

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:30 A.M. on March 8, 2011, in Room 548-S of the Capitol.

All members were present, except Senator Donovan, who was excused

Committee staff present:

Lauren Douglass, Kansas Legislative Research Department
Robert Allison-Gallimore, Kansas Legislative Research Department
Jason Thompson, Office of Revisor of Statutes
Tamera Lawrence, Office of Revisor of Statutes
Theresa Kiernan, Committee Assistant

Conferees appearing before the committee:

Senator Oletha Faust-Goudeau
Tanya Keys, Director of Children and Family Services, SRS
Jim Snyder, Silver Haired Legislature
Heather Morgan, United Methodist Youthville

The Chairman requested that conferees who would be testifying on **SB 81, SB 84, SB 94 and HB 2105** to express their comments and testimony in support of, or opposition to, the bills when first recognized.

The Chairman opened the hearings on the following bills:

- **SB 81 -- Children and minors; relating to adoption**
- **SB 84 -- Children and minors; relating to permanency planning**
- **SB 94 -- Children and minors; relating to orders of temporary custody**
- **HB 2105 -- Children in need of care; relating to removal of child from parent's custody**

Senator Faust-Goudeau testified in support of **SB 81, SB 84 and SB 94** (Attachments 1, 2 and 3). She explained that she had worked with Kansas Department of Social and Rehabilitation Services (SRS), judges and people in the Wichita-area while drafting the bills. She also noted that the bills were a priority of the Silver Haired Legislature.

Jason Thompson, Staff Revisor, reviewed the bills.

Senator King asked, "In the situation in which there is no viable relative, does the wording of the amendment contained in **SB 81** eliminate the statutory requirement to consider the best interests of the child?"

Mt. Thompson responded, "Yes, but the best interests of the child remains an over-arching concern."

Tanya Keys testified in favor of **SB 81** (Attachment 4). She stated that current SRS practice for selection of adoptive resources provides preference be given to relatives.

Tanya Keys testified in favor of **SB 84** (Attachment 5). She stated that current SRS practice for selection of adoptive resources provides preference be given to relatives.

Tanya Keys testified in favor of **SB 94** (Attachment 6). She stated that SRS appreciates the importance of extended family and persons with emotional ties to a child. She added that during the initial work with families, SRS attempts to collect information concerning relatives and persons with emotional ties to a child.

Tanya Keys testified in favor of **HB 2105** (Attachment 7). She stated that SRS does not remove a child from the custody of a parent solely due to homelessness of the parent.

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on March 8, 2011, in Room 548-S of the Capitol.

Jim Snyder rose in support of **SB 81, SB 84, SB 94 and HB 2105**. He distributed copies of statistical information regarding grandparental care of grandchildren (Attachment 8). He added that for each child that is not placed in foster care, the state would save \$24,672 annually.

Heather Morgan testified in support of **SB 81** (Attachment 9). She stated the bill clarifies existing practice concerning preference given to relatives when choosing an adoptive family. She also stated she welcomed an amendment to address Senator King's concern relating to giving consideration of the best interests of the child in non-relative placements.

Heather Morgan testified in support of **SB 84** (Attachment 9). She stated that the bill would require the name of all relatives who were considered as a placement option to be listed in permanency placement plans. The bill also provides that if a relative is not selected, the reasons the relative was not selected must be documented in the placement plan.

Heather Morgan testified in support of **SB 94** (Attachment 9). She stated that the bill would help ensure that persons who are close to the child are aware of what is going on, may be evaluated as possible placement alternatives and would help with reuniting families. The bill would ensure that cases involving persons with American Indian affiliation are handled under the Indian Child Welfare Act.

Heather Morgan testified in support of **HB 2105** (Attachment 9). She stated that the bill clarifies that homelessness alone is not justification for removal of a child from the custody of the child's parents.

Senator Vratil asked, "What happens in the case of a child who has neither a viable relative nor a person with close personal ties?"

Ms. Morgan responded, "Before finalizing a placement, Youthville tries to facilitate a relationship between the child and a person so that those emotional ties have developed."

Senator Lynn asked, "What is a viable relative?"

Ms. Morgan responded, "A relative who is able to financially support the child; a relative who does not abuse the child. If a relative claims to be viable, Youthville forms a "best interest of the child team" to determine if the relative is viable. It is a subjective decision."

Senator Bruce asked, "Should the notification requirement in subsection (k) in **SB 94** be limited to the initial removal of the child from the home?"

Ms. Morgan responded, "Sometimes a couple of years may lapse between removals, and re-notification may be warranted."

No testimony in opposition to **SB 81, SB 84, SB 94 and HB 2105** was submitted.

The Chairman called the committee's attention to the fiscal notes for **SB 81, SB 84, SB 94 and HB 2105**.

The Chairman closed the hearings on **SB 81, SB 84, SB 94 and HB 2105**.

The Chairman also called the committee's attention to the information relating to the cumulative prison bed impact compiled by Robert Allison-Gallimore, Research Staff (Attachment 10).

Committee Action:

The Chairman turned the committee's attention to **HB 2029 -- Charitable health care provider defined to include ultrasound technologist** and the additional written testimony and information in support of **HB 2029** that had been submitted by Representative Pat Colloton (Attachment 11).

CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:30 A.M. on March 8, 2011, in Room 548-S of the Capitol.

Senator Pilcher-Cook moved, Senator Kelly seconded, that **HB 2029** be passed. The motion was adopted.

The Chairman turned the committee's attention to the bills heard earlier today: **SB 81, SB 84, SB 94 and HB 2105.**

Senator Kelly suggested combining the policies contained in **SB 81, SB 84 and SB 94.**

Senator Vratil suggested that the committee combine the bills after it works each bill individually in order to consider amendments.

Senator Bruce, Senator Lynn seconded, that **SB 81** be amended as follows: On page 1, in line 23, following "relative" by inserting "placement"; and to insert language, as appropriate, that requires the court to make a finding that the placement with a person having close personal ties to the child is in the best interests of the child. The motion was adopted.

Senator King moved, Senator Bruce seconded, that the revisor draft the language in subsection (b) of K.S.A. 38-2270 so that the second sentence, as amended by the committee, parallels the language of the sentence in lines 21, 22 and 23. The motion was adopted.

Senator Vratil moved, Senator King seconded, that **SB 84**, be amended, as follows: On page 2, in line 3, by striking, "relative placement alternatives" and inserting "relatives with whom placement alternatives have been"; in lines 5 and 6, by striking "a relative placement alternative" and inserting "placement with a relative". The motion was adopted.

No amendments were offered to **SB 94**.

Senator Kelly moved, Senator Vratil seconded, that Substitute for **SB 81**, which contains the provisions of **SB 81, as amended, SB 84, as amended, and SB 94** be introduced. The motion was adopted.

Senator King moved, Senator Kelly seconded, that Substitute for **SB 81** be passed. The motion was adopted.

Senator Vratil moved, Senator Umbarger seconded, that **HB 2105** be amended, as follows: On page 2, in line 34 and on page 3, in line 16, by striking "10" and inserting "14" in lieu thereof. The motion was adopted.

Senator Lynn moved, Senator Haley seconded, that **HB 2105** be passed as amended. The motion was adopted.

Meeting adjourned at 10:29 A.M. The next meeting is scheduled for March 9, 2011.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Tues March 8, 2011

NAME	REPRESENTING
David Clark	Intern - Vratil
Rob Siedlecki	SRS
Gary Haulmark	SRS
Samyung	SRS
Martha Hodgesmith	KU Unclassified Professional Staff
Patrick Vogelbein	KCDAA
Deborah Zed	KSHL
Barbara Hutchinson	KSHL
Jim Snyder	KSHL
Ashley Roberts	Mary Pilcher-Cook
Maggie Boone	Mary Pilcher-cook
Kevin Boone	Capital Lobby Grp.
Steve Solomon	TFI Family Services
Mark Gleeson	Judicial Branch
Heather Morgan	Yankee, Ke
XXXXXX	BSSG LLC
Lisa Meier-Hummel	KVC
Brenna Duffly	Intern - Morris

STATE OF KANSAS



TOPEKA

SENATE CHAMBER

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COMMITTEE ASSIGNMENTS

RANKING
MINORITY MEMBER: FEDERAL AND STATE AFFAIRS
ETHICS AND ELECTIONS
MEMBER: BUSINESS AND LABOR
COMMERCE
LOCAL GOVERNMENT
JOINT COMMITTEES: ARTS AND CULTURAL
RESOURCES
CHILDREN'S ISSUES
ECONOMIC DEVELOPMENT

Chairman- Senator Tim Owens
Vice Chairman- Senator Jeff King
Ranking Member- Senator David Haley
Honorable Members of the Committee

Good Morning,

Thank you for the opportunity to testify in support of SB 81.

The proposed changes to current law would merely require the court to find that no viable relative exists who would be willing and approved to adopt the child, prior to the child being adopted by someone else, unless the adoption by any relatives would not be in the best interest of the child. The language proposed clarifies that all viable relatives should first be considered for adoption before anyone else could adopt that child, so long as it is in the child's best interest.

I hear from relatives who believe that they are placed on the same footing as any other person when a decision is being made on who will adopt their relative.

Thank You for your consideration of SB 81.

Senator Oletha Faust- Goudeau

Senate Judiciary

3-8-11
Attachment 1

STATE OF KANSAS

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SENATE CHAMBER

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CHILDREN'S ISSUES
ECONOMIC DEVELOPMENT

Chairman - Senator Tim Owens
Vice Chair - Senator Jeff King
Ranking Member - Senator David Haley
Honorable Members of the Committee

Good Morning.

Thank you for the opportunity today to testify in support of SB 84. This bill increases the requirements of what must be documented in case plans relating to the placement of children in foster care with relatives. The bill would require all relatives who were considered as a placement option to be listed. It would also require that if a relative was not selected, the reasons they were not selected would be required to be documented in the case plan.

I often hear from constituents who say they aren't made aware of what placement options are available to them, and if they were considered and denied, they claim they were never given a reason for the denial. This bill would require all of that information to be specifically delineated within the case plan, which would then be available to the interested parties of the case.

Thank You for your consideration of SB84.

Senator Oletha Faust-Goudeau

Senate Judiciary

3-8-11

Attachment 2

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SENATE CHAMBER

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MEMBER: BUSINESS AND LABOR
COMMERCE

JOINT COMMITTEES: LOCAL GOVERNMENT
ARTS AND CULTURAL

RESOURCES

CHILDREN'S ISSUES

ECONOMIC DEVELOPMENT

Chairman-Senator Tim Owens
Vice-Chairman-Senator Jeff King
Ranking Member- Senator David Haley
Honorable Members of the Committee

Good Morning,

Thank you for the opportunity to testify in support of SB 94. This bill requires that reasonable efforts be made to notify all relatives of the first degree or other people who have close emotional ties to the child be notified that a temporary custody hearing will be taking place in a child in need of care proceeding. This notification will help ensure people close to the children are aware of what is going on, can be evaluated as possible placement alternatives, and can help with the reunification process of the family.

The Bill would also require the judge to order the parents to provide the names and contact information of any known family members of the child or any persons with whom the child has close emotional ties. Also, SB 94 will allow case managers to contact those people to become involved in the case early. We also hope that this will cause the parents to provide this information more readily and prevent the situation of someone close to the child not knowing the child is in temporary custody of the state until the case has progressed to a stage where it is hard for them to become involved.

Thank You for your consideration of SB 94.

Senator Oletha Faust-Goudeau

Senate Judiciary

3-8-11

Attachment 3

Rob Siedlecki, Acting Secretary
Department of Social And Rehabilitation
Services

**Senate Committee on Judiciary
March 8, 2011**

Testimony in Support of SB 81

**Children and Family Services
Tanya Keys, Director**

For Additional Information Contact:
Gary Haulmark, Director of Legislative Affairs
Docking State Office Building, 6th Floor North
(785)296-3271

Senate Committee on Judiciary

March 8, 2011

Testimony in Support of SB 81

Chairman Owens and members of the committee, I am Tanya Keys, Director of Children and Family Services with the Kansas Department of Social and Rehabilitation Services (SRS). Thank you for the opportunity to provide testimony in support of SB 81.

Adoption provides a stable and permanent placement to allow a child to thrive. A relative adoption allows continuity of family relationships and connections. Current SRS practice for selection of an adoptive resource provides preference be given to relatives as a resource because the child benefits when familial connections can be maintained. Direct placement by the court, with a relative to adopt and if no viable relative exists, granting custody for the purposes of adoption to a person with whom the child has close emotional ties would benefit children.

SRS supports SB 81 and the improvements it provides to families involved in the child welfare system.

Rob Siedlecki, Acting Secretary
Department of Social And Rehabilitation
Services

**Senate Committee on Judiciary
March 8, 2011**

Testimony in Support of SB 84

**Children and Family Services
Tanya Keys, Director**

For Additional Information Contact:
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Docking State Office Building, 6th Floor North
(785) 296-3271

Senate Judiciary

3-8-11

Attachment 5

Senate Committee on Judiciary

March 8, 2011

Testimony in Support of SB 84

Chairman Owens and members of the committee, I am Tanya Keys, Director of Children and Family Services with the Kansas Department of Social and Rehabilitation Services (SRS). Thank you for the opportunity to provide testimony in support of SB 84.

Paramount in planning for the permanency of a child is safety and well being. Permanency planning should allow for stability of the child's living situation and the continuity of family relationships and connections. If a child cannot reside with parents, thoughtful consideration should be given to all relative placement alternatives. Permanency plans submitted to the court should justify the child's selected placement and document the reason a relative placement alternative is not selected.

SRS supports SB 84 and the improvements it provides to families involved in the child welfare system.

Rob Siedlecki, Acting Secretary
Department of Social And Rehabilitation
Services

**Senate Committee on Judiciary
March 8, 2011**

Testimony in Support of SB 94

**Children and Family Services
Tanya Keys, Director**

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Senate Judiciary

3-8-11
Attachment 6

Senate Committee on Judiciary

March 8, 2011

Testimony in Support of SB 94

Chairman Owens and members of the committee, I am Tanya Keys, Director of Children and Family Services with the Kansas Department of Social and Rehabilitation Services (SRS). Thank you for the opportunity to provide testimony in support of SB 94.

SRS appreciates the importance of extended family and persons with close emotional ties in the life of a child. During initial work with families SRS efforts include attempts to collect information about relatives or persons with close emotional ties. Relatives and persons with close emotional ties may serve as support for the parents or as a placement option. Further, they are an invaluable resource to the child as a familial connection, support, and mentoring.

SRS's early attempts to collect this information will serve to assist the court to make reasonable efforts to provide notice of the temporary custody hearing to any known first degree relatives of the child and anyone with whom the child has close emotional ties. Additionally, if the information is unavailable to SRS, the court's inherent authority to require the parents provide the Secretary of SRS with any available contact information for any known relatives and individuals with whom the child has close emotional ties would assist locating potential placement and support for the child.

SRS supports SB 94 and the improvements it provides to families involved in the child welfare system.

Rob Siedlecki, Acting Secretary
Department of Social And Rehabilitation
Services

Senate Committee on Judiciary
March 8, 2011

Testimony in Support of HB 2105

Children and Family Services
Tanya Keys, Director

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Senate Judiciary

3-8-11
Attachment 7

Senate Committee on Judiciary

March 8, 2011

Testimony in support of HB 2105

Chairman Owens and members of the committee, I am Tanya Keys, Director of Children and Family Services with the Kansas Department of Social and Rehabilitation Services (SRS). Thank you for the opportunity to provide testimony in support of HB 2105.

HB 2105 interjects the prohibition on homelessness as a sole basis for removal at the dispositional phase. Children may be removed by the court prior to the court's determination the child is in need of care. If, the adjudication hearing results in the court finding that the child is in need of care solely due to homelessness, the court must return custody to the parent.

SRS supports HB 2105 because children should not be removed from their parent's custody at disposition solely due to homelessness.

Jim Snyder
(SHL)

STATISTICAL DATA REGARDING GRANDPARENTAL CARE OF GRANDCHILDREN

SB 52 - Feb. 7, 2011

Based on 2000 Census data, Kansas has 35,274 children living in households headed by grandparents or other relatives. This includes 17,873 grandparents reporting that they are providing day-to-day care to nearly 30,000 of their grandchildren. Keeping families together helps reduce disruptions for children, and that is important to their long-term success.

In the "Child and Family Services Review Statewide Assessment for Kansas (2005), SRS reported that "placement with relatives or other kin continues to be the preferred placement". Every child kept out of the foster care system in Kansas saves an average of \$24,672 a year that we all pay. (Kansas Department of Social & Rehabilitation Services, January 2007).

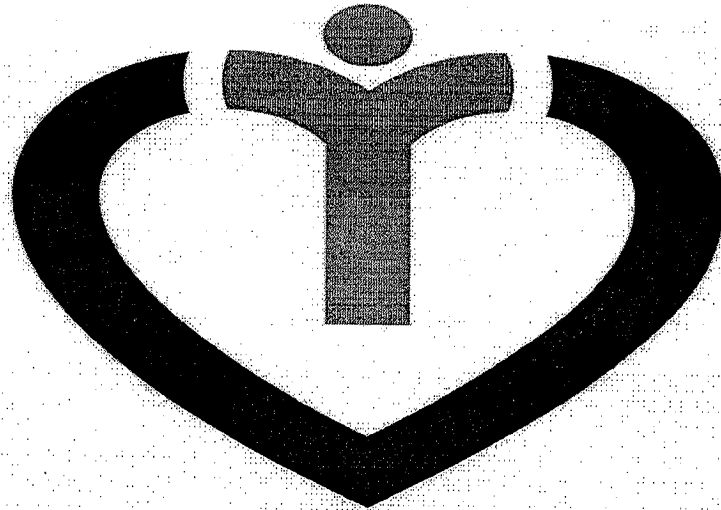
Child welfare agencies have discovered the advantage of placing children with extended family. These agencies have found children placed with relatives to be safe and nurtured, and to feel more like they are at home than in foster care.

Grandparents are not just providing short-term care. Three-fourths of Kansas caregiving grandparents have cared for their grandchildren for more than one year, and more than one-third have assumed this role for five years or more. (Kansas Public Health Assn. Inc., KPHA E-News Update, 6/1/06.)

United Methodist Youthville

Child Welfare Services

*Testimony in Support of
SB 81, SB 84, SB 94, & HB 2105*



Youthville

Giving Children Back Their Childhood

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Senate Judiciary

3-8-11

Attachment 9

SB 81

Chairman Owens and Committee Members, thank you for the opportunity today to testify in support of SB 81. SB 81 clarifies existing language around relative preference when choosing an adoptive family for a child.

Current language states, (b) In making an order under subsection (a), the court shall give preference, to the extent that the court finds it is in the best interests of the child, first to granting such custody for adoption to a relative of the child, and second to granting such custody to a person with whom the child has close emotional ties.

The proposed changes to current law would merely require the court to find that no viable relative exists who would be willing and approved to adopt the child, prior to the child being adopted by someone else, unless the adoption by any relatives would not be in the best interest of the child. The language proposed clarifies that all viable relatives should first be considered for adoption before anyone else could adopt that child, so long as it is in the child's best interest.

Proposed new language, (b) In making an order under subsection (a), the court shall give preference, to the extent that the court finds it is in the best interests of the child, first to granting such custody for adoption to a relative of the child. If the court determines that no viable relative exists, then the court shall grant custody to a person with whom the child has close emotional ties.

We hear from relatives that they believe that they are placed on the same footing as any other person when a decision is being made on who will adopt their relative. They believe this language would require the court to look carefully and exhaust all viable relative options for adoption prior to allowing the child be adopted by a non-family member. Please support SB 81 and the codification of current practice requiring all relative options, that would be in the best interest of the child, to be exhausted before a child is adopted by a non-family member.

SB 84

Chairman Owens and Committee Members, thank you for the opportunity today to testify in support of SB 84. This bill increases the requirements of what must be documented in case plans relating to the placement of children in foster care with relatives. The bill would require all relatives who were considered as a placement option to be listed. It would also require that if a relative was not selected, the reasons they were not selected would be required to be documented in the case plan. The case plan, including this more detailed information relating to relative placement alternatives, would then be part of the formal case file to document why decisions were made in a case.

We often hear from relatives that they do not know what relative placement options were considered, and if they were considered and denied, they claim they were never given a reason for the denial. This bill would require all of that information to be specifically delineated within the case plan, which would then be available to the interested parties of the case. Please support SB 84 and the codification of current practice requiring thorough documentation relating to decisions regarding relative placements.

SB 94

Chairman Owens and Committee Members, thank you for the opportunity today to testify in support of SB 94. This bill requires that reasonable efforts be made to notify all relatives of the first degree or other people who have close emotional ties to the child, that a temporary custody hearing will be taking place in a child in need of care proceeding. This notification will help ensure people close to the children are aware of what is going on, can be evaluated as possible placement alternatives, and can help with the reunification process of the family.

Additionally, this bill would require the judge to order the parents to provide the names and contact information of any known family members of the child or any persons with whom the child has close emotional ties. Getting this critical information as soon as possible allows case managers to contact those people to become involved in the case early. We also believe this causes the parents to provide this information more readily and helps to prevent the situation of someone close to the child not knowing the child is in temporary custody of the state until the case has progressed to a stage where it is hard for them to become involved.

This bill would also require the judge to order the parents to state if they have any American Indian affiliation. Cases involving persons with American Indian affiliation are handled differently and governed under the Indian Child Welfare Act (ICWA), which is federal law. Knowing that a case needs to be handled under ICWA allows the case to proceed more rapidly than if the American Indian affiliation status is not revealed until the child has been in custody for a longer period of time.

The issues codified by this bill are current practice in Sedgwick County. However, we believe it would be positive to put these practices into statute to ensure that they continue to be part of normal procedures all across the state to help move a child to permanency as quickly as possible. Ideally with their birth family, a relative, or if placement with a relative is not an option, with an appropriate adoptive placement.

HB 2105

Chairman Owens and Committee Members, thank you for the opportunity to testify today in support of HB 2105. This bill was introduced to address the concern of some members of the Children's Issues Committee in the House about how homeless families are treated within the child welfare system.

Current law stipulates that a child may only be removed from the home if:

- The child is likely to sustain harm if not immediately removed from the home;
 - Allowing the child to remain in the home is contrary to the welfare of the child; or
 - Immediate placement of the child is in the best interest of the child; and
 - Reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the child from the child's home; or that an emergency exists which threatens the safety of the child.

Adding that a child may not be removed from the custody of their parents solely for the reason of homelessness to the current statute does not change the intent of the law and merely clarifies that homelessness alone is not justification for removal of a child. We support this clarification in statute, because sometimes a loving and caring family finds its self homeless, but the family is still able to care for the child/children. Rather than removing children solely because they are homeless, we believe it is better public policy to provide the family with services to help them find permanent living arrangements and a job, rather than removing children from the custody of their parents. We encourage you to favorably consider HB2105.

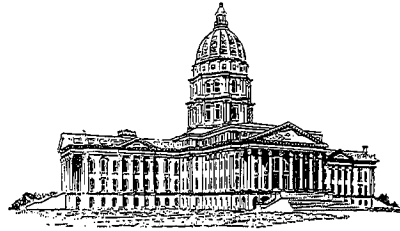
CUMULATIVE BED SPACE IMPACT
BILLS REPORTED FAVORABLY BY SENATE COMMITTEES
THROUGH MARCH 7, 2011

	FY 2012			FY 2021		
	<i>Low</i>	<i>Medium</i>	<i>High</i>	<i>Low</i>	<i>Medium</i>	<i>High</i>
SB 135	0	0	0	9	18	27
HB 2023	2	5	7	6	11	17
HB 2151	1	1	1	4	4	4
Sen. Sub. for HB 2049*	3	8	12	5	16	24
TOTAL	6	14	20	24	49	72

* Sen. Sub. for HB 2049 adds synthetic cannabinoid groups and "bath salts" to the list of schedule I controlled substances. The bill was amended and recommended by the Senate Committee on Public Health & Welfare.

Prepared by Robert Allison-Gallimore and Lauren Douglass, KLRD, based on information provided by the Kansas Sentencing Commission.

STATE OF KANSAS
HOUSE OF REPRESENTATIVES



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COMMITTEE ASSIGNMENTS
CORRECTIONS AND JUVENILE JUSTICE, CHAIR
EDUCATION
JUDICIARY
JOINT COMMITTEE ON CORRECTIONS AND
JUVENILE JUSTICE OVERSIGHT, CHAIR

PAT COLLOTON
28TH DISTRICT

March 7, 2011

Senate Judiciary Committee
State Capitol
Topeka, Kansas 66612

Chairman Owens and Judiciary Committee Members:

Under the Kansas tort claims act the voluntary work of physicians and other health care workers receive immunity when working in a clinic that serves the indigent. The Jay Doc facility near KU Hospice serves indigent patients in that area and is staffed by various volunteers from KU Hospital as well as KU medical students. Ultrasound exams are performed at the Jay Doc facility and ultrasound technologies are used to help perform ultrasound examinations. Ultrasound technologies were not yet included in the specific list of health care workers covered under the tort claim act and HB 2029 amends the list to add them.

In order to provide full coverage for the health care workers at the Jay Doc facility I urge adoption of HB 2029.

Respectfully submitted

A handwritten signature in cursive script that reads "Pat Colloton". The signature is written in dark ink and is positioned above the printed name.

State Rep. Pat Colloton

Senate Judiciary

3-8-11
Attachment 11



Written testimony from
Barbara F. Atkinson, MD
Executive Vice Chancellor, University of Kansas Medical Center
Executive Dean, University of Kansas School of Medicine
before the
House Judiciary Committee
January 27th, 2011

Dear Committee Members:

This letter is in support of HB 2029, which would amend the definition of Charitable Health Care Providers under the Kansas Tort Claims Act (K.S.A. 75-6102(e)) to include ultrasound technologists. The Charitable Health Care Provider program allows health care providers who provide volunteer health care services to the medically indigent to be included for liability purposes under the Kansas Tort Claims Act. Currently, ultrasound technologists are not included.

Our students at the University of Kansas Medical Center operate two charitable care clinics in Kansas City and one in Wichita that would benefit from passage of HB 2029 and expanded tort protections for ultrasound technologists.

JayDoc Free Clinic, which operates in Kansas City, is a student-run safety net clinic that provides preventive and non-urgent medical care, including prenatal care, to the uninsured of the Kansas City metropolitan area at no cost to the patients. JayDoc Free Clinic operates general clinics two nights a week, staffed by more than two dozen volunteers, including physicians, medical students, allied health students, interpreters and community volunteers. Like other safety net clinics, JayDoc patients may be referred to other area medical providers or JayDoc-operated specialty clinics for continued care.

Unlike other safety clinics, however, JayDoc is unique in that it is entirely governed by a board of KU medical students. Students also provide patient care, under the supervision of volunteer faculty physicians. Last spring, JayDoc began offering limited, monthly radiology services to qualified patients and hope to expand this capability by offering on-site ultrasound diagnostic imaging as needed to improve their acute care services.

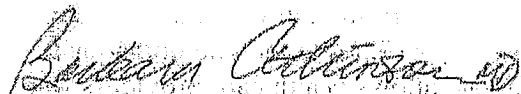
Also unlike other clinics, JayDoc does not screen patients for ability to pay. All care provided by the clinic is free to every patient. JayDoc, which is funded entirely by donations and local grants, is the only completely free clinic in the Kansas City area.

Each year, more than 2,000 people (mostly residents of Wyandotte County) depend on the medical care they receive from JayDoc volunteer physicians and students, while our students receive valuable hands-on training in their medical disciplines.

KU medical students in Wichita operate a similar clinic, the JayDoc Community Clinic, which offers free care every Saturday to more than 500 patients each year. KU Health Partners also provides care to the uninsured and underinsured through Silver City Health Center in Kansas City. We believe that extending protections to ultrasound technologists providing charitable care through HB 2029 could help our clinics and students better meet the needs of more patients.

The Kansas tort claims act helped to ensure that many health care providers could continue to provide charitable care, and we believe that expanding the same protections to ultrasound technologists will ensure that more Kansans have access to high-quality health care. We urge you to pass HB 2029 favorably and without amendment.

Sincerely,



Barbara F. Atkinson, MD
Executive Vice Chancellor, KUMC
Executive Dean, KU School of Medicine

The University of Kansas Medical Center

Judson R. Bertsch, M.D.
Kevin D. Brown, M.D.
Zachary S. Collins, M.D.
Larry T. Cook, Ph.D.
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Kirk A. Miller, D.O.
Douglas L. Nelson, M.D.
Mark L. Redick, M.D.
Alan R. Reeves, M.D.
Pauline R. Sieder, M.D.
William P. Smith, M.D.
Louis H. Wetzel, M.D.
Wendell Y. Yap, M.D.

March 5, 2011

Senate Judiciary Committee, Chairman Owens
State Capitol
Topeka, KS 66612

Chairman Owens and Committee Members:

I am radiologist and work at the KU Hospital in Kansas City, Kansas. As radiologists we provide staff coverage for ultrasound examinations performed at the Jay Doc facility. The Jay Doc facility provides care for indigent patients and is operated by KU medical students under the supervision and guidance of physicians such as myself. Our work is uncompensated and voluntary.

Physicians and many allied health care workers receive immunity from any claims arising from this volunteer work but the ultrasound technologists are not currently included. I am asking that the law be changed to include this important group of health care workers who perform ultrasound examinations on patients at the Jay Doc facility. HB 2029 amends the law to provide this protection for ultrasound technologists and I respectfully request the legislature to make this change in the law. I urge your favorable consideration of HB 2029.

Respectfully,



Marc F. Inciardi, M.D.
Breast Imaging Section
Department of Radiology

March 5, 2011

Senate Judiciary Committee, Chairman Owens
State Capitol
Topeka, KS 66612

Chairman Owens and Committee Members:

My name is Ashley Inciardi, and I am currently a third year medical at the University of Kansas School of Medicine, studying at the University of Kansas Hospital in Kansas City, KS.

As background, the Jay Doc clinic was established in 2003 to serve the indigent population of the Kansas City metro area. It is located at 300 Southwest Blvd in KC, KS. All services are provided at no cost to the patient. Jay Doc is a member of the Kansas City Safety Net Coalition and is the only completely free clinic in the coalition. General clinic is held twice a week and patients are often referred for specialty nights such as Women's Health, Diabetes, Ophthalmology and Physical Therapy. It is the only entirely student operated facility of its kind in the United States. Medical students at all levels volunteer their time to help the patients while at the same time learning to become better doctors. Finally, all patient's assessments and treatment plans are reviewed and approved by board certified staff physicians donating their time as well. Jay Doc also has student volunteers in Social Services that equip patients with referrals to other Safety Net clinics so that they can find a medical home for ongoing health care. It truly is a great benefit for this population with limited access to medical care as the clinic serves over 2000 patients per year.

While a second year student, I thought about expanding the scope of the services of the Jay Doc clinic. We established a "Radiology" night whereby patients who were seen and often referred for ultrasound examinations could come back another night for an ultrasound performed at the Jay Doc clinic. One of the issues that immediately arose was medical liability coverage for the ultrasound technologists who volunteer their time scanning patients. While staff physicians, residents, medical students, radiology technologists, and other allied personnel who volunteer their time at the Jay Doc clinic receive immunity from malpractice claims, ultrasound technologists do not.

I am asking that the law be changed to include this important group of health care workers who perform ultrasound examinations on patients at the Jay Doc facility. HB 2029 amends the law to provide this protection for ultrasound technologists and I respectfully request the legislature to make this change in the law.

I urge your favorable consideration of HB 2029.

Respectfully,



Ashley Inciardi

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MEMORANDUM

To: Chairman Owens and members of the Senate Judiciary Committee
From: Jill Wolters, Senior Assistant Revisor
Date: March 7, 2011
Subject: HB 2029, ultrasound technologists included as charitable health care providers under the Kansas Tort Claims Act

House Bill No. 2029 would allow ultrasound technologists working under the supervision of a licensed physician to be included as charitable health care providers under the Kansas Tort Claims Act. If such technologist had entered into an agreement with the secretary of health and environment or an indigent health care clinic and pursuant to such agreement, gratuitously renders professional services to a medically indigent person, such technologist is covered by the Tort Claims Act.

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MEMORANDUM

To: Interested Persons
From: Jill Wolters, Senior Assistant Revisor
Date: January 21, 2011
Subject: The Tort Claims Act, 75-6102 et seq. concerning charitable health care providers

Under the Kansas Tort Claims Act, a government entity can be held liable for damages caused by employee's acts or omissions. K.S.A. 75-6103 states that each governmental entity shall be liable for damages caused by the negligent or wrongful act or omission of any of its employees while acting within the scope of their employment. K.S.A. 75-6102 defines "government entity" and "employee."

The definition of employee found in K.S.A. 75-6102, includes charitable health care providers. If a charitable health care provider enters into an agreement with the secretary of health and environment or an indigent health care clinic and pursuant to such agreement, gratuitously renders professional services to a medically indigent person, such charitable health care provider is covered by the Tort Claims Act. This means that the State of Kansas can be held liable for damages caused by the charitable health care providers's negligent or wrongful act or omission, if that charitable health care provider was acting within the scope of his or her employment. The State of Kansas will provide a defense and indemnification for any claims arising out of such professional services.

K.S.A. 75-6105 limits the liability to \$500,000 for any number of claims arising out of a single occurrence or accident. Further, the governmental entity is not liable for punitive or exemplary damages or for interest prior to judgment.

The Tort Claims Act covers the following medical professionals:

K.S.A. 75-6102 (e) "Charitable health care provider" means

1. person licensed by the state board of healing arts as an exempt licensee or a federally active licensee
2. person issued a limited permit by the state board of healing arts
3. physician assistant licensed by the state board of healing arts
4. mental health practitioner licensed by the behavioral sciences regulatory board and
5. health care provider as the term "health care provider" is defined under K.S.A. 65-4921 (See below)

K.S.A. 65-4921 (c) "Health care provider" means:

1. Those persons and entities defined as a health care provider under K.S.A. 40-3401 (See below)
2. a dentist licensed by the Kansas dental board
3. dental hygienist licensed by the Kansas dental board
4. professional nurse licensed by the board of nursing
5. practical nurse licensed by the board of nursing
6. mental health technician licensed by the board of nursing
7. physical therapist licensed by the state board of healing arts
8. physical therapist assistant certified by the state board of healing arts
9. occupational therapist licensed by the state board of healing arts
10. occupational therapy assistant licensed by the state board of healing arts
11. respiratory therapist licensed by the state board of healing arts

K.S.A. 2010 Supp. 40-3401(f). "Health care provider" means a

1. person licensed to practice any branch of the healing arts by the state board of healing arts (See below) with the exception of physician assistants (However, p.a.'s are covered under the 75-6102 (e) definition)
2. person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts
3. person engaged in a postgraduate training program approved by the state board of healing arts
4. medical care facility licensed by the department of health and environment
5. health maintenance organization issued a certificate of authority by the commissioner of insurance
6. podiatrist licensed by the state board of healing arts
7. optometrist licensed by the board of examiners in optometry
8. pharmacist licensed by the state board of pharmacy
9. licensed professional nurse who is authorized to practice as a registered nurse anesthetist
10. licensed professional nurse who has been granted a temporary authorization to practice nurse anesthesia under K.S.A. 65-1153
11. professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection
12. Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized
13. partnership of persons who are health care providers under this subsection, a Kansas not-for-

profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection

14. nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine

15. dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899

16. psychiatric hospital licensed under K.S.A. 75-3307b

17. mental health center or mental health clinic licensed by the secretary of social and rehabilitation services

EXCEPTIONS: health care provider does not include (1) any state institution for the mentally retarded, (2) any state psychiatric hospital, (3) any person holding an exempt license issued by the state board of healing arts [However, exempt licensees are covered under the 75-6102 (e) definition] or (4) any person holding a visiting clinical professor license from the state board of healing arts.

K.S.A. 65-4921

"Health care provider" means:

1. Those persons and entities defined as a health care provider under K.S.A. 40-3401 (see above)
2. a dentist licensed by the Kansas dental board
3. dental hygienist licensed by the Kansas dental board
4. professional nurse licensed by the board of nursing
5. practical nurse licensed by the board of nursing
6. mental health technician licensed by the board of nursing
7. physical therapist licensed by the state board of healing arts
8. physical therapist assistant certified by the state board of healing arts
9. occupational therapist licensed by the state board of healing arts
10. occupational therapy assistant licensed by the state board of healing arts
11. respiratory therapist licensed by the state board of healing arts

Persons licensed to practice any branch of the healing arts by the state board of healing arts

1. Medical Doctors (MD)
2. Osteopathic Doctors (DO)
3. Chiropractic Doctors (DC)
4. Podiatric Doctors (DPM)
5. Physician Assistants (PA)
6. Physical Therapists (PT)
7. Physical Therapist Assistants (PTA)
8. Occupational Therapists (OT)
9. Occupational Therapy Assistants (OTA)
10. Respiratory Therapists (RT)
11. Athletic Trainers (AT)
12. Naturopathic Doctors (ND)
13. Contact Lens Distributors
14. Radiologic Technologists (LRT)