

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

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ROLL NUMBER

DESCRIPTION

3044

2001 HOUSE HUMAN SERVICES

HCR 3044

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3044

House Human Services Committee

Conference Committee

Hearing Date February 19, 2001

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|-----------|
| Tape 1 | X | | 0 to 2520 |
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| Committee Clerk Signature <i>Corinne Easton</i> | | | |

Minutes:

Chairman Price, Vice Chairman Devlin, Rep. Dosch, Rep. Galvin, Rep. Klein, Rep. Pollert, Rep. Porter, Rep. Tieman, Rep. Weiler, Rep. Weisz, Rep. Cleary, Rep. Metcalf, Rep. Niemeier, Rep. Sandvig

Chairman Price: Open hearing on HCR 3044.

Rep. Sandvig: Presented Resolution. (See written testimony.) HCR 3044 would direct the legislative council to study the feasibility and desirability of establishing a putative fathers' adoption registry. This started out as a bill draft, but I decided to do a study resolution instead. Please give this resolution a DO PASS so that we can possibly study this problem.

Rep. Klein: Could you explain how this registry system works?

Rep. Sandvig: A father has a certain number of days to register with the state and say that he is the father of the child, otherwise if he doesn't, then the mother can do whatever she wants with the child. The original bill has the number of days on it.

Rep. Weiler: Is this registry suppose to help the problem. Is it to clear up the whole system?

Rep. Sandvig: It is so that the father gives up his rights if he does not sign onto this registry.

After the child is born and if he wants to claim that child he needs to sign onto the registry. If the mother wants to give the child up for adoption, she can go ahead and do that if his name is not on that registry.

Rep. Weisz: The way this registry would work is if the father has not signed onto the registry, he loses all rights to that child and mother has the ability to sign the child away. If he signs on the registry I'm assuming his legal rights would be the same as under the current law?

Rep. Sandvig: I think that is the way it would work, yes.

Vice Chairman Devlin: What happens in a case where the father didn't know that the girl was pregnant, or if he was told he wasn't the father and later is proved that he was and he would like to get on the registry. What happens in those cases?

Rep. Sandvig: If he didn't know he was the father then he wouldn't have a chance at signing on to the registry. The mother would have all the rights.

Julie Hoffman: Administrator of Adoption Services, Department of Human Services. (See written testimony.) I am here today to provide information in relation to HCR 3044. The department takes a neutral position in regards to this bill. I would be willing to assist at the request of the Legislative Council should this resolution pass and the Council initiates a study of a possible putative father's registry.

Rep. Weisz: Under current law, if you have a birth parent that wasn't identified at the time, what is the procedure now both in that six month time frame before the adoption is final and after that if someone comes in and proves they are the birth father but were never contacted. What happens then?

Julie Hoffman: Currently at the time the court is considering termination of parental rights there would be notice given to all birth parents that have been named by the birth mother. She may name one or more than one, or if she doesn't know the name of the person, then the court would probably find that there is reason to give notice by publication. They would publish in the newspaper of the location where the father has known to have lived for a certain period of time, and give him the right to respond. If any of the notified fathers have not appeared, then their rights can be determined. It is written into the termination of parental rights orders. There is an appeal period and if the person doesn't come forward within a certain period of time then their rights are terminated. The child is in a home for the six months, then the family can legally have a court adjudication for the adoption of the child that makes them totally the adoptive parents.

Rep. Cleary: This registry, I would think would make your job a lot easier. You won't need to hunt all over for the father.

Julie Hoffman: I think, in some circumstances, it could be beneficial. My concern is that it would be a registry that has to be certified before termination of parental rights, not before that. The registry would have to be checked prior to those termination's of parental rights proceedings.

Rep. Porter: Is our adoption system broken because we need this?

Julie Hoffman: We are always looking at new ways of doing things. We think out our termination of parental rights assures permanency for children. We are pretty conservative from the department's standpoint of our approach to termination of parental rights. We're also concerned that children not be placed into homes when there is an outstanding person with parental rights that may disrupt that adoption in the permanency for the child. Many states are moving to a putative father registry

Rep. Porter: The concept that you described in your second paragraph, how is the father suppose to know that he is responsible to register, and what happens if he doesn't register, and is that registry an open record even though it is going to have potential juvenile names on it?

Julie Hoffman: They vary from state to state depending upon how the laws are written but in general, most states have taken very comprehensive campaigns. It cannot be a one time shot, there has to be continuing advertising, providing brochures in lawyers offices, in hospitals, in clinics, public health offices.

Rep. Porter: I would be interested to see a fiscal note for such a policy. As far as the data base being an open record then?

Julie Hoffman: I am not certain about that. The Montana law is not an open record. Only certain people have access to be able to check it, and that includes child placing agencies, the department, and attorneys. Birth mothers were notified if someone registered. Montana has 50 birth fathers registered.

Rep. Klein: Are you saying the father can come in and take the child away after it has been adopted if he finds out later - he has rights?

Julie Hoffman: We do think that in North Dakota, whereby we've taken aggressive action in identifying birth fathers and terminating their parental rights, provides some assurance that at the point we do a termination of parental rights order that we have terminated all potential birth father's rights. But there is a concern if the birth mother is not on it and has not identified all potential birth fathers, that there could be some problems later.

Rep. Klein: Does that mean the father would get the child then?

Julie Hoffman: No, it does not mean he would automatically get the child. He would have the right to argue in court.

Vice Chairman Devlin: Why should we go away from the certainty of the court procedures that we have now?

Julie Hoffman: In some circumstances the child placing agencies believe that having the registry might effectuate a quicker termination of parental rights if the registry was checked at the point of termination proceedings. There are a few situations where the father is violent, threatening to both the mother or the agency personnel. It might be a better option for them to rely on his responsibility to register rather than to do a search for him and make contact with him.

Rep. Niemeier: Does it also assure the birth father some rights to the child?

Julie Hoffman: Yes, it would. If he registered, then the agency and attorney would have to give him notice despite whether the mother identifies him or not. If he identifies himself, then there would be a responsibility to give him notice.

Vice Chairman Devlin: You said Montana had 50 birth fathers listed. Do you know how many people were on the total list?

Julie Hoffman: Yes, that is how many people are on the list. They have had 200 requests to certify. That means people have inquired about the registry.

Chairman Price: If we read your second paragraph - you're saying it is the male's duty anytime there is a possibility of pregnancy to register? What are the legal ramifications if we are talking about the possibility of statutory rape? He is over 18 and she is not and he registers. What is the liability?

Julie Hoffman: I did look pretty closely to the Montana statute. By registering a man can become, by virtue of that registry, an obligor for child support purposes. If the birth mother didn't place the child for adoption, that would make an affirmative statement by him that he has

acknowledged being the birth father. I would assume it may have some similar ramifications regarding other charges of claims against him.

Vice Chairman Devlin: I understood there were some problems with the Minnesota law. They say they fully expect to be challenged.

Julie Hoffman: There is some concerns about the Minnesota statute. I can't answer all the concerns, but Minnesota doesn't do a court adjudicative termination of parental rights. So in essence, they do a relinquishment in front of an agency. It is then the birth father's duty to register and at the point of adoption rights are terminated and the adoption is adjudicative. So question for us is "what if someone asserts their rights in that period of placement - when there hasn't been a court termination of parental rights." That is where the challenge is.

Chairman Price: In the states that have this and the father did not register, didn't know about the child, didn't know he had to, whatever the reason may be but the birth mother lists the father on the birth certificate, then what do they do? Are they required to contact him?

Julie Hoffman: In some states they are required to follow through regular notification proceedings so that if he is identified he will be contacted. In some states the statute is written so that it really is his responsibility if he doesn't contact for whatever reason. It boils down to how the statute is written.

Rep. Tieman: If we would set up something like this in our state, who would administer it?

Julie Hoffman: Some states it is the Department of Human Services, and in some it would be with the Division of Vital Records through the Department of Health. It varies.

Rep. Tieman: Do you recall how it is set up in Minnesota.

Julie Hoffman: I'm not sure how Minnesota is. I believe it is in the Department of Human Services.

Rep. Tieman: Has your department had any inquiries on this issue?

Julie Hoffman: We have had questions from child placing agencies. We have particularly been questioned by out-of-state agencies.

Chairman Price: Close hearing on HCR 3044.

COMMITTEE WORK:

Chairman Price: Let's go to HCR 3044.

Rep. Niemeler: I move a DO PASS on HCR 3044.

Rep. Cleary: I will second.

Rep. Niemeler: I see in this day and age where we often feel badly about uninvolved fathers, this gives an opportunity for a voluntary registration that would protect their rights when they want to be involved with the child.

Rep. Cleary: It seems to me it would make it a lot easier for the person that wants to adopt.

Rep. Sandvig: The adoption agencies I talked to, they were in favor of studying the issue.

Chairman Price: Is anyone familiar with the Senate Bill coming over on adoption? Is this in there or could it be?

Rep. Sandvig: That is to study the adoption laws. It doesn't really include this, but maybe they could be studied together.

Vice Chairman Devlin: I really don't like this resolution. I like the certainty we have in North Dakota with the courts.

Rep. Galvin: Is there historically quite a cost to these types of studies?

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Chairman Price: Depends on how in depth your study is. The cost is obviously the meeting, the travel time, the lodging for the legislators. Depends on how many meetings they have.

Rep. Devlin: Along those lines I don't think I would ever vote against a study because of the cost, because certainly if this is picked it will be combined with other studies. The issue is whether the state should even study going down this particular line.

Chairman Price: My biggest fear just from the information we got, is that there may be a father out there who will lose the rights to his child just because he didn't register.

Chairman Price: Call the roll.

DO PASS HCR 3044

11 YEAS, 3 NEAS

Date: 2-19-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HR 3044

House Human Services Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By Rep. Niemeier Seconded By Rep. Cleary

| Representatives | Yes | No | Representatives | Yes | No |
|------------------------------|-----|----|-----------------|-----|----|
| Clara Sue Price - Chairman | ✓ | | Audrey Cleary | ✓ | |
| William Devlin - V. Chairman | | ✓ | Ralph Metcalf | ✓ | |
| Mark Dosch | ✓ | | Carol Niemeier | ✓ | |
| Pat Galvin | ✓ | | Sally Sandvig | ✓ | |
| Frank Klein | ✓ | | | | |
| Chet Pollert | | ✓ | | | |
| Todd Porter | | ✓ | | | |
| Wayne Tieman | ✓ | | | | |
| Dave Weller | | ✓ | | | |
| Robin Weisz | ✓ | | | | |
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Total (Yes) 10 No 4

Absent _____

Floor Assignment Rep. Niemeier

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 19, 2001 4:35 p.m.

Module No: HR-30-3921
Carrier: Niemeler
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3044: Human Services Committee (Rep. Price, Chairman) recommends DO PASS
(10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HCR 3044 was placed on the
Tenth order on the calendar.

2001 SENATE HUMAN SERVICES

HCR 3044

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3044

Senate Human Services Committee

Conference Committee

Hearing Date March 13, 2001

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|---------|
| 1 | X | | 23.6 |
| | | | |
| Committee Clerk Signature <i>Baral Kladovic</i> | | | |

Minutes:

The students from Dickinson were welcomed to the Senate Human Services Committee. Senator Kilzer explained the process of the bill and the resolutions.

The hearing on HCR 3044 was opened.

REPRESENTATIVE SALLY SANDVIG, sponsor, introduced the resolution. (Written testimony)

Neutral testimony.

JULIE HOFFMAN, Dept of Human Services, is neutral on the resolution. (Written testimony)

SENATOR MATHERN: Why would you not take a position? MS. HOFFMAN: The study will provide knowledge of how it is working in other states. I tend to be more negative at this point.

SENATOR KILZER: Do other states have this registry? MS. HOFFMAN: Montana has registry. It would be another tool in dealing with parental rights.

No opposition. The hearing was closed on HCR 3044.

