

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Arlen Siegfroid at 1:30 P.M. on February 14, 2007 in Room 313-S of the Capitol.

All members were present except:

Representative Benjamin Hodge- excused
Representative Mike Peterson- excused

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mike Heim, Revisor of Statutes Office
Carol Doel, Committee Assistant

Conferees:

Representative Jo Ann Pottorff
Representative Steve Brunk
Bob Keeshan
Brad Post
Reva Wywadis, DRC Resource & Referral
Dick Morrissey, Kansas Department of Health and Environment
Dale Goter, Government Relations Manager - City of Wichita

Others attending:

See attached list

The Chairman opened the floor for bill introductions. Hearing none, the Chair opened the floor for hearing on **HB 2241** - Grandparents have the right to intervene in child custody or visitation litigation to request visitation based upon statutory parameters, and asked Kathie Sparks of Legislative Research to give an explanation of the bill. (Attachment 1)

Chairman Siegfroid recognized Representative Pottorff who stated that there was a bill like **HB 2241** last year. The bill did not get worked in the committee and was amended on to the foster grandparents bill and for lack of time the bill fell. She urged the passage of **HB 2241**. (No written testimony)

Bradley Post, a Kansas practicing attorney came before the committee in support of **HB 2241**. Mr. Post stated that the Kansas legislature and the highest courts of this state have long recognized the importance of the grandparent- grandchild relationship and that this bill closes a loophole, but does not change the existing law. (Attachment 2)

Bob Keeshan, a Topeka Attorney addressed the committee as a proponent of **HB 2241** relating that the passage of this legislature will insure that grandparents can intervene as a matter of statutory right and request visitation rights upon meeting constitutional and statutory requirement of K.S.A. 60-1616. The courts will still be free to exercise its discretion regarding grandparent visitation, but needless procedural disputes will be avoided. (Attachment 3)

Representative Brunk appeared before the committee supporting **HB 2241** for passage. Rep. Brunk stated that this bill helps keep the family unit intact by allowing the grandparents to request visitation rights. It gives the judge an opportunity to consider the best interests of the child when a substantial relationship already exists. (Written testimony to be distributed at a later date)

With no other person wishing to address **HB 2241**, Chairman Siegfroid closed the hearing and opened the hearing on **HB 2053** - Licensure of child care facilities by cities, counties and school districts.

Kathie Sparks explained the bill. (Attachment 4)

Representative Otto came before the committee to encourage the support of **HB 2053**. Rep. Otto explained a personal situation in which he lost his wife and was left to raise two little girls. He told of the difficulties

CONTINUATION SHEET

MINUTES OF THE House Federal and State Affairs Committee at 1:30 P.M. on February 14, 2007 in Room 313-S of the Capitol.

he encountered in trying to open a Head Start building in his home town. The Representative opined that there was more interest in square footage and self importance than in the safe care of children. (Attachment 5)

Reva Wywadis, Executive Director, ERC Resource & Referral, gave testimony in opposition to **HB 2053**. The bill would give a local entity – school district, city or county governmental body – the authority to regulate child care programs. The purpose of state child care regulations are to set minimum health and environmental safety standards. A minimum standard for educational requirements for child care providers and teachers is also set by these regulations. On behalf of children in Kansas and their families they urge a vote against **HB 2053**. (Attachment 6)

Next to appear in opposition to **HB 2053** was Richard Morrissey, Deputy Director, Division of Health, Kansas Department of Health and Environment. In his testimony, Mr. Morrissey, noted that **HB 2053** proposes to permit the governing bodies of cities, counties and school districts to opt out of state licensure of child care facilities when these entities develop their own local licensure programs and standards. It was further stated that this is a conflict of interest and does not provide children and families with an unbiased consumer protection component that is the heart for any licensing program. (Attachment 7)

Written Testimony was provided in opposition to **HB 2053** by The Saint Francis Academy (Attachment 8), Children's Alliance of Kansas (Attachment 9), Dale Goter, Government Relations Manager, City of Wichita (Attachment 10), and Sandy Jacquot, Director of Law/General Counsel, League of Kansas Municipalities. (Attachment 11).

With no other person wishing to speak to the bill, and no further business before the committee, Chairman Siegfried adjourned the meeting.

HB 2241

HB 2241 under the Minors Act would permit grandparents the right to intervene in a pending litigation involving child custody or visitation and request the court to consider granting the grandparent's visitation. Under current law, the district court may grant the grandparents of an unmarried minor child reasonable visitation rights to the child.

The bill under the Divorce and Maintenance Act would permit grandparents the right to intervene in a pending litigation involving child custody or visitation and request the court to consider granting the grandparents visitation rights based on a finding that the visitation rights would be in the child's best interests and when a substantial relationship between the child and the grandparent has been established. Under current law, Grandparents and stepparents may be granted visitation right.

Submitted In Support of Proposed House Bill No. 2241

My name is Bradley Post. I am a Kansas practicing attorney, a graduate of Washburn Law School in 1954, and a grandfather.

The Kansas legislature and the highest courts of this state have long recognized the importance of the grandparent-grandchild relationship. When divorce or custody actions are filed or are pending, authorities agree grandparents may play an important role in promoting the best interests of minor children.

Kansas statutes K.S.A. 38-129 and 60-1616 specifically provide that reasonable visitation rights to an unmarried minor child during the child's minority may be granted to grandparents by the district court upon a finding that the visitation rights would be in the child's best interests and when a substantial relationship between the child and the grandparent has been established.

In spite of these laws which appear to clearly state the intent of this legislature, there is a *loophole* which one or more judges have used to deny intervention in pending litigation on the theory the grandparents could file a separate lawsuit (apparently against their own children or grandchildren) to protect their visitation rights. House Bill 2241 would close this loophole. In those rare cases where grandparents feel compelled to try to protect their visitation rights when litigation is already pending, they could simply intervene and be heard without the anguish and added expense of filing a separate lawsuit.

It is respectfully recommended that this bill which amends by closing a loophole but does not change existing law be adopted.

Bradley Post
322 N. Main
Wichita, Kansas

Federal and State Affairs
Attachment 2
Date 2-14-07

PROPONENT HB 2241

I am Bob Keeshan, a practicing attorney in Topeka, former substitute Family Law Professor, Washburn Law School (1983) and a proud grandparent.

I appear to support HB 2241. Justice Fontron of the Kansas Supreme Court once said "One of the joys of childhood is having grandparents. Similarly, grandparents treasure the happiness which children bring to their declining years."

Presently judges can deny intervention and requests for visitation and there is little viable remedy when a judge denies a permissive intervention. (See K.S.A. 60-224.)

HB 2241 will insure that grandparents can intervene as a matter of statutory right and request visitation rights upon meeting constitutional and statutory requirements of K.S.A. 60-1616; that it be in a child's best interest, that a substantial relationship between the child and grandparent has been established and that the court give material weight and deference to the position of a fit parent. The Courts will still be free to exercise its discretion regarding grandparent visitation but needless procedural disputes will be avoided.

I would be glad to take any questions.

HB2053 would establish the right of cities, counties and school districts to opt out of state licensure of child care facilities. Any local government or school district choosing to opt out of state regulations would be required to adopt its own child care licensure requirements and provide a copy of the requirements to the Kansas Department of Health and Environment.

If a city, county and school district all opt out of the state licensure requirements, the following would govern:

- City licensure requirements control over county and school district licensure requirements;and
- School licensure requirements control over county licensure requirements.

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

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BILL OTTO

From December 12, 1981 child care has been an issue for me. On that date my wife Debbie died and I was left with two little girls who had never known what a baby sitter was.. My three year old would cry because she hated her babysitter and begged me to please find another momma. I did a very good job, and found a very good woman, who was and is a very good teacher. Problem was she was in no way a stay-at-home mom, and try as I may, I could not make her one.

My second wife and I had two more girls and day care has always been a problem. The state of Kansas has been nothing but a pain. Their regulations have not made things better but made things worse. They are more interested in square feet, and self importance than the safe care of children. As a member of the City Council of LeRoy, I once worked with a lady who wanted to open a day care. I installed fence, remodeled a house, my wife even went to a half-time job because she was the only person in town that had worked in a licensed day care. In the end we just gave up.

Later we had a chance to open a Head Start in a building on the LeRoy school ground that two years before had been used for 4 and 5 year olds. We got enough students but by the time we had followed the regulations we didn't have the students. There was a day care in Humboldt that lost their license which I personally looked over. She had violated regulations about three times. She was a good lady who may not have been the best at paper work but knew how to care for children. What are the parents to do?

Can you imagine if we attempted to run everything from Topeka? I would love it, I could drive 110 mph 360 days a year but on the five days the Patrol was around I would slow down. That is exactly what the state is doing with day care. It was not that I was driving 65 or less, but that my paper work told you I was driving 65 or less. This bill does not make local government regulate day care, but if they like, they could. At least give local government the chance to give children good day care.

Federal and State Affairs

Attachment 5

Date 2-14-07

February 14, 2007



RESOURCE & REFERRAL
To members of the House Federal & State Affairs committee:

I am here today in opposition of House Bill 2053.

Currently, child care facilities in Kansas are regulated by the Kansas Department of Health & Environment, which then subcontracts with county health departments to survey the programs throughout the state. This bill would give a local entity--- a school district, city or county governmental body--- the authority to regulate child care programs.

The purpose of state child care regulations are to set minimum health and environmental safety standards. A minimum standard for educational requirements for child care providers and teachers is also set by these regulations. Any program may impose standards above and beyond what licensing requires. In fact, many Kansas programs strive to meet much higher benchmarks set by national accrediting bodies--- either the National Association for the Education of Young Children (NAEYC) or the National Association for Family Child Care (NAFCC). However, state licensing guidelines are in place to assure that no child in Kansas is cared for in a program that doesn't meet these basic health and safety guidelines.

Research shows that the first five years of a child's life lays the foundation for future learning, having a huge impact on their success in school and in life. As a state, we should be working to provide every child in Kansas the best early learning experience possible. For the estimated 85,500 Kansas children in child care, we must do everything possible to be certain that all programs are meeting a uniform, basic set of regulatory guidelines.

Child care resource and referral agencies across Kansas, like ERC Resource & Referral, provide professional development opportunities for child care staff and technical assistance to programs to improve care options for working parents. Although there are many high-quality programs in our state, there are also many that are struggling to even meet the bare minimum standards already in place. This bill would potentially lower those minimum standards and put children at risk. This is not a responsible action, or one that protects and values children. Some could argue that a local entity could "do it better" and actually impose more stringent guidelines. However, we don't need a legislative change for that to take place. Any city or county already has the authority to impose local ordinances affecting businesses in their area including children care programs.

I urge you, on behalf of the children in Kansas and their families, not to support House Bill 2053.

Respectfully yours,

Reva Wywadis, Executive Director
ERC Resource & Referral



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Federal and State Affairs

Attachment 6

Date 2-13-07



Kathleen Sebelius, Governor
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH
AND ENVIRONMENT

www.kdheks.gov

Division of Health

Testimony on HB 2053

To

House Committee on Federal and State Affairs

By

Richard Morrissey
Deputy Director, Division of Health
Kansas Department of Health and Environment

February 14, 2007

Chairman Siegfried and members of the Committee on Federal and State Affairs, my name is Richard Morrissey and I am the deputy director of the Division of Health at the Kansas Department of Health and Environment. Thank you for the opportunity to appear before you today regarding House Bill 2053, which proposes to permit the governing bodies of cities, counties and school districts to opt out of state licensure of child care facilities when these entities develop their own local licensure programs and standards.

Most states have institutionalized their child care licensing responsibilities in a state agency. By maintaining the licensure program in a state agency, oversight is provided by the legislature and all Kansans are afforded regulatory protections regardless of socio economic status or where they live. When the licensing agency is in a state agency there is increased accountability to the public, and access to information and licensing requirements is a one stop shop for parents and providers. Kansas currently regulates over 11,000 child care facilities and family day care homes with a capacity to serve over 141,000 children.

Kansas is fortunate in that the state licensure program is designed as a partnership between state and local government. This partnership affords parents, child care providers and the public with the advantages of a centralized state wide system and the advantages of local involvement and local contacts.

The Kansas child care licensure program partners with local health departments to inspect child day care facilities and 24 hour residential facilities. The Kansas state and local partnership model provides for local input and involvement while providing uniformity in licensure requirements across the state.

OFFICE OF THE DIRECTOR OF HEALTH
CURTIS STATE OFFICE BUILDING, 1000 SW JACKSON ST., STE. 300, TOI

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Federal and State Affairs
Attachment 7

Date 2-14-07

Under the current state licensure system, parents and providers are familiar with the same basic set of requirements no matter where in the state the child care facility is located. If parents move from Johnson County to Dodge City the same forms can be transferred with the child and the same basic requirements are met. Child care providers know that if they move their business across town, or to another part of the state the basic requirements are the same. With the existing licensure system, parents easily can identify the licensing agency if they have a complaint or want to check on a provider's compliance history.

With one child care licensing agency, statewide child care and health initiatives can be efficiently implemented and coordinated to assure the health and safety needs of all Kansas children are met and to assure the state is in compliance with federal funding requirements.

Under existing statutes local units of government in Kansas can adopt local rules for child care facilities within their jurisdiction that are more stringent and in addition to the state foundational requirements.

Permitting multiple local entities to opt out of the state licensure program and adopt their own requirements would create confusion for Kansas children, families, providers and the public. With possibly 105 counties, 296 school districts and hundreds of cities and the state all operating different licensure programs with different requirements, procedures and forms, parents, providers and the public would find it difficult to easily access information. Parents might need to go to multiple agencies to find out the compliance history of a child care provider and noncompliant child care providers might take advantage of the various options and become licensed under different agencies, masking their poor compliance record.

By permitting cities, counties and school districts to adopt their own licensure requirements and by permitting them to opt out of state licensure requirements, local requirements could be higher than state requirements but they could also be significantly lower, negatively affecting the quality of child care and placing children at risk of harm with too few caregivers, unqualified staff or unsafe environments.

Kansas provides assurances to the federal government to access federal funding for child care services. Providing assurances that federal funding requirements are met will be more difficult with multiple licensing entities. Assurances are currently provided in state regulations, state agency policies, interagency agreements and in statutes governing child care facilities.

HB 2053 does not mandate required inspections as in current statute, does not mandate background checks nor does HB 2053 give direction to local entities to design requirements, similar to those found in K.S.A. 65-508(c) that promote healthy and safe care.

The degree to which the state child care licensure program is impacted by HB 2053 would be determined by the number of cities, counties and school districts that opt out of the state licensure program and develop their own local licensure program. Managing a state licensure program with cities, counties and school districts opting in and out of the program at any given time will make for inefficient use of resources and will make it difficult to appropriately plan, budget and allocate resources from year to year. From a public policy prospective, access to statewide data to determine availability and quality of child care in Kansas would be difficult to obtain.

HB 2053 appears to anticipate and permit local cities, counties and school districts to license child care facilities owned and operated by the city, county or school district. This is a conflict of interest and does not provide children and families with an unbiased consumer protection component that is the heart of any licensing program.

For these reasons, the Department opposes passage of HB 2053. I am available to answer any questions you may have.



2007 LEGISLATIVE SESSION~

2007 POLICY AGENDA~

SERVING A RURAL POPULATION

The needs, perspectives and culture of our rural and frontier population shall be reflected in decisions and policies that shape services to children and families at all levels.

MENTAL HEALTH AND BEHAVIORAL SERVICES

All children in the child welfare system will have access to quality, and timely mental health and behavioral health services designed to sustain and reunite families.

MANAGING POSITIVE SYSTEMS CHANGE

System changes that impact children and families must be adequately funded, accompanied by plans to build system capacity, and have a process for monitoring and evaluating performance against outcomes.

For more information contact
Melissa Ness at mlness@cox.net

House Federal and State Affairs February 14, 2007

St. Francis Academy has a rich history of serving troubled youth and their families over the past 60 years. We provide a range of services to youth and their families from family preservation, foster care, drug and alcohol services, restorative justice programs, and residential services and supports. Important to our mission is ensuring that individuals are treated fairly and consistently by the systems designed to serve and support them. As such we stand in opposition to HB 2053.

Although well-intentioned regarding the issue of local control, we believe that HB 2053 could have a negative impact on the manner in which children and families are served. We believe that standards designed to protect and promote well-being of individuals, particularly as it relates to youth who may be in someone else's care other than their families, should be uniform and consistent.

Allowing cities to opt out of compliance with state standards and to develop their own could lead to confusion in the regulatory system and a potential lowering of standards.

We ask that the committee take a serious look at this legislation and through candid debate choose to promote a uniform standard of safety and care.

Thank you for the opportunity to express our concerns.

Respectfully submitted,

Melissa L. Ness JD, MSW
St. Francis Academy
Legislative Coordinator

The system serving children and families will reflect regional differences, ensure ac Federal and State Affairs
effectively manage change Attachment 8

Date 2-14-07

Robert Drummond
TLC for Children and Families, Inc.
President



Bruce Linhos
Executive Director

Community Agencies Serving Children and Families

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House Bill 2053
House Federal and State Affairs
February 14, 2007

The Children's Alliance is the association of the private child welfare agencies. Members of our association provide family preservation, foster care, adoption and residential services to children in the custody of the state. Members serve both the youth in JJA and SRS custody. During the course of the year member agencies work with nearly 5,000 children through both adoption, residential and foster care.

House Bill 2053 as we read it would allow cities, counties, and school districts to elect to opt out of the licensing regulations as promulgated by the Department of Health and Environment. While our members from time to time disagree with the Department over licensing issues we feel that safety and well being for children are better served by the state having a single set of regulations. Families in Kansas need the assurance that a common set of rules are available to protect Kansas children.

Simply, we believe that it is the reasonable responsibility of state to establish minimal regulations to provide assurance to families whose children are being cared for in other than their own homes. We believe that HB 2053 would provide for a new level of minimal standards which we believe would create inconsistencies and would not be in the best interest of the children served.

Bruce Linhos
Executive Director

Federal and State Affairs
Attachment 9
Date 2-14-07

Testimony on House Bill 2053
Licensure of Child Care Facilities by Cities, Counties, and School Districts
Dale Goter
Government Relations Manager
City of Wichita

House Federal and State Affairs Committee

City of Wichita

February 14, 2007

House Bill 2053, currently before the committee, is consistent with the City of Wichita position on Home Rule, that local communities should be given the greatest flexibility to design regulations tailored to meet local needs. The City of Wichita supports this concept but feels that the bill needs significant additional study as to the impacts on communities, local child care facilities, and the State, both as to licensing regulation and fiscal impact.

This bill would replace many of the current and important provisions in KSA 65-501, et seq. For example, KDHE now requires facilities to conduct criminal background and sexual predator checks on potential employees. It has access to this information and procedures in place to require these checks to be conducted. Thus, it may be prudent to retain certain minimal standards for local communities that would opt to use this bill.

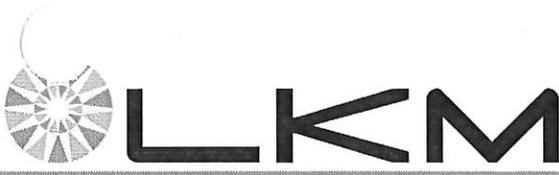
While the City of Wichita, like other urban areas, currently handles local licensing and enforcement on behalf of the State, this bill would allow the City to create its own licensing scheme that may provide additional regulations and inspections that would further protect children in care facilities. The City of Wichita is not ready to do that, however, and like other communities, will need to do extensive local review to put these regulations in place. Further, the bill as drafted also raises the specter of conflicting regulations between various school districts and their cities and counties. The interplay of these regulations needs further review than the mere preemptory language of Section 2.

All of our interests are focused on what is best for our children in childcare. For this reason, the City of Wichita urges this Committee to require additional study and revision before passing this bill.

Federal and State Affairs

Attachment 10

Date 2-14-07



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League of Kansas Municipalities

TO: House Federal and State Affairs Committee
FROM: Sandy Jacquot, Director of Law/General Counsel
DATE: February 14, 2007
RE: HB 2053

First, I would like to thank the Committee for allowing the League of Kansas Municipalities to submit written testimony today as a proponent on HB 2053. This bill would allow cities, counties and school districts to license child care facilities within their jurisdictional boundaries with the adoption of appropriate rules and regulations. The bill further provides priority rules to resolve any conflict between local regulations.

This bill would provide cities that want to regulate child care facilities the authority to do so. This flexibility enhances each city's ability to address issues at the local level when deemed appropriate to do so. In addition, there is a check and balance procedure to assure that cities' regulations are appropriate, by requiring the submission of the regulations to the Secretary of the Kansas Department of Health and Environment. The League of Kansas Municipalities is in support of HB 2053 and the ability of cities to license child care facilities.

Thank you again for allowing the League to submit written testimony today in support of HB 2053.

www.lkm.org

Federal and State Affairs
Attachment 11
Date 2-14-07