

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 p.m. on February 17, 2004 in Room 313-S of the Capitol.

All members were present except:

Representative Dale Swenson- excused  
Representative Dan Williams- excused  
Representative Kevin Yoder- excused

Committee staff present:

Jill Wolters, Revisor of Statutes  
Diana Lee, Revisor of Statues  
Jerry Ann Donaldson, Kansas Legislative Research Department  
Cindy O'Neal, Secretary

Conferees appearing before the committee:

Mike Kerr, National Conference of Commissioners on Uniform State Law  
Ron Nelson, Attorney at Law, Nelson & Booth  
Sandy Barnett, Kansas Collation against Sexual & Domestic Violence  
Ron Nelson,  
Joseph Booth, Drafting Committee, NCSL  
Mark Stafford, Kansas Board of Healing Arts  
Tom Bell, Kansas Hospital Association  
Christina Collins, Kansas Medical Society  
Beatrice Swoopes, Kansas Catholic Conference  
Representative Jeff Jack

The hearing on **HB 2697 - uniform enforcement of domestic violence act**, was opened.

Mike Kerr, National Conference of Commissioners on Uniform State Law (NCCUSL), appeared as a proponent of the original uniform bill which establishes uniform procedures that will enable courts to recognize and enforce valid domestic protection orders issued in other jurisdictions & states. Eleven states have adopted the legislation and it has been introduced in two others this year. Domestic violence victims need protection regardless of where a protection order was issued and the uniformity will ensure protection across state lines. (Attachment 1)

Ron Nelson, Attorney at Law, Nelson & Booth, explained that the proposed bill has amendments requested by the Kansas Collation Against Sexual & Domestic Violence which makes the act non-uniform. They prefer the uniform act. (Attachment 2)

Sandy Barnett, Kansas Collation against Sexual & Domestic Violence, agreed to work with the NCCUSL to make the bill more uniform. She requested that the form be removed from the bill (Attachment 3).

Staff was directed to redraft the bill to make it the original uniform bill as provided by NCCUSL.

The hearing on **HB 2697** was closed.

The hearing on **HB 2874 - uniform interstate family support act**, was opened.

Mike Kerr, National Conference of Commissioners on Uniform State Law, was a proponent of the bill which would limit child and family support orders to a single state, eliminating interstate jurisdictional disputes, and clarifies many of the provisions of the Act. (Attachment 4)

The hearing on **HB 2874** was closed.

The hearing on **HB 2813 - disposition of records of deceased physician**, was opened.

Mark Stafford, Kansas Board of Healing Arts, appeared as the sponsor of the proposed bill. It would provide

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a procedure for the appointment of a records' custodian in those instances where patient records have been abandoned. The reason for the request is due to instances in which physicians have had their licenses revoked, died or have left their practices and the patients have been left without a way to retrieve their records. (Attachment 5)

Christina Collins, Kansas Medical Society, supported the concept of the bill but had concerns regarding the taking possession of health care professional's records and the law and factors leading up to the distribution of records. (Attachment 6)

The hearing on **HB 2813** was closed.

The hearing on **HB 2741 - health care decisions made by a surrogate when agent is not available**, was opened.

Tom Bell, Kansas Hospital Association, appeared in favor of the proposed bill. It considers the best way to make decisions for those who are incapacitated when they don't have a living will or durable power of attorney. Kansas currently does not have a statute on proxy decisions for medical care when an individual lacks capacity. (Attachment 7) He suggested that section 2 needed work.

Christina Collins, Kansas Medical Society, suggested an amendment in which language mirrors statutes governing similar legal health care documents. (Attachment 8)

Olathe Medical Center did not appear before the committee but requested their written testimony in support of the bill be included in the minutes. (Attachment 9)

Beatrice Swoopes, Kansas Catholic Conference, expressed concerns with the bill. (Attachment 10) Some of which were:

- language is confusing and needs to be clarified
- definition section contains many subjective factors
- the priority list of those who serve as surrogates for health care decisions, all could stand to inherit from the patient

The hearing on **HB 2741** was closed.

The hearing on **HB 2577 - authorized representatives for health care records included deceased patients spouse or heirs at law**, was opened.

Representative Jeff Jack appeared as the sponsor of the bill which would allow that if there is no surviving spouse, the heirs of a deceased patient would be considered to be the authorized representative of the deceased patient for purposes of obtaining medical records. (Attachment 11)

The hearing on **HB 2577** was closed.

### **SB 324 - concerning appellate jurisdiction of supreme court**

Representative Patterson made the motion to report SB 324 favorably for passage. Representative Jack seconded the motion. The motion carried.

### **HB 2655 - civil procedure for limited actions; request for admissions; judicial discretion to allow withdrawal of amendment of admission**

Representative Jack made the motion to report HB 2655 favorably for passage. Representative Owens seconded the motion.

Representative Jack made the substitute motion to amend in subsection (d) line 4 by adding "made by non-response when the party to whom the admissions were sent shows good cause for failure to respond and shows

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evidence that the admission is not true” and on line 9 by adding “In the event such withdrawal or amendment is made by the party to whom the admissions were sent trial, the party who obtained the admissions shall be allowed a continuance of the trial setting.” (Attachment 12) Representative Owens seconded the motion. The motion carried.

Representative Jack made the motion to report **HB 2655** favorably for passage, as amended. Representative Mast seconded the motion. The motion carried.