

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman William Mason at 1:40 p.m. on March 10, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Broderick Henderson- excused
Representative Tom Burroughs- excused

Committee staff present:

Russell Mills, Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Dennis Hodgins, Legislative Research Department
Rose Marie Glatt, Secretary

Others attending:

See Attached List.

HB 2552 - Unborn victims of violence act

The Chairman called for discussion on the bill. Concern was expressed over future ramifications of the legislation.

Representative Brunk moved that **HB 2552** be passed out favorably. Representative Ostmeyer seconded the motion.

Discussion followed regarding: definition of terms, legal ramifications of bill, current status of same bill in Congress, exclusion of acts of mother and civil liability.

Representative Loganbill proposed a substitute bill for **HB 2552** that would increase the severity level for an injury against a pregnant woman (Attachment 1) Representative Gilbert seconded the motion. She stated that increasing the severity level would not have an impact on either prison admissions or offender populations.

Discussions followed regarding the intent of the amendment and the pros and cons of addressing the severity of punishment in a separate bill. The question about whether or not there is value in the fetus as a separate person was addressed.

Representative Dahl made a substitute motion to insert the penalties, listed in Representative Loganbill's proposed substitute bill, into the current bill. Representative Freeborn seconded the motion.

After discussion, Representative Dahl closed and moved his substitute motion. The motion carried (13-6).

Discussion followed regarding the status of a charge to the Attorney General to institute legal proceedings in the court on the subject of "when life begins". The Chair clarified differences in responsibilities of the Legislature and Attorney General.

Representative Loganbill made a conceptual motion to remove the language inserted by Representative Dahl's motion. Representative Cox seconded that motion.

Representative Edmonds offered a substitute motion to advance **HB 2552** out favorably, as amended, which included the penalties from Representative Loganbill's substitute bill. Representative Ostmeyer seconded the motion. The motion carried (12-7).

HB 2676 - An act concerning children in need of care, relating to the confidentiality of proceedings

The Chairman reviewed the bill, stating that it would allow a parent to request the presence of their Representative and Senator from the Legislature, and a member of the clergy at CINC hearings.

CONTINUATION SHEET

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE at 1:30 p.m. on March 10, 2004 in Room 313-S of the Capitol.

Representative Huy moved a balloon amendment (Attachment 2) to **HB 2676**, that incorporates language recommended by Judge Graber, District Judge and Sheryl Bussell, Assistant District Attorney, Wyandotte County. Representative Morrison seconded the motion.

Discussion followed about additional parties being added to the list of acceptable support persons.

Representative Huy withdrew her amendment due to some difficulties in the language of the original amendment. Representative Morrison concurred

Representative Huy moved a conceptual amendment to **HB 2676** that would be: *Upon the request of a parent, guardian, child or guardian ad litem, the court shall allow an individual, a member of the senate and a member of the house of representatives and a member of the clergy to attend the proceedings as observers, unless the court finds their presence would be disruptive.*

The phrase in her original amendment "*If the request is denied, the court, on the record, shall state the reasons for denying the request,* remained the same.

Representative Morrison seconded. The motion carried.

Discussion followed regarding the purpose of the additional persons and problems, confidentiality issues of CINC hearings, Representative Jeff Jack's plea for additional support for parents in the court system and concern over possible heavy demand for legislators support in CINC hearings.

Representative Huy closed and made the motion to move **HB 2676**, as amended, out favorably. Representative Dahl seconded the motion and the motion carried.

The meeting adjourned at 2:50. The next meeting is March 11, 2004.

PROPOSED Substitute for HOUSE BILL NO. 2552

By Committee on Federal and State Affairs

AN ACT concerning injury to a pregnant woman; amending K.S.A. 2003 Supp. 21-3440 and repealing the existing section.

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

Section 1. K.S.A. 2003 Supp. 21-3440 is hereby amended to read as follows: 21-3440. (a) Injury to a pregnant woman is injury to a pregnant woman by a person other than the pregnant woman in the commission of a felony or misdemeanor causing the pregnant woman to suffer a miscarriage as a result of that injury.

(b) As used in this section, "miscarriage" means the interruption of the normal development of the fetus, other than by a live birth, resulting in the complete expulsion or extraction from a pregnant woman of a product of human conception.

(c) Injury to a pregnant woman in the commission of a felony is a severity level ~~4~~ 3, person felony. Injury to a pregnant woman in the commission of a violation of K.S.A. 21-3412, K.S.A. 2003 Supp. 21-3412a, subsection (a)(1) of K.S.A. 21-3413, ~~subsections (b)(1) and (b)(2) of K.S.A. 2003 Supp. 21-3412a~~ or K.S.A. 21-3517, and amendments thereto, is a severity level ~~5~~ 4, person felony. Injury to a pregnant woman in the commission of a misdemeanor other than a violation of K.S.A. 21-3412, K.S.A. 2003 Supp. 21-3412a, subsection (a)(1) of K.S.A. 21-3413, ~~subsections (b)(1) and (b)(2) of K.S.A. 2003 Supp. 21-3412a~~ or K.S.A. 21-3517, and amendments thereto, is a class A person misdemeanor.

(d) The provisions of this section shall be part of and supplemental to the Kansas criminal code.

Sec. 2. K.S.A. 2003 Supp. 21-3440 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

HOUSE BILL No. 2676

By Representatives F. Miller, Burroughs, Dahl, Faber, Coico, Howell, Huebert, Huy, Kauffman, Long-Mast, McCreary, Merrick, Judy Morrison, Siegfried and D. Williams

Representative Frank Miller
Proposed amendment
March 10, 2004

11 AN ACT concerning children in need of care; relating to the confiden-
12 tiality of proceedings; amending K.S.A. 38-1552 and repealing the ex-
13 isting section.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 38-1552 is hereby amended to read as follows: 38-
17 1552. The court may exclude from any hearing all persons except the
18 guardian *ad litem*, interested parties and their attorneys, officers of the
19 court and the witness testifying. Upon agreement of all interested parties,
20 the court shall allow other persons to attend the proceedings, unless the
21 court finds the presence of the persons would be disruptive to the pro-
22 ceedings. ~~Upon the request of a parent or guardian, the court shall allow~~
23 ~~members of the senate and house of representatives and clergy to attend~~
24 ~~the proceedings as observers.~~ A

25 Sec. 2. K.S.A. 38-1552 is hereby repealed.

26 Sec. 3. This act shall take effect and be in force from and after its
27 publication in the statute book.

and upon the request of a parent, guardian, child or guardian ad litem, the court shall allow members of the senate and house of representatives and a member of the clergy to attend the proceedings as observers,

If the request is denied, the court, on the record, shall state the reasons for denying the request.