

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Mike O'Neal at 3:30 P.M. on February 7, 2007 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research  
Athena Andaya, Kansas Legislative Research  
Jill Wolters, Office of Revisor of Statutes  
Duston Slinkard, Office of Revisor of Statutes  
Cindy O'Neal, Committee Assistant

Conferees appearing before the committee:

Shawn Kane, American Adoptions  
Mike Belfonte, Adoption Attorney  
Austin Vincent, Adoption Attorney  
Representative Lance Kinzer  
Kathy Ostrowski, Kansans for Life  
Rocky Nichols, Disability Rights Center of Kansas  
Tammy Coleman, Individual from Raytown, Mo  
John Carney, Life Project

The hearing on **HB 2186 - restrictions on advertising for adoption and child placement agencies**, was opened.

Shawn Kane, American Adoptions, appeared before the committee as a proponent of the bill. He stated that 17 states have passed adoption laws that are similar to those being proposed today. The law would require anyone who advertises to provide adoptions to be licensed in Kansas and to have their licensed number listed in their ad. (Attachment 1)

Mike Belfonte, Adoption Attorney, appeared in support of the proposed bill and asked for an amendment that bill not apply to licensed child placement agencies that are in operation and authorized by Kansas law. (Attachment 2)

Austin Vincent, Adoption Attorney, appeared in opposition to the proposed bill because it does not address the problem with the statute and expand it to include "licensed child placement agencies." (Attachment 3)

The hearing on **HB 2186** was closed.

The hearing on **HB 2176 - wards and guardians; duties and powers of guardians concerning the withholding of nutrition and hydration**, was opened.

Representative Lance Kinzer appeared as the sponsor of the proposed bill and stated that authority of guardians over wards has never been viewed as absolute and is always subject to court oversight. Current law also has the presumption that guardians do not have the authority to consent on behalf of wards, to withdraw life saving or life sustaining medical care. There are two exceptions to this rule:

- when a ward has executed an advance directive setting forth his wishes
- when a guardian withholds nutrition and/or hydration

The proposed bill addresses the second exception by requiring before medical treatment could be removed the ward must be "comatose and suffering from a sever illness such that life sustaining medical care is objectively futile and would only prolong the dying process." It would also create a presumption in favor of continued medical care in the absence of evidence of contrary intent by the ward and providing food and hydration would be viewed as a natural means of preserving life rather than as a medical act. (Attachment 4)

Kathy Ostrowski, Kansans for Life, was in support of the proposed bill but requested an amendment to remover the word "comatose" and the following language regarding imminent death: "The ward is suffering

## CONTINUATION SHEET

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from a sever illness such that life sustaining medical care is objectively futile because death is imminent and such provision would only prolong the dying process. (Attachment 5)

Rocky Nichols, Disability Rights Center of Kansas, appeared as a proponent of the bill which fixes three flaws in current law:

1. The definition of who can have medical care withheld or withdrawn
2. Lack of due process rights of the individual with a disability affected by the guardian's petition and court action
3. The lack of discretion by the current statute.

Mr. Nichols proposed two amendments; on page two, line 1, change the word "may" to "shall". This will afford the ward full due process with the proceedings involving nutrition and hydration. The second amendment would be to delete Section 1(g) because it allows for violation of a person with a disabilities' rights if no one objects. (Attachment 6)

Tammy Coleman, Individual from Raytown, Missouri, relayed her story of being in a car wreck and spending time in a hospital & nursing home. (Attachment 7)

John Carney, Life Project, requested that the committee not take any action on the proposed bill until the Kansas Judicial Council has issued its report on End of Life issues. (Attachment 8)

Written testimony, in opposition to the bill, was provided by Hospice Services, Inc. (Attachment 9)

The hearing on **HB 2176** was closed.

The committee meeting adjourned at 5:25 p.m. The next meeting was scheduled for February 8, 2007.