

Approved: February 14, 2006
Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Tim Huelskamp at 1:30 P.M. on January 31, 2006 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Kansas Legislative Research Department
Mike Heim, Kansas Legislative Research Department
Ken Wilke, Revisor of Statutes
Zoie Kern, Committee Secretary

Conferees appearing before the committee:

Senator Bruce
Dr. Lyn Huffaker - DVM, Ph.D
Dr. Lorne A. Phillips, Ph.D.

Others attending:

See attached list.

The meeting was called to order at 2:30 p.m. by Chairman Senator Tim Huelskamp. The minutes of January 24 and January 25, 2006, were distributed and approved.

S.B. 397 - Adoption of a child born in a foreign country; evidence of U.S. citizenship.

Senator Terry Bruce testified in favor of **SB 397** (Attachment 1).

Dr. Lyn Huffaker presented her testimony in favor of **SB 397** (Attachment 2).

Dr. Lorne Phillips recommended that K.S.A. 65-2423 not be amended as to remove citizenship language. (Attachment 3).

Discussion closed.

Motion was made by Senator O'Connor and seconded by Senator Betts to introduce the Open Records Act Bill.

Motion carried.

Meeting adjourned.

Respectfully submitted,

Zoie C. Kern, Committee Secretary

TERRY BRUCE

STATE SENATOR
34TH DISTRICT
RENO COUNTY

TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

VICE CHAIR: JUDICIARY
MEMBER: JOINT COMMITTEE ON SPECIAL
CLAIMS AGAINST THE STATE
AGRICULTURE
ASSESSMENT & TAXATION
NATURAL RESOURCES

Senate Bill 397

Chairman Huelskamp and members of the Elections and Local Government Committee,

I appreciate the opportunity to testify in favor of SB 397. I have submitted my written testimony in a summary type outline for your convenience. If you have any questions based on my written or oral testimony, I would be more than willing to address any concerns when deemed appropriate by the Chair.

Current Federal Law

Pursuant to the Citizenship Act, all foreign adopted children entering the US on an IR-3 Visa are automatic citizens of the United States upon entry. Such foreign adoptions will allow for a Certificate of Citizenship to be provided to the adopted child.

Current State Law

Pursuant to K.S.A. 65-2423(b), the phrase "This certificate is not evidence of United States citizenship" must be placed on a foreign born adopted birth certificate. A hand full of states have this phrase on their foreign born birth certificates. Several states do not have this listed. One state does not mention this phrase, and they will substitute where the adoptee is living instead of the place of birth.

State of Affairs

According to the 2000 Census figures provided by the U.S. Census Bureau, a total of 1,586,004 adopted children live in the United States. Out of that figure, 199,136 are of foreign birth. Kansas has 19,733 adopted children of which 1,356 are of foreign birth.

These numbers are growing each year given the increase in foreign adoptions. On average, a little less than 200 foreign born birth certificates are granted in Kansas each year.

The current status of having the phrase "This certificate is not evidence of United States citizenship" presents two problems to an ever growing population of our State. First, when these children reach the age to go to elementary school, it creates confusion between parents and staff that require a "valid birth certificate"

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1-31-06
Attachment 1

for enrollment purposes. Second, although not intended to be offensive, it does produce a stigma on a portion of our population that may already feel different because of the circumstances of their nationality.

Concerns with the change to K.S.A. 65-2423(b)

States do not grant citizenship. Only the federal government has that authority. Even though these adopted children are by federal government standards U.S. citizens, they have a concern that a market can be made to falsify foreign born birth certificates, which will lead to security breaches.

Evidently, some federal officials have said they may, at some undisclosed future date, not recognize states that do not have the phrase "This is not evidence of United States citizenship" mentioned on them.

Options for the committee

I am a firm believer in the principle that the State of Kansas should make the policy for the State of Kansas. If the committee wants to pass SB 397, it should do so rather than wait for what might come. However, I recognize that if at some undisclosed future date federal law changes, we would most likely be forced to change our practices.

To overcome this dilemma, the bill can be amended so that for the time being the phrase "This is not evidence of United States citizenship" be removed, but allow for the Division of Vital Statistics to change to document to comply with federal law if the federal government changes the law.

Thank you for your consideration,



Reno County Senator Terry Bruce

Senate Bill 397 Testimony
January 31, 2006

The journey to international adoption begins differently for everyone.

For those who turn to adoption because they are unable to complete their families biologically, adoption often follows many long months and years of failure from emotionally (and frequently financially) draining infertility treatments.

Others are drawn to adoption by the plight of these wonderful children, who have so much to offer and so little opportunity to give or receive in their countries of origin because of circumstances out of their control.

Either way, then begins the long and sometimes arduous process of international adoption. Imagine, for a moment, the amount of paperwork and scrutiny that must be required in order to satisfy the bureaucrats of not one, but TWO, governments. Each day in this process seems like a 12 step program.

Denial – there is no problem, Anger – a social worker has to come to my home to declare me a fit parent?!, Joy – my paperwork is submitted, Depression – it will be 9 MONTHS before I hear if I am accepted, 11 months til I can hold her in my arms, Terror – will I be a good mother?, Despair – will there ever be an end?... You do what you must to make it through - take one day at a time, seek out the support of friends, family, even strangers and wait, knowing that it is worth it. One day you will hold that precious child in your arms.

Oh and don't forget the money. Adoption is often an expensive proposition. Patience and love sometimes near the breaking point as families rush to put together the tens of thousands of dollars needed to bring children home. The financial requirements often add to the stress and the emotional drain of the process.

Travel is another hurdle for many families adopting. Now for those like me, a 2 – 6 week trip to an exotic location may not seem like a problem, I love to travel! But some families picking up their new family member have never been west of the Rockies or east of Saint Louis. Never flown before – try taking on a 13 plus hour flight in a journey that adds up to 24 – 30 hours total transit when you've never ever stepped foot on a plane. That takes some guts.

Once home you are faced with other obstacles. The trauma many of these children face being raised in group orphanage settings, experiencing huge changes in environment, and the distress of being ripped from the only home they have known, then thrust into an entirely different family, home and country can result in sleep disorders, problems emotionally attaching to their new families, or behaviors that need to be worked through.

Many adoptive families face medical issues that range from the dreaded head louse to lead exposure and may even include serious health-related problems requiring multiple surgeries for some children adopted with special needs.

And you may find yourself facing all of this without lots of resources. I recently changed jobs before adopting. Not qualifying for FMLA and having very limited time off, I was forced to take unpaid leave of absence in order to pick up my child. When you get back, companies are not required to give paid time off for adopting children as you expect when delivering.

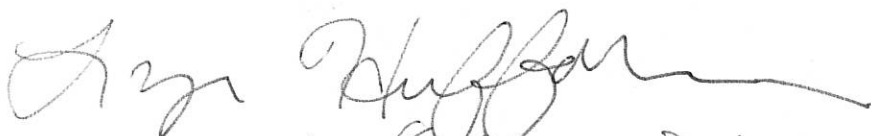
As our children age we are faced with explaining to them how they came to be in our care. It is often a different story than that of their friends and classmates. As many of you can remember, being different at a young age is not always a positive experience. They already look different than many kids, their friends and classmates know they are adopted just by looking at their parents, and some of them feel out of touch with who they REALLY are. They wrestle with their sense of themselves as true blue Americans and how to incorporate their ethnic and cultural heritage into their American selves - all without the guidance of parents who share that ethnic and cultural background to guide them.

So, every day brings a new challenge. But as adoptive families we welcome that as part of the rich, bountiful harvest we share with these wonderful, adoptive, loving kids in our lives.

Now, imagine the surprise of adoptive parents like me when after ALL of the months, the years, the money, the emotional ups and downs... we receive from the state of Kansas the long awaited document announcing that the child you have loved in your heart before you ever met her is being subjected to yet one more insult. Calling into question their citizenship on an official document is hardly a positive beginning in their journey to high self esteem.

Our children are United States citizens and they are very proud of their citizenship. It is like a slap in the face to have the current language printed on their birth certificates. Kansas should be proud of their internationally adopted children and should not treat them as second-rate residents.

As a card carrying Kansan by birth myself, I want to be proud of my home state. For standing for equality. For embracing the differences in our citizens that make us stronger in the end. For standing up and doing the right thing. And Senate Bill 397 is the right thing for our internationally adopted children and the right thing for Kansas. Let's welcome these kids to our state, as we have to our homes - with open arms, unconditional love and a clean slate for their future and for ours!


Lyn Huffaker DVM, PhD



K A N S A S

RODERICK L. BREMBY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

Testimony on Evidence of U. S. Citizenship on Foreign Born Certificates (Senate Bill 397)

To

Senate Elections and Local Government Committee

Presented by Lorne A. Phillips, Ph.D.

State Registrar and Director, Center for Health and Environmental Statistics

Kansas Department of Health and Environment

January 31, 2006

Chairperson Huelskamp and members of the Elections and Local Government Committee, I thank you for the opportunity to appear before you today to discuss the need to retain the citizenship language on the Foreign Born Certificates.

K.S.A. 65-2423(b) provides for the filing of a Foreign Born Certificate when a child is born in a foreign country and adopted in Kansas by Kansas residents or is born and adopted in a foreign country by Kansas residents and the adoption is filed in Kansas. This certificate is a courtesy document, created particularly for foreign born adopted children with no recorded birth certificate in their country of birth. The Foreign Born Certificate includes the statement, "This certificate is not evidence of United States citizenship". This statement is crucial for clarifying the intent of the certificate.

The Foreign Born Certificate created and issued by the Office of Vital Statistics is affirming and attesting to the adoption which has been filed and completed in the state of Kansas, not to the citizenship status of the child. The possibilities exist for the black market sale of children or other illegal or fraudulent adoption processes. The Office of Vital Statistics has no authority or basis to make determinations of citizenship. This is a federal responsibility appointed to United States Citizenship and Immigration Services. The Child Citizenship Act of 2000 allows a foreign born adopted child to acquire citizenship after meeting certain requirements. When those requirements are met, the adoptive parents may obtain evidence of the child's citizenship by applying for a Certificate of Citizenship issued by United States Citizenship and Immigration Services.

Removing the statement on the Kansas Foreign Born Certificate would give the document the appearance of carrying the same probative value as the Standard Certificate of Live Birth. This is misleading and could lead to citizenship status and benefits applied incorrectly or fraudulently at the local, state, and federal level. There is no time constraint on filing a Foreign Born Certificate. These are created for adults as well as children.

Elections and Local Government

1-31-06

Attachment 3

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In addition, the Intelligence Reform and Terrorism Prevention Act of 2004 addresses the filing and issuing of birth certificates in light of national security concerns. Foreign Born Certificates are specifically addressed and the current language proposal states, "A certificate of foreign birth should be annotated on the face of the document with the statement, 'This is not proof of U.S. citizenship'." The promulgation of the Regulations for this Act is projected for 2007. If Kansas does not comply with Intelligence Reform mandates, federal agencies would refuse to accept Kansas birth certificates as documentary evidence for the application of Social Security benefits, passports, low income housing, or any federal programs requiring submission of a birth certificate.

We recommend that K.S.A. 65-2423 not be amended to remove the citizenship language. The Foreign Born Certificate provides verification of adoption and the after adoption information (child's name, adoptive parents' names, etc.). Evidence of citizenship is provided by the United States Citizenship and Immigration Services.

I thank you for the opportunity to appear before the Elections and Local Government Committee and will gladly stand for questions the committee may have on this topic.