

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman James Barnett at 1:30 P.M. on January 16, 2008 in Room 136-N of the Capitol.

All members were present except:

Peggy Palmer- excused

Committee staff present:

Emalene Correll, Kansas Legislative Research Department

Terri Weber, Kansas Legislative Research Department

Sara Zafar, Kansas Legislative Research Department

Nobuko Folmsbee, Revisor of Statutes

Jan Lunn, Committee Secretary

Conferees appearing before the committee:

Representative Mike Kiegel

Dawn Lewis

Cynthia K. Smith, JD, Sisters of Charity of Leavenworth Health System

Chad Austin, Kansas Hospital Association

Others attending:

See attached list:

HB 2341 – Disposition of fetal remains act

Chairman Barnett called the meeting to order, welcomed everyone, and introduced new staff members, Jan Lunn and Sara Zafar to the Public Health and Welfare committee members. Chairman Barnett provided a brief schedule overview of topics to be discussed in the upcoming weeks: Bariatric Surgery, Healthcare Technology, Safety Net Clinics, Emergency Services, and Hospital Licensures..

Chairman Barnett introduced Emalene Correll from Legislative Research Services to brief the committee on **HB 2341** as amended by the House. Ms. Correll expressed concern about a possible conflict between subsections (1) and (2) in which “final disposition” and “remains of a human fetus” are defined. Specifically, gestational age is defined as “regardless of gestational age” in subsection (2) and in subsection (1) reference is made to “a gestation period of less than 20 completed weeks.” In addition, she noted that “outpatient birthing clinic” in subsection (c) is not defined by Kansas law, and she recommended a revision to “maternity home” as defined by Kansas statute.

Chairman Barnett opened the hearing on **HB 2341**, introducing Representative Mike Kiegerl who spoke as a proponent for the bill. Representative Kiegerl introduced proponent conferee, Dawn Lewis, who spoke about her pregnancy, miscarriage, and her desire to see this legislation enacted. A copy of her testimony is attached (Attachment 1) and is incorporated into these minutes as a matter of record.

Chairman Barnett recognized Cynthia K. Smith, JD, Sisters of Charity of Leavenworth Health System, who spoke as an opponent to **HB 2341**. Ms. Smith indicated that procedures regarding disposition of fetal remains at Sisters of Charity of Leavenworth facilities are comprehensive, and the new law is unnecessary. Ms. Smith provided written testimony (Attachment 2) which is attached, and therefore, are incorporated into these minutes as a matter of record.

Questions were heard from Senators Barnett, Haley, Brungardt and Wagle regarding language conflict, compliance with current standards, the mother’s right to determine final disposition, the time interval between miscarriage and notification, and additional costs to dispose of fetal remains separately.

Chairman Barnett called upon Chad Austin from the Kansas Hospital Association who spoke as a neutral conferee. He stated that **HB 2341** may be unnecessary, but it would provide a reasonable and consistent practice for hospitals across the state. Mr. Austin submitted written testimony which is attached and considered to be incorporated into these minutes (Attachment 3).

CONTINUATION SHEET

MINUTES OF THE Senate Public Health and Welfare Committee at 1:30 P.M. on January 16, 2008 in Room 136-N of the Capitol.

Chairman Barnett closed the hearing on **HB 2341**.

Chairman Barnett will work with staff for possible balloons containing suggested revisions.

Adjournment

The meeting was adjourned at 2:05pm

The next meeting is scheduled for Wednesday, January 23, 2008

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: January 16, 2008

NAME	REPRESENTING
Michelle Peterson	Capitol Strategies
Stacy Elmer	Kansas Hispanic + Latino American Affairs Kansas African American Affairs (Office of the Governor)
Lindsey Douglas	Hein Law Firm
Dan Morin	KS Medical Society
Cynthia Smith	SCL Health System
DEBORAH F. STERN	KS. HOSPITAL HOSP. Assoc
Chad Austin	KS Hosp Assoc
Katie Firebaugh	Keamey & Associates
Pam Scott	Ks Funeral Directors Assn
Holly Weatherford	Planned Parenthood
Jamie Slack	Federico Consulting
Todd Feischer	Ks Optometric Assoc.
Jessie Wright	KDHE
John Mitchell	KDHE

August 6th, 2004 was an unusually cool for late summer in Kansas, and I was 16 weeks pregnant. I was excited for my prenatal visit as at 12 weeks I had heard the heart beat, and at 13 weeks began to feel the baby kick. The doctor ran the Doppler over my belly at the end of the appointment, but she could only find my heartbeat. She seemed calm, and told me I would get to have a sonogram. I made my way to the lobby where my husband was sitting with my other children. I quietly told him why I was having a sonogram, and waited. Finally, I was called in. The sonogram tech and I talked about the fetal models on the walls as the staff had dressed them in tiny clothes, they were wearing red white and blue outfits which had been on them since the 4th of July. The tech kept chattering while running the wand over my belly, but I looked intently at the screen. She first measured the head, then the femur. I asked, "is there a heartbeat?" She replied, "honey, I'll look." Then suddenly, the whole body was in view. She commented, "what a beautiful baby, so perfect." I quickly realized, there was no flicker of light in the chest, no movement of the limbs, my baby was a perfectly curled up frame with no life inside. I told her, "there's no heartbeat." She said, "wait now, let me check." I repeated myself, and she said, "your doctor's going to be shocked as she didn't expect this at all."

The nurses talked with the children in another room while the doctor told my husband and me surgery was scheduled in five days. I didn't say much, but recall asking, "what happens to the baby?" She told me "you don't want to know." I asked again, and she said I only needed to worry about my health now. I saw my baby's image still on the sonogram as I left and thought, "they must not give you a copy when the baby dies."

I had a D&E on August 11th, 2004. Surgery went well, and the staff was very professional. I was allowed to take a letter to my little one into the operating room. I asked that it be placed with the remains, and when I woke up it was gone. The doctor spoke with my husband while I was in recovery and related that his wife went through the miscarriage, and it was very difficult. I went home with only a pair of hospital booties, no counseling or numbers to call. A week later, I had a follow up with my doctor, and asked her again what happens to the remains as I wasn't sure she understood what I was trying to ask the first time. She told me she didn't know for sure. On September 3rd, the day I got the DNA tests back showing my baby was a boy, I called the hospital to find out what happened to my baby's remains after pathology. The nurse first said, "what did your doctor say?" When I shared my doctor said "you don't want to know," she replied, "she's right." When I pressed her, she snapped, "it goes out with the medical waste." I was stunned, and I certainly didn't want to be insulted by asking for the remains for burial. I did write an email of complaint to the hospital, and a social worker called. She explained that the baby wasn't out in a dumpster, but was put in the incinerator. She also was unaware that no literature or counseling numbers were given for those being treated for miscarriage before viability. She promised to put literature on the first floor ER and day surgery.

I have wondered during the past two years where my child, CJ, ended up for his final resting place, and what it would be like to have buried him. In researching, I found that at least 9 states have laws informing the mother experiencing miscarriage of her right to decide how her baby would be dealt with after all necessary tests were completed. If I had been informed of such a choice, it would have given me at least some sense of control in an awful situation. I would have chosen to bury my son.



Testimony on House Bill 2341
Disposition of Fetal Remains Act

The Sisters of Charity of Leavenworth religious community was founded in 1858 by Mother Xavier Ross and the early Sisters responding to a call for health and social services in the ranching and mining communities throughout the Western states. From such humble origins, these committed women built the SCL Health System, which is made up of nine hospitals and four stand-alone clinics located in the states of California, Colorado, Kansas, and Montana. SCL Health System operates three hospitals in Kansas – St. Francis Health Center in Topeka, Providence Medical Center in Kansas City, Kansas, and Saint John Hospital in Leavenworth – as well as three safety net clinics.

Attached are the Fetal Demise Report and Checklist for assisting parents used at St. Francis Health Center in Topeka. It is a comprehensive process, and balances expectations regarding disposal of fetal remains with what is properly the hospital's responsibility in these situations.

SCL Health System opposes HB 2341, on the basis that new law is unnecessary. Practitioners in Maternal Child Services express concern that a statute could become so prescriptive to actually cause more harm than good.

Respectfully submitted,
Cynthia Smith
Advocacy Counsel

SENATE PUBLIC HEALTH AND WELFARE
DATE: 01/16/08
ATTACHMENT: 2

St. Francis Health Center, Topeka, Kansas
NEWLIFE CENTER
CHECKLIST FOR ASSISTING PARENT(S) EXPERIENCING
STILLBIRTH OR NEWBORN DEATH

Mother's Name _____ Age _____ Gr _____ Para _____ L.C. _____ Due Date _____
 Address _____
 City: _____ State _____ Zip Code _____
 Phone Number () _____
 Father's Name _____
 Address _____
 City: _____ State _____ Zip Code _____
 Phone Number () _____

Previous Loss _____
 Date/Time Delivered _____ Wt: _____
 Date/Time Death _____
 Baby's Name _____
 Children's Name(s) _____ Age _____ Sex _____
 _____ Age _____ Sex _____
 _____ Age _____ Sex _____

Date	Time		Comments	Initials
		Pastoral Care notified:	YES NO	
		Social Work notified:	YES NO	
		Saw Baby when born and/or after delivery	MOTHER FATHER	
		Touched and/or held baby:	MOTHER FATHER	
		Offered private time with their baby:	YES NO	
		Baptism/Remembrance of Blessing Offered:	Given to Parents On File	
		Organ/Tissue donation offered: (if 20 wks or greater)	YES NO	
		If Rh negative, RhoGAM assessment made:	YES NO	
		Given option to transfer off Maternity Unit:	YES NO	
		Patient's room flagged:	YES NO	
		Autopsy: Permit Signed:	YES NO	
		(Lab notified of parents desire to take remains)		
		Genetic Studies:	YES NO	
		Remains Placed in:		
		EternaCrib/Red Specimen Bag (label outside with pt sticker)	YES NO	
		Transported to: Lab/Morgue by _____	YES NO	
		Regular OB/Midwife notified of death:	YES NO	
		Mother's discharge date:		
		Regular Pediatrician notified of death:	YES NO	
		Childbirth Educator notified:	YES NO	
		ID Bands/Crib Cards:	Given to Parents On File	
		Footprints/Handprints/Mold of footprint if possible	Given to Parents On File	
		Lock of hair:	Given to Parents On File	
		Mementos (clothing, hat, blanket):	Given to Parents On File	
		Complimentary birth certificate: (without poem)	Given to Parents On File	
		Photos taken:		
		1) Polaroid	Given to Parents On File	
		2) Photos by first foto or New Baby News	Given to Parents O Ordered	
		Services/funeral arrangements, options discussed:		
		___ Graveside Service ___ Self-transport ___ Burial with a relative		
		___ Specific area for babies in cemetery		
		Funeral Arrangements made by: ___ Mother ___ Father		
		Discussed: ___ Seeing baby at funeral home		
		___ Taking Pictures there		
		___ Providing outfit/toy for baby		
		Discussed grief process with: (see protocol)	MOTHER FATHER	
		Grief information packet given and contents of packet discussed:	YES NO	
		Booklets/articles on grief and loss		
		Infant Loss Support Group		
		NLC Parent Educator Notified:	YES NO	
		Would like another parent to call:	YES NO Ask later	
		Follow-up Contact: <input type="checkbox"/> 1 week: _____		
		(if desired by <input type="checkbox"/> 3 weeks: _____		
		patient) <input type="checkbox"/> Due date: _____		
		<input type="checkbox"/> 6-10 Months: _____		
		<input type="checkbox"/> Anniversary Date: _____		

2-3



Thomas L. Bell
President

TO: Senate Public Health and Welfare Committee

FROM: Chad Austin
Vice President, Government Relations

RE: House Bill 2341

DATE: January 16, 2008

The Kansas Hospital Association (KHA) appreciates the opportunity to testify regarding its position on House Bill 2341 which deals with the disposition of fetal remains.

Pregnancy loss for any parent is a traumatic and difficult experience. Kansas hospitals are committed to providing compassionate, quality health care services to all patients. HB 2341 would require that hospitals and other health care facilities have policies in place regarding the disposition of fetal remains. It is our understanding from surveying our member hospitals that they already have policies in place which specifically address the disposition of tissue and fetal remains. While HB 2341 may arguably be unnecessary, KHA believes the amended House version would provide a reasonable and consistent practice for hospitals across Kansas.

Thank you for your consideration of our comments.

SENATE PUBLIC HEALTH AND WELFARE
DATE: 01/16/08
ATTACHMENT: 3

Kansas Hospital Association

215 SE 8th Ave. • P.O. Box 2308 • Topeka, KS • 66601 • 785/233-7436 • Fax: 785/233-6955 • www.kha-net.org