

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman John Edmonds at 1:30 P.M. on February 13, 2006 in Room 313-S of the Capitol.

All members were present.

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Carol Doel, Committee Secretary

Conferees:

Representative Lance Kinzer
Former Representative Rocky Nichols
Erick Rucker, Office of the Attorney General
Lynn - Victim
Nancy - Victim
John Badger, Chief Legal Counsel, SRS
Jeanne Gawdun, Kansans for Life
Tammy Coleman
David Wilson, AARP
Barb Conant, Department of Aging
Mike Farmer, Kansas Catholic Conference
John Carney, Center for Practical Bioethics, Kansas LIFE Project
Sandy Kuhlman, Kansas Hospice and Palliative Care Organization

Others attending:

See attached list

Chairman Edmonds opened the floor for bill introductions and recognized Representative Swenson who asked for a resolution requesting the federal government to repeal the Real ID Act portion of HR 418 as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror and Tsunami Relief; 2005, and a bill regarding the teacher-firefighter-police housing development act providing mortgage assistance to public employees who agree to live and work for at least five years in high priority areas, and a bill regarding a health workplace act.

With no objections, those bills were accepted for introduction.

Bill Yanek, a representative of the Kansas Realtors Association, requested legislation that would statutorily authorize real estate sales validation questionnaires.

With no objection, this request for legislation was accepted for introduction.

Representative Pilcher-Cook requested the introduce a bill that would ban chimera research.

With no objections, that was accepted for introduction.

Representative Siegfried requested the introduction of a bill that designates a portion of Highway 36 as the World War I Veteran's Memorial Highway.

With no objections, that request was accepted for introduction.

With no other person requesting a bill introduction, the Chairman opened the floor for public hearing on **HB 2306** - protection and advocacy for Kansans with disabilities fund.

Former Representative Rocky Nichols, Executive Director of the Disability Rights Center of Kansas was recognized in support of **HB 2306**. Mr. Nichols related that **HB 2306** is legislation that establishes the mechanism by which a unit that focuses on criminal and civil prosecution of the perpetrators of abuse,

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neglect or exploitation of the Disabled in Kansas will be established. (Attachment 1)

Mr. Nichols presented case examples that show the opportunity for horrible abuses against Kansans with Disabilities did not end when the Kaufman house was shut down. (Attachment 2)

Also submitted by Mr. Nichols was *Comparison of DRC and APS/SRS Access Authority to Investigate Complaints of Abuse and Neglect*. (Attachment 3)

Two other articles, both written by Randy Scholfield, were submitted for committee review. One was entitled *Kaufman Case Shows Need For Reforms*, (Attachment 4) and the other was an editorial *Abuse Cries Out For Reform*. (Attachment 5)

Lynn, a resident of the Kaufman group homes from 1985 to 1986, presented testimony in support of **HB 2306**. Lynn told of some of the abuse that she suffered while a resident of the Kaufman homes as well as the method in which their medications were dispensed. She also related that her parents paid \$1000 a month for her to live there and well as forfeiting her disability check. Dr. Kaufman convinced her parents that she had to remain naked in order to be safe and that he was the therapist and was doing what was best for her. She stated that she came before the committee to make sure they knew the whole truth regarding the Kaufman homes. (Attachment 6)

Nancy, another resident of the Kaufman group homes from March 1986 to March of 1987, addressed the committee supporting **HB 2306**. In her testimony, Nancy also told of her abuse during her residence at the Kaufman homes. She was forced into seclusion, her clothes were taken from her, she had no bed and no blankets. She related that as time went on the abuse grew worse. She requested that the focus not be on what has failed in the past, but focus on fixing the future problems by passing the bill. (Attachment 7)

Kevin Graham, Office of the Attorney General, presented testimony in support of **HB 2306**. Mr. Graham explained that they felt that bill closed the gaps in existing coverage for disabled Kansans, it improved coordination of resources, dedicated resources for protecting vulnerable citizens, and provided justice for victims. He stated that on behalf of the Attorney General Phill Kline, he urged the passage **HB 2306**. (Attachment 8)

John Badger, Chief Counsel for SRS, addressed the committee approving the passage of **HB 2306**. In his testimony, Mr. Badger stated that this bill creates funding for use in advocating and prosecuting criminal and civil actions taken against persons with disabilities. They support the concept proposed in this legislation and view it as an enhancement to the current system to protect vulnerable adults. (Attachment 9)

Kansans for Life was represented by Jeanne Gawdun, their senior lobbyist, who reported they are in support of **HB 2306** and **HB 2849**. In Ms. Gawdun's testimony she stated that their focus is to correct Kansas law in favor of a presumption for life, when a ward of the state has not executed an informed and express document against certain end-of-life measures. (Attachment 10) Ms. Gawdun also submitted an article *Correcting Fatal Flaws in Guardianship Law for Kansans with Disabilities*. (Attachment 11) Also included for committee review was an article from *Kansans for Life* (Attachment 12), an article entitled *Danger Zone*, (Attachment 13), as well as a proposed amendment for **HB 2849**.

Tammy Coleman came before the committee to give her support for **HB 2306** and **2849**. Ms. Coleman told of her injury in an automobile accident when she was 26 years of age. At the time she was a 1st Lieutenant in the Army Reserves preparing to leave for Germany to serve her country in active duty and get a promotion to Captain. She never made that appointment due to her accident. At the time of the accident, her family was told that she would be in a vegetative state if she lived. She is still working on her speech, however she is able to walk with support. She urges the passage of both bills. (Attachment 14)

Mary Kay Culp, addressed the committee to let the them know of the work that Tammy Coleman had done to earn the title of 1st Lieutenant and that she was soon to get a promotion of Captain at the time that her serious accident which prevented her from furthering her career. (No Written Testimony)

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Barb Conant from the Department On Aging reports that they support **HB 2306** as it would create the protection and advocacy for Kansans with Disabilities Fund. The department supports vigorous prosecution of those found guilty of abuse, neglect or exploitation of seniors. (Attachment 15)

AARP (American Association of Retired Persons) was represented by David Wilson who is a member of the AARP Kansas Executive Council. AARP also supports the passage of **HB 2306** relating that this bill would create protection and the advocacy for Kansans with Disabilities Fund. (Attachment 16)

Written testimony in support of **HB 2306** was submitted by Representative Mike O'Neal and Kerrie Bacon, Legislative Liaison for the Kansas Commission on Disability Concerns (KCDC). (Attachment 17 and 18)

With no opponents to the **HB 2306**, Chairman Edmonds closed the hearing and opened the floor for public hearing on **HB 2849** - wards and guardians relating to the duties and powers of guardians concerning nutrition and hydration.

Representative Lance Kinzer addressed the committee on **HB 2849**. Representative Kinzer proposed deleting the language "is suffering from an illness or other medical condition for which further treatment, other than for relief of pain, would not likely prolong the life of the ward other than by artificial means, nor would be likely to restore to the ward any significant degree of capabilities beyond those the ward currently possesses." He would suggest replacing it with "comatose and suffering from a severe illness such that life sustaining medical care is objectively futile and would only prolong the dying process." Representative Kinzer's proposal would also require that the court conduct a two part inquiry. The other proposal would establish a separate standard for the withdrawal of nutrition and hydration. (Attachment 19) The Representative also included *Comments of Rud Turnbull Co-founder Beach Center on Disability The University of Kansas* for the committee's review. (Attachment 20)

Kevin Graham of the Attorney General's office came before the committee relate that the Attorney General also supports **HB 2849**. (No Written Testimony)

Mike Farmer, Executive Director of the Kansas Catholic Conference commented on the merits of **HB 2849**. His testimony imparted the opinion that the bill would govern decisions including the provision of nutrition and hydration as part of medical care for persons unable to make these decisions for themselves. Mr. Farmer related that on review of the bill he felt that its intent is certainly in keeping with the principles espoused by the Catholic Church in upholding the dignity of the human person. They do urge that the committee move with caution in determining the best language possible to serve the needs of those who cannot speak for themselves. (Attachment 21) Mr. Farmer also included *The Catholic Declaration On Life & Natural Death* in his testimony. (Attachment 22)

Former Representative Rocky Nichols Executive Director of the Disability Rights Center of Kansas addressed the committee supporting **HB 2849**. Mr. Nichols related that the bill seeks to rebalance the powers of a guardian by: establishing a more clear definition of when medical care can be withheld or withdrawn; establishing clear due process rights that shift the focus of the proceeding to the wishes of the individual, and eliminating the bias in law that says if you have a certain type of disability that your life is not as equal to or valuable as others; as well as giving the court discretion in making its decision on all of the relevant facts. (Attachment 23) Also included in Mr. Nichols testimony were copies of a court case In The Matter Of The Guardianship and Conservatorship and written testimony from H. Rutherford, Turnbull, III of Lawrence who supports the passage of **HB 2849**. (Attachment 24 and Attachment 25)

Speaking neutrally on behalf of the Kansas LIFE Project was John Carney. Mr. Carney is the Vice-President for Aging and End of life at the Center for Practical Bioethics in Kansas City and Co-Chair of the LIFE Project Public Task Force. Mr. Carney spoke on the troubling dilemmas raised in the proposed measures of **HB 2849** with the most troubling being "presumption of life". (Attachment 26)

Sandy Kuhlman, Executive Director Hospice Services, Inc. shared her concerns about how medical decisions are made. They have concerns about the intent and language of **HB 2849**. Ms. Kuhlman encourages the committee to send the issue to the Kansas Judicial Council to allow that group to continue its work on drafting

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appropriate language to protect our most vulnerable without taking away the individual's and family members' sense of autonomy and individuality, their ability to make decisions in the best interest of the individual. (Attachment 27)

With no other persons wishing to address the bill, Chairman Edmonds closed the hearing on **HB 2849**.

Attention was directed to written information submitted by Senator Journey regarding **HB 2577** which had been previously heard. (Attachment 28)

With no further business before the committee, Chairman Edmonds adjourned the meeting.