

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on January 17, 2006 in Room 313-S of the Capitol.

All members were present except:

Jim Ward- excused
Michael Peterson- excused

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research
Jill Wolters, Office of Revisor of Statutes
Cindy O'Neal, Committee Secretary

Conferees appearing before the committee:

Jeff Bottenberg, Kansas Sheriff's Association
Don Moler, Kansas League of Municipalities
Marlee Carpenter, Kansas Chamber of Commerce
David Corbin, Kansas Department of Revenue
Ron Nelson, Kansas Bar Association, Family Law Section
Mark Gleeson, Office of Judicial Administration
Greg DeBacker, Individual
District Judge Tom Graber, 30th Judicial District, Sumner County

Chairman O'Neal asked for bill introductions.

Jeff Bottenberg, Kansas Sheriff's Association, requested a bill which would allow county jails to receive the medicaid rate for prisoners. Representative Kinzer made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

Don Moler, Kansas League of Municipalities, requested a bill that would allow the use of eminent domain for economic purposes. Representative Kinzer made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

Marlee Carpenter, Kansas Chamber of Commerce, requested a committee bill regarding medical criteria for asbestos and silica claims. Representative Kinzer made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

David Corbin, Kansas Department of Revenue, requested a bill that would allow courts to electronically file compliance reports to the Department of Vehicles when a person has complied with the terms of their traffic citation. Representative Kinzer made the motion to have the request introduced as a committee bill. Representative Loyd seconded the motion. The motion carried.

Chairman O'Neal requested a bill be drafted that would fund the Kansas Law Enforcement Training Center through docket fees. He made the motion to have the request introduced as a committee bill. Representative Kinzer seconded the motion. The motion carried.

Chairman O'Neal opened the hearing on **HB 2571 - divorce/child custody; parenting plan.**

Staff gave the committee an overview of the bill.

Ron Nelson, Kansas Bar Association, Family Law Section, explained that in 2000, legislation was adopted to remove many of the labels in the child custody statutes so one parent would not be labeled as a winner and the other a loser. Upon further review of the statutes it was recommended that the term "residency" be stricken and that the court be directed to order an appropriate parenting plan that is either agreed to by the parents or, in the absence of an agreement, the court order a parenting plan that is in the best interest of the child. The proposal would allow the courts to assign a individual parenting plan for each family instead of trying to make one type of plan fit all families entering into the divorce arena.

CONTINUATION SHEET

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He went on to explain that the term “residency” doesn’t really mean anything with regard to awarding child support because there are many cases where one parent is awarded primary residency and they pay child support because they have the child a lesser amount of time than the other parent. (Attachment 1)

Committee members were concerned with striking the word “residency” because it is tied to the Kansas Sex Offender Registration Act and would be in conflict. Chairman O’Neal explained that “residency” in the Act is talking about legal residency, while the term “residency” in the proposed bill is referring to the actual time spent with a parent.

Mark Gleeson, Office of Judicial Administration, offered an amendment which would allow Kansas to comply with the Federal Adoption & Safe Families Act by establishing custody and residency with a person other than a parent. This would be done by allowing on the first judicial order sanctioning the removal of a child from his home and requiring the court to make findings when the court orders the placement of the child. (Attachment 2)

Greg DeBacker, Individual, appeared in support of the bill. He saw it as continuing to improve the child support statutes by removing additional labels. (Attachment 3)

District Judge Tom Graber appeared as an opponent of the bill. He believes that the proposed bill would not add anything that would benefit the best interest of a child whose parents were involved in divorce proceedings. The language that is stricken is important to the sequence of determining which residential arrangement is in the best interest of a child. He was concerned that the language “a parenting plan shall be adopted based upon” would not limit controversy but would create more controversy and would interfere with parents ability to come up with an agreement regarding a parenting plan that is in the best interest of their child. The bill does not give any guidance to residency or what the parenting plan should include. (Attachment 4)

Judge Graber suggested an amendment to the bill which would reinstate the stricken language, add a subsection D stating “a parenting plan must meet the requirement of the temporary parenting plan as provided by K.S.A. 60-1624 or permanent parenting plans as provided for by K.S.A. 60-1625 shall be adopted by the court. The plan may be an agreed plan submitted by the parents, if there is no agreement, each party shall submit a plan and the court may designate one of those plans, or its own, as the parenting plan.” (Attachment 5)

Charles Harris, Attorney at Law, did not appear before the committee but provided written testimony in opposition to the proposed bill. (Attachment 6)

The hearing on **HB 2571** was closed.

The committee meeting adjourned at 4:50 p.m. The next meeting was scheduled for 3:30 p.m. Wednesday, January 18, 2006 in room 313-S.