

BEFORE THE SENATE PUBLIC HEALTH AND WELFARE
COMMITTEE

TESTIMONY OF ROBERT L TABOR
A PROPONENT OF SENATE BILL 276

Chairman Hilderbrand and committee members:

On behalf of the Kansas affiliate of the National Federation of the Blind I would like to express my sincere thanks to you for taking time to hear from us on a matter of great importance. SB 276 addresses a vexing problem of long-standing to many blind parents who are only trying to raise a family in piece without unwarranted interference from child protection bureaus, adoption agencies, foster care agencies, and family courts. Today you will hear from several conferees who will testify of their constant fear of a threat of having their children removed from them merely because of blindness.

Under SB 276, the specified entities covered therein would be required to show a direct relationship between the parent's blindness or major visual limitation and any risk of harm to the safety and well-being of the child. The bill further specifies that where such a showing is made the party alleging the unfitness of the parent must offer "supportive parenting services" as the term is defined in Section 2 of the bill. In other words, blindness would no longer be legitimately used as the sole reason for removing the child from the care, custody and control of the child by a blind parent.

As to how SB 276 would affect the ability of DCF Division of Child Protection to perform its statutory mandated functions, there is no obstruction. For example, a verified determination of child abuse triggered by notification of a mandatory reporter would support removal of the child from his/her home irrespective of the visual acuity of the parents. The only limitation, as noted above, is that the parent's visual disability could not be used as the sole factor in a decision to remove the child from the care and custody of a blind parent.

It could be argued that this measure is unnecessary because it is covered by the Americans With Disabilities Act (ADA) or that protections are already in existence in state law. The ADA does not specify foster care, adoption agencies, family court adjudications, guardianships, or any of the areas covered in the bill. Furthermore, the ADA gives no guidance as to how to balance the rights of disabled parents with the best interest of a child and does not provide for any procedural safeguards. We further have observed over the years that the Federal courts tend to interpret the ADA as narrowly as possible. In other words, if a particular action is not required or proscribed, the courts will not require or proscribe it either.

Regarding current state law, there is some measure of protection afforded to disabled parents under KSA 38-2201, subsections C1 and C2. However, these provisions apply to Child In Need of Care (CINC) cases in juvenile and family courts, and does not apply to public and private adoptions, foster care, guardianship of minors, etc.

In conclusion, I note that 16 states have enacted legislation identical or similar to SB 276. Three of these states are our neighbors, namely Nebraska, Missouri, and Colorado. This bill is non-partisan, protects the rights of blind parents, and preserves the best interests of the child as the gold standard of child safety and well-being consistent with the long-standing public policy in Kansas.

Thank you again for your time today.

Respectfully submitted,

Robert L Tabor, Lawrence Douglas County, Kansas Senate District 2

###