

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Arlen Siegfried at 1:30 P.M. on February 13, 2008, in Room 313-S of the Capitol.

All members were present:

Committee staff present:

Dennis Hodgins, Kansas Legislative Research Department  
Mike Heim, Revisor of Statutes Office  
Jason Long, Revisor of Statutes Office  
Jeannie Dillon, Committee Assistant

Conferees:

Representative Sharon Schwartz  
Nick Keller  
Jennifer Keller  
Harold Casey  
Angie Vanburkleo  
Peter Ninemire  
Jennifer Roth

Others attending:

See attached list.

The Chairman opened the floor for bill introductions. Representative Olson requested a bill concerning Kansas electric energy for the future, seconded by Representative Peterson. Without objection, the bill was accepted.

Representative Dillmore requested a bill concerning campaign finance, seconded by Representative Peterson. Without objection, the bill was accepted.

Representative Brown requested a bill regarding child support payment and questionable licensing, seconded by Representative Peterson. Without objection, the bill was accepted.

Representative Loganbill offered a conceptual bill that would have treatment for those people who are diagnosed under the early detection worker's program, seconded by Representative Peterson. Without objection, the bill was accepted.

Representative Peterson requested a bill be introduced that addresses workmen's compensation injuries, seconded by Representative Hodge. Without objection, the bill was accepted.

Representative Peterson requested a bill regulating pharmaceutical manufacturing within the state, seconded by Representative Ruiz. Without objection, the bill was accepted.

Representative Knox announced there would be a room change for the subcommittee for tomorrow, February 14, to 136 North.

The Chairman opened the hearing on **HB 2602 - Creating the crime of use of a controlled substance endangering a child.**

The Chairman recognized Representative Sharon Schwartz. Representative Schwartz spoke as a proponent of **HB 2602**. She said that a year ago she was contacted by Jennifer and Nick Keller who asked if she would assist them in trying to better protect children by allowing authorities to intervene when a pregnant woman is using substances and putting her child at risk and to reduce the incidence of babies born with addiction to controlled substances. She stated that the bill is based on Idaho legislation and

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makes it a crime to introduce certain controlled substances into the body of a pregnant female or a child, except as authorized by the uniform controlled substance act or valid prescription. The key provisions for pregnant women charged under this law are New Sec. 1 (b) and (c).

Representative Schwartz asked the Committee to support this important legislation to better protect children by allowing authorities to intervene when a pregnant woman is using substances and putting her child at risk.

Mike Heim, Revisor of Statutes, briefed the Committee on **HB 2602**. He explained the bill and said that the bill creates a new crime and that the severity level is a level nine. Mr. Heim answered all questions asked by the Committee.

Nick and Jennifer Keller were welcomed to the Committee. Mr. Keller spoke as a proponent of **HB 2602** and related their experiences with the adoption of children from methamphetamine and other substance abuse parents. He explained that he would like to protect the unborn child and also the pregnant mother by drug rehabilitation and asked the committee to consider **HB 2602**.

Harold W. Casey, Substance Abuse Center of Kansas, Inc., came before the Committee as a neutral conferee to **HB 2602** but had some concerns as well. His concern was that women who are using illicit substances who are pregnant are less likely to access prenatal care, medical care, or treatment services because of possible incarceration. He stated that he was also concerned that a pregnant woman might choose to abort the child rather than seek help. He concluded by suggesting that if passed, **HB 2602** be amended to provide funding that supports additional HIP (Health in Pregnancy) case management services across the State of Kansas.

The Chair welcomed Angie Vanburkleo, Director to Health in Pregnancy, as a neutral conferee. Ms. Vanburkleo gave information about the HIP program. Ms. Vanburkleo stated that they have worked with 51 women in the program in the past 16 months and all 39 babies have been delivered substance free.

The Chairman said that HIP was located in four counties and asked Ms. Vanburkleo if there were similar programs under different names that are available in other counties. Ms. Vanburkleo responded by saying that she was not aware of any at this time.

A Committee member asked how successful was the program with unwilling patients. Mr. Casey stated that statistically when looking at involuntary commitments, the recovery rates are about the same.

Peter Ninemire, Drug and Alcohol Council and supervisor of the Wichita and Sedgwick Daily Reporting Center, spoke as an opponent of **HB 2602**. Mr. Ninemire defined addiction as a chronic, relapsing brain disease that is characterized by compulsive drug seeking and use despite harmful consequences. He stated that addiction is considered a brain disease because drugs change the brain. In his testimony, Mr. Ninemire highlighted related points and stated how best to treat this disease. In closing, he said he believed that this bill would affect lifetime separation and guaranteed disenfranchisement of both the mother and child. In conclusion, Mr. Ninemire urged us not to criminalize or dehumanize these people but to hold them accountable and have graduated sanctions.

The Chairman welcomed Jennifer Roth, Kansas Association of Criminal Defense Lawyers to the Committee. Ms. Roth spoke as an opponent to **HB 2602**. She listed four main areas that would be affected.

- Parents who “knowingly permit” their child to introduce a controlled substance in his/her body can be prosecuted for a person felony.

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- The bill has no guidance as to when or how a person will be tested. Prescription drug users or parents of prescription drug users will suffer.
- The bill is contrary to the legislature's position that people need treatment, not person felonies and incarceration.
- The costs involved would be substantial. Costs would include the increase in prison beds, increase in prenatal and birthing medical expenses by jails and prisons, drug testing costs and litigation among other expenses.

After all committee questions were answered, the Chairman closed the hearing on **HB 2602** and the meeting was adjourned. The next meeting will be on February 18, 2008, in room 313-S at 1:30 pm.