

Approved: May 10, 2002  
Date

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:30 p.m. on March 19, 2002 in Room 231-N of the Capitol.

All members were present except: Senator Steineger  
Ms. Emalene Correll, Kansas Legislative Research Department

Committee staff present: Mr. Norm Furse, Revisor of Statutes  
Ms. Lisa Montgomery, Revisor of Statutes  
Ms. Margaret Cianciarulo, Administrative

Conferees appearing before the committee:

Others attending: See attached guest list.

**Final Action on HB2718 - an act concerning vital statistics records, including certificates of birth, death, adoption, marriage, and divorce, and the manner in which the Department of Health & Environment makes records it maintains available to eligible applicants**

Upon calling the meeting to order, Chairperson Wagle asked Mr. Norm Furse, Revisor of Statutes, to give an overview of the bill. Mr. Furse introduced a balloon of the bill and proceeded to cover the changes which included: deleting K.S.A.65-2422 and adding 65-2422d; 65-2423 (cases of adoption) needing to be amended & adding to the certified copy of the vital record an "abstract" copies; a substantive change to amendment 65-2434 (a criminal act); picking up two additional sections adding; and renumbering sections accordingly. A copy of the balloon is (Attachment 1) attached hereto and incorporated into the Minutes by reference.

As there were no questions of Mr. Furse, Chairperson Wagle then recognized Senator Jordan who had received a call from a constituent regarding the Immigration and Naturalization Service (I&NS) regulations and current statutes of adopting foreign-born children. He stated, a couple of years ago the federal law changed to if you are a citizen, your adopted foreign-born child is also considered a citizen. Kansas statutes stated that when a child born in a foreign country is adopted, "the (birth) certificate shall show the true country of birth and *the date of birth of the child and that the certificate is not evidence of United States citizenship*". He would like to introduce an amendment to basically remove the language shown above in italics. A copy of the amendment is (Attachment 2) attached hereto and incorporated into the Minutes by reference.

Senator Jordan then stated that after visiting with Dr. Phillips, the federal law states "children under the age of 18", and since his amendment does not address this, it needs to include children over the age of 18. So conceptually the amendment would remove that language for children adopted under 18 years of age but the amendment would say that language remains even if the child is over the age of 18. Senator Salmans asked what's the maximum age you can still adopt a child. Mr. Furse answered that in visiting with Dr. Phillips these types of adoptions still occur.

A motion was then made by Senator Salmans to move to adopt both the one balloon and Senator Jordan's conceptual amendment as written and seconded by Senator Jordan to adopt both amendments. The motion carried.

Chairperson Wagle then recognized Mr. Furse who asked that the Committee refer back to the last page of his handout, the last two paragraphs to his handout. He stated that this is an old statute originally enacted with the vital statistics act and provides a prohibition of transporting a dead body without an accompanying permit and the fine would be \$500 and sub (3) except for a different penalty provided under sub (1) and sub (2), any person violating this act shall be find \$100. He asked if the Committee wanted to make a change to the lowest level of a misdemeanor (Class C) to be more consistent to our current law or leave as is. This would also make it possible that there is a criminal jail penalty for violation of the act.

Chairperson Wagle then called upon Dr. Phillips asking if he ever applied these two paragraphs, to which he replied yes, but with the fines being so low, the department cannot get a District Attorney or County Attorney to deal with the violation. He did cite examples. A discussion ensued between Senators Barnett Wagle, and Praeger and Mr. Furse questioning going from a monetary penalty to an "and/or" imprisonment, a reason to do or not do it, to the reinforcement aspect.

Senator Barnett made a motion to change the language on both sub (2) and (3) of Sec. 5., to a Class C misdemeanor. This was seconded by Senator Praeger and the motion carried. Senator Praeger motioned to pass the bill out favorably as amended. This was seconded by Senator Brungardt and the motion carried.

#### **Hearing and Final Action on HB2733 - an act concerning presumptive death, relating to persons absent after catastrophic events and disasters**

The Chair announced the next bill to be heard was HB2733 as stated above. She asked Mr. Furse to report his findings after his visit with the Judicial Council to see if there was any problems with the language as it was written, as it came over from the House. Mr. Furse referred to the handout of the email response from Mr. Randy Harold who asked the members of the Judicial Council Probate Law Advisory Committee to review the bill and compare to the current law. Mr. Harold wrote that while not all had responded, but for those who did, they had no problem with the bill. A copy of the email is (Attachment 3) attached hereto and incorporated into the Minutes by reference.

The Chair then asked Mr. Furse if there were any technical amendments that were necessary. He did refer to page 2, line 19, that states "state and federal" and the Committee thought about changing this to "or" or "or both" which was satisfactory with Dr. Phillips.

Senator Brungardt motioned has moved that the language be changed as suggested above and seconded by Senator Salmans. The motion carried.

The Chair then asked what was the will of the Committee on the bill and Senator Salmans motioned to pass as amended, seconded by Senator Harrington, and the motion carried.

#### **Final Action on SB643 - an act concerning the secretary of health and environment; permanent color technology; tattooing and body piercing; concerning the transfer of certain powers; duties and functions to the secretary of health & environment**

The Chair then asked the Committee to look at SB643 as stated above. She stated, Secretary Graeber asked that the Committee delay the body art and tattooing being moved to KDHE for one year, mentioning there was no money to fund and regulate this move. The Chair also gave a history of the bill, stating that last year when the Committee started with HB2275, all of cosmetology would move to KDHE. She said the bill was voted out of the Senate and moved to the House, but when it went to conference, the House would not take all of the cosmetology, they would only allow the body art and taboo. She stated she has been getting feedback on problems with the split. She would like to move all of cosmetology under KDHE, make them an advisory board, and delay the enactment of the bill to give Secretary Graeber time to work on it as he is involved with the unexpected bioterrorism initiatives right now.

There followed a discussion as to when the Committee would make this effective. ( July 1, 2003 was the original effective date, but with a new administration, it was suggested the Committee might want to consider implementing the transfer on January 15, 2003.) Another discussion among Senators Praeger, Salmans, Harrington ensued regarding issues with the transfer (budget shift, grace time, interim not on a fiscal year, how much would you allocate to each and where would it go, moving cosmetology fee fund, previous administration) It was then discussed, with Dr. Phillips, who stated that from a functional perspective there would be a previous administration making all of the decisions of how this would be set up and then the new administration comes in with perhaps a whole new structure, so there could be chaos.

Senator Harrington made a motion to amend **HB2275** into **SB643**, with an implementation date of July, 2003. Senator Praeger seconded, and the motion carried. Senator Harrington then motioned that the Committee pass the bill favorably as amended, seconded by Senator Praeger, and the motion carried.

A copy of the amendment is (Attachment 4) attached hereto and incorporated into the Minutes as referenced.

**Final action on SB584 - an act concerning institutional licenses; relating to the granting of a license**

The Chair then asked Senator Salmans to pass out his amendment he has been working on. He explained that the Committee had received some objection from the osteopaths and the Board of Healing Arts and the handout is the solution of the two. He stated on the handout, the first half is Mr. Chip Wheelen's (Osteopaths) opinions and the bottom is Mr. Larry Bruening's (Board of Healing Arts) opinion, and it has the expiration date, the sunset, opening it for that limited number of physicians. Senator Salmans also stated, the amendment did not meet the objection of the KS Medical Society because philosophically they do not want to open any of the healing arts licensure practices. A copy of his amendment is (Attachment 5) attached hereto and incorporated into the Minutes by reference.

The Chair then asked for questions. A discussion ensued between Senators Barnett, Brungardt, and Praeger and Mr. Furse regarding what other professions have we opened and altered licensure on, diagnostic, OT's, compromise between the medical society and the optometrists ( ex. most recently 1998 for treatment of glaucoma), dental hygienists, licensure versus scope of practice, altering practices, to a pharmacist at Larned State Hospital that the Legislature made a special exemption for.

Senator Salmans made a motion to adopt the bill as amended. It was seconded by Senator Harrington and the motion carried. Senator Salmans made a motion to move it favorably as amended. It was seconded by Senator Brungardt. The motion carried.

**Final action on HB2665 - an act concerning emergency medical services; relating to certification**

The Chair then announced that Senator Downey had a request to amend this bill and asked Mr. Furse to explain the changes. He stated the bill had a couple of exceptions that it did not need and some language that is vague with regards to the placement of the authorization to engage in some of the activities. He stated he:

- 1) removed sub (b), except as provided in another subsection in Sec.1, because it did not agree with Sec. 1 and to use the same strike language on page 2 as in **HB2665**;
- 2) removed the language in the bill, which related to the request of an operator of an ambulance service for an applicant for certification to be able to work for that ambulance service, and moved it to the bottom of page 3 so that it follows the temporary certificate; and,
- 3) inserted "approval by the Board" in the language at the bottom of page 3.

The Chair asked Mr. Furse asked if Senator Downey's concerns regarding "epinephrine" were not in this amendment and Mr. Furse this was handled separately in the March 13, 2002 Committee meeting. A copy of the amendment is (Attachment 6) attached hereto and incorporated into the Minutes by reference.

The Chair asked for the will of the Committee. Senator Harrington made a motion to adopt both amendments. Senator Salmans said he would second but did want to mention that Senator Downey came to him regarding the addition of "first responders" to the bill. The Chair mentioned there was a problem with this addition, the issue being first responders are not authorized by medical protocol and that it was discussed during the hearing. She stated the Committee would request a statement from EMS as to why they were opposed and let the people make up their own minds. At this point, Senator Harrington made a motion was made to adopt Senator Downey's amendment and the technical cleanup. This was seconded by Senator Salmans and the motion carried.

The Chair then asked what the will of the Committee was for this bill. Senator Barnett motioned to pass the bill favorably as amended and it was seconded by Senator Praeger. The motion carried.

### **Adjournment**

Adjournment time was at 2:30 p.m.

The next meeting is scheduled for March 20, 2002.

CONTINUATION SHEET