mr. Chairman and Members of the committee, I am Roberta Sue McKenna, Attorney for the Kansas Department of Social and Rehabilitation Services. I appear before you today to express concerns of the Department of Social and Rehabilitation Services regarding House Bill 3003.

Section 3 of the bill, amending K.S.A. 38-1502 (e), would have a major impact upon the privacy rights of parents and their children, departing from long established traditions of common and case law in Kansas and the nation. As written, HB-3003 would give grandparents equal status with parents in matters before the court in a child in need of care proceeding. This status would be conferred upon grandparents without regard to the best interests of the child or the wishes of the parents. Grandparents would become parties without a judicial determination of the ability of the parents to exercise their parental rights and duties and without a judicial determination of the suitability of the grandparents.

The department is also concerned about the probable impact on child abuse and neglect reports from providing automatic interested party status to grandparents. If a child in need of care action becomes the only forum in which grandparents are provided an unchallenged hearing before a court, the right may be misused by grandparents who are in a contest with their adult child over parenting of the grandchildren or are otherwise enmeshed in divorce-custody matters involving a grandchild. It is likely there will be a substantial increase in the number of unsubstantiated child abuse and neglect reports made to the department which will only further encumber a protection system already under stress.

Current statutes now provide the court with discretion to find a grandparent to be an interested party; the court is required to prefer placement with relatives and grandparents are required to be given notice upon filing of a motion to terminate the rights of a parent. It is the Department's position that these provisions are adequate protection for a child's relationship with grandparents.

Section 3 is a technical amendment to reconcile two versions of K.S.A. 38-1502 (u) [Child in need of care definitions] passed in 1997. The language at subsection (u) was inserted in 1997 Substitute for SB 69 [amending the Juvenile Offender Reform Act]. SRS may by statute contract with juvenile intake and assessment programs for specific services but the definition of the juvenile intake and assessment worker may be misplaced in the Kansas Code for Care of Children.

A more serious concern is that the definition has the unintended effect of establishing "a responsible adult" as the minimum requirement for those providing intake and assessment services for children in need of care. To avoid any conflict for the Department between the statute definitions and minimum qualifications the Department may require for persons who assess families and children in need of care, we suggest this section be deleted. If the subsection is not deleted we recommend it be amended to read:

(u) "Juvenile intake and assessment worker" means a ~~responsible adult~~ *person* authorized to perform intake and assessment services as a part of the intake and assessment system established pursuant to K.S.A. 75-7023 and amendments thereto. [Note: 1997 Supp. K.S.A. 75-7023 permits SRS to contract with JJA for services]

Sections 1 and 4 require the court to grant visitation rights to grandparents unless there is a finding the visitations pose a serious danger to the child. Grandparents are usually, but not universally, uniquely supportive and positive influences in the life of a child and this relationship should be protected wherever it is reasonable. HB 3003 appears to do that but with potentially mixed results.

American parents are presumed to have both the right and responsibility to make decisions about their children unfettered by the opinions of others as long as the parents do not violate laws concerning the care of those children. HB 3003 has the potential for grandparents in conflict with their children to misuse the courts to invade the decision making of parents concerning their child. Given the lack of evidence that others make better decisions for children concerning visitation than their parents, great caution should be exercised in creating new opportunities for intervention.

It is important for the courts to retain their discretionary authority to order grandparent visitations in the best interests of a child, but making it mandatory except for a finding of endangerment may have the effect of further enmeshing the courts in decisions traditionally left to parents.

Section 1 (c) appears to require a separate hearing regarding child endangerment notwithstanding the court may have ruled on the question of best interest of the child under Section 1 (a). The committee may wish to consider striking the phrase "after a hearing," from subsection (c).

The concern is compounded by the qualifying term "seriously endanger" used in Section 1 (c), Section 4 (a) [in current law] and (b). We assume the intent is to prevent frivolous objections, however the bill would apparently require the court to award visitation to grandparents whom the court considers to pose a danger if the danger is not deemed "serious."

As an example of how the "serious danger" language might negatively impact a child: If a grandparent has a record of attempting to alienate a child from a parent or some other member of the child's family, such "poisoning" of the child's relationships would be universally recognized as harmful to the child, but would it constitute a "serious danger?" The Department suggests the committee amend the criterion to simple endangerment or to the best interests of the child.

Thank you for the opportunity to provide the committee with this information.