

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature –First Regular Session

COMMITTEE ON HEALTH AND HUMAN SERVICES

Minutes of Meeting
Wednesday, February 9, 2011
House Hearing Room 4 -- 9:00 a.m.

Chairman Ash called the meeting to order at 9:05 a.m. and attendance was noted by the secretary.

Members Present

Mrs. Barton
Mrs. Brophy McGee
Mr. Heinz

Ms. Hobbs
Mrs. Judd
Mrs. Yee

Mrs. Carter, Vice-Chairman
Mr. Ash, Chairman

Members Absent

Mrs. Gonzales (excused)

Committee Action

HB2384 - HELD AT REQUEST OF SPONSOR
HB2443 - DPA (5-3-0-1)
HB2510 - DPA S/E (8-0-0-1)
HB2554 - DP (7-0-0-2)

HB2585 - DP (8-0-0-1)
HB2634 - DPA (7-0-0-2)
HB2635 - DP (8-0-0-1)
HCR2034 - DP (6-2-0-1)

CONSIDERATION OF BILLS

HB2384 - abortion; public funding prohibition; taxes - HELD AT REQUEST OF SPONSOR

Chairman Ash announced that HB2384 will be held at the request of the sponsor.

HCR2034 - recognizing pregnancy care centers - DO PASS

Vice-Chairman Carter moved that HCR2034 do pass.

Vice-Chairman Carter moved that the Heinz three-line amendment to HCR2034 dated 2/7/11 (Attachment 1) be adopted.

Ingrid Garvey, Majority Research Analyst, explained that HCR2034 expresses the Legislature's support for pregnancy care centers (PCCs) and their contribution to society (Attachment 2). The amendment states that some of the Members of the Legislature support PCCs (Attachment 1). In response to a question, she stated that she does not know the cost to taxpayers to pass a resolution, but she did request the information, which she will email to the Members when it is received.

Representative Terri Proud, sponsor, stated that women facing crisis pregnancies are some of the most vulnerable in the state. Through economic, social or other circumstances, many are forced to cope with their situation alone, but thanks to the work of PCCs throughout Arizona, these women have a reliable and experienced voice to turn to. She asked that the Members join her in thanking PCCs for their sacrifice and dedication to protecting and empowering women by supporting this bill.

John Tabor, Executive Director, Crisis Pregnancy Center of Tucson, representing self, spoke in favor of HCR2034. He stated that during the 19 years he devoted to defense of life, he has observed many thousands of families choose life over abortion and many women heal from abortion experiences. He pledged that those in the pregnancy care movement will stand firmly on behalf of the sanctity of human life and the value of family and honor the Legislature's confidence in them, as written in this resolution, to prevail over those who want to deny their services. In response to a question, he discussed services provided by PCCs, such as mentoring and life skills training.

Vice-Chairman Carter announced the names of those who signed up in support of HCR2034 but did not speak:

Cathi Herrod, President, Center for Arizona Policy
Sydney Hay, Defending America's Future
Ron Johnson, Executive Director, Arizona Catholic Conference
Deborah Sheasby, Legal Counsel, Center for Arizona Policy
James Hallgren, Assistant Prayer Coordinator, 40 Days for Life, representing self
Beth Straley, Campaign Administrator, 40 Days For Life, representing self

Vice-Chairman Carter announced the names of those who signed up in opposition to HCR2034 but did not speak:

Eric Ehst, National Organization for Women
Adena Lees, representing self

Question was called on the motion that the Heinz three-line amendment to HCR2034 dated 2/7/11 (Attachment 1) be adopted. The motion failed.

Question was called on the motion that HCR2034 do pass. The motion carried by a roll call vote of 6-2-0-1 (Attachment 3).

HB2585 - controlled substances; marijuana; monitoring - DO PASS

Vice-Chairman Carter moved that HB2585 do pass.

Amber Morin, Majority Intern, Appropriations Committee, explained that HB2585 requires the Controlled Substances Prescription Monitoring Program administered by the Arizona State Board of Pharmacy to include data from the Department of Health Services (DHS) that identifies residents who possess a valid registry identification card (Attachment 4).

Mr. Heinz, sponsor, related that this bill is necessary to modify language placed in statute by Proposition 203, which enables medical marijuana to be recommended by physicians for certain patients with specific conditions. Current language only allows law enforcement officials to have access to information about individuals with legitimate medical marijuana cards, but medical providers and pharmacists need to know the entire complement of medications a patient is taking, so this is important to add. The bill will require a three-quarters vote of the House and Senate. He added that he hopes it will pass in order to preserve patient safety.

In response to a question, Mr. Heinz indicated that he does not know the position of the Arizona State Board of Pharmacy or the Arizona Pharmacy Association; however, the Maricopa County Medical Society, which brought this to his attention, is in support.

Names of persons who spoke in support of HB2585 but did not speak:
Kimberly MacEachern, Staff Attorney, Arizona Prosecuting Attorneys' Advisory Council
Jacqueline Walker, City of Kingman

Question was called on the motion that HB2585 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 5).

HB2554 - dental board; investigations; disciplinary action - DO PASS

Vice-Chairman Carter moved that HB2554 do pass.

Jessica Gordon, Majority Intern, explained that HB2554 rewrites the dental statutes relating to disciplinary action (Attachment 6).

Ms. Hobbs, sponsor, related that this bill was requested by the Arizona Board of Dental Examiners to upgrade and streamline the investigative process so it is in line with that of the Arizona Medical Board.

Brandy Petrone, Arizona Board of Dental Examiners, spoke in support of HB2554. She said the bill modernizes the current investigative process for the Board, very much in line with the Arizona Medical Board. The major change relates to investigative interviews, which are done by a voluntary panel that is making inconsistent recommendations to the Board. The Board is recommending that process be removed and complaints go directly to an investigator who can provide consistent outcomes and recommendations to the Board.

Vice-Chairman Carter announced the names of those who signed up in support of HB2554 but did not speak:

Elaine Hugunin, Executive Director, Arizona State Board of Dental Examiners
Kevin Earle, Executive Director, Arizona Dental Association
John MacDonald, Lobbyist, Arizona Dental Association

Question was called on the motion that HB2554 do pass. The motion carried by a roll call vote of 7-0-0-2 (Attachment 7).

HB2634 - DHS; health care institutions; rules - DO PASS AMENDED

Vice-Chairman Carter moved that HB2634 do pass.

Vice-Chairman Carter moved that the Ash two-line amendment to HB2634 dated 2/8/11 (Attachment 8) be adopted.

Jessica Gordon, Majority Intern, explained that HB2634 directs the Department of Health Services (DHS) to adopt rules regarding health care institutions (Attachment 9). The amendment clarifies that DHS promote the use of deemed status for behavioral health organizations (Attachment 8).

Emily Jenkins, President/Chief Executive Officer, Arizona Council of Human Service Providers, spoke in support of HB2634. She said she has been working with DHS over the last three years on issues relating to existing behavioral health rules in an effort to simplify the rule-making process, which takes at least three years. There are immediate issues relating to the fact that there is no provision within current rules to license, for example, an integrated behavioral and physical health facility, and there are also some barriers to innovations in practice such as medically-assisted substance services. With DHS' collaboration, she asked that DHS be given an exemption from the formal process so there will be an 18-month acceleration process. As soon as the marijuana rules are completed (about April 2011), DHS will begin the process of adopting a new set of rules.

Chairman Ash noted that the sponsor, Representative Steve Court, is chairing another Committee, which is why he is not present to answer questions or explain the bill.

Vice-Chairman Carter announced the names of those who signed up in support of HB2634 but did not speak:

Colby Bower, DHS

Don Isaacson, Crisis Response Network

Susan Cannata, Attorney, Maricopa Consumers, Advocates and Providers (MCAP)

Dianne McCallister, Public Policy Partners, Magellan

Question was called on the motion that the Ash two-line amendment to HB2634 dated 2/8/11 (Attachment 8) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2634 as amended do pass. The motion carried by a roll call vote of 7-0-0-2 (Attachment 10).

HB2635 - court-ordered evaluation - DO PASS

Vice-Chairman Carter moved that HB2635 do pass.

Jessica Gordon, Majority Intern, explained that HB2635 adds additional requirements to the affidavit that must accompany a petition for a court-ordered treatment (Attachment 11).

Emily Jenkins, President/Chief Executive Officer, Arizona Council of Human Service Providers, in support of HB2635, related that this bill is being offered to correct a problem that arose after Court of Appeals decisions last year. In areas of the state where there are not sufficient psychiatrists to provide examinations of individuals under court-ordered treatment within the timeframes allowed, telemedicine is used in evaluation and treatment. With the interpretation that was given of existing statute, the psychiatrist was required to perform the physical examination as well as the mental health evaluation. This bill will allow a physician or nurse practitioner to perform the physical examination, with two psychiatrists available to order additional examinations, if necessary, and conduct a mental health evaluation remotely using telemedicine. She read a letter from Mick Pattinson, Chief Executive Officer, Northern Arizona Regional Behavioral Health Authority, in support of the bill.

Jack Potts, Physician, Arizona Psychiatric Society, spoke in favor of HB2635. He opined that this proposal meets and improves the standard of care and is consistent with the 21st century by permitting psychiatrists to rely on internists or other physicians to conduct the physical examination. This will improve accessibility and make it easier for people who need treatment to receive treatment. In response to questions, he clarified that telemedicine involves a video and auditory, and the physicians must be licensed in Arizona. Statute requires the two psychiatrists to be licensed in Arizona who will be the experts who provide the affidavit to the court.

Vice-Chairman Carter announced the names of those who signed up in support of HB2635 but did not speak:

Janna Day, Lobbyist, State Bar of Arizona

Don Isaacson, Crisis Response Network

Dianne McCallister, Public Policy Partners, Magellan

Question was called on the motion that HB2635 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 12).

HB2510 - palliative care; patient information. - DO PASS AMENDED S/E
S/E: synthetic; definition of dangerous drugs

Vice-Chairman Carter moved that HB2510 do pass.

Vice-Chairman Carter moved that the Heinz 23-page strike-everything amendment to HB2510 dated 2/7/11 (Attachment 13) be adopted.

Ingrid Garvey, Majority Research Analyst, explained that earlier this session the House passed HB2167, which expanded the definition of *dangerous drugs* to include “spice” or “K2”, which is a synthetic marijuana; the strike-everything amendment to HB2510 expands the definition to include “bath salts” and amends the list of controlled substances to conform to the additions made in the definition of *dangerous drugs* (Attachment 14).

Mr. Heinz, sponsor, stated that the three chemical compounds added in this legislation are even more dangerous than the synthetic cannabinoids that the House previously banned. These chemical compounds are stimulants that can be snorted, injected and smoked. Reactions can be severe, such as rapid heart rate, suicidal thoughts, paranoia, hallucinations and a craving to continue to use the drugs for many days on end. There have been multiple reports on how the use of these substances has increased and caused people to commit suicide. He noted that this substance is being abused on military bases, so it is important to give the military, as well as law enforcement, the proper tools for enforcement.

Kathleen Mayer, Legislative Liaison, Pima County Attorney's Office, spoke in favor of HB2510. She stated that her office has a very active drug enforcement component that works with law enforcement agencies in southern Arizona, and “spice” and “bath salts” came to their attention toward the end of last Session. Mr. Heinz began seeing patients with severe reactions to “spice” so she is pleased with that legislation. Unfortunately, these designer drugs are being marketed as harmless and people are telling each other on websites and blogs how cool it is to use the substances because they are legal and do not get people in trouble with probation officers. Officials at the Davis-Monthan Air Force Base are very concerned about these designer drugs among personnel. She asked for the Members’ support.

Vice-Chairman Carter announced the names of those who signed up in favor of HB2510 but did not speak:

John Thomas, Arizona Association of Chiefs of Police

Shirley Gunther, Intergovernmental Affairs Manager, City of Avondale

Kimberly MacEachern, Staff Attorney, Arizona Prosecuting Attorneys’ Advisory Council

Ray Churay, Deputy Director, Maricopa County Sheriff’s Office

Todd Griffith, Crime Lab Director, Department of Public Safety, in favor of HB2510, advised that the three drugs are stimulants and psychoactive drugs very similar to ecstasy and methamphetamine, and create the same kind of craving for redosing and reuse. The drugs have no commercial use and are not prescribed in any fashion. They would not be found in a true bath salt.

Mr. Heinz moved that the Heinz 23-page strike-everything amendment to HB2510 dated 2/7/11 (Attachment 13) be amended as follows:

Page 23, between lines 22 and 23, insert:

“Sec. 3. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.”

The motion carried.

Vice-Chairman Carter moved that the Heinz 23-page strike-everything amendment to HB2510 dated 2/7/11 (Attachment 13) as amended be adopted. The motion carried.

Vice-Chairman Carter moved that HB2510 as amended do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 15).

HB2443 - abortion; sex; race selection; prohibition - DO PASS AMENDED

Vice-Chairman Carter moved that HB2443 do pass.

Vice-Chairman Carter moved that the Ash 14-line amendment to HB2443 dated 2/8/11 (Attachment 16) be adopted.

Ingrid Garvey, Majority Research Analyst, explained that HB2443 provides that a person who knowingly performs an abortion with the knowledge that the abortion is sought based on the sex or race of the child or the race of the parent of the child is guilty of a Class 3 felony (Attachment 17). The amendment removes the criminal penalties and specifies that a medical professional who does not report known violations is subject to a fine of not more than \$10,000, removes the reference to the Civil Rights Act and makes technical and conforming changes (Attachment 16).

Representative Steve Montenegro, sponsor, stated that it is never okay to discriminate against the unborn in the form of selective abortion on the basis of sex or race, but sex selection abortions are occurring in the U.S. In March 2008, a report was published in the *National Academy of Sciences*, which found there is a strong son bias in American communities, and from census data, noted that there are overwhelmingly more female abortions. Most sex selection abortions are late-term and grisly.

He said a report by a Harvard University economist estimated that more than 100 million women were demographically missing from the world as early as the 1990s due to certain practices, including sex selection abortion. American abortion providers, most of whom receive government funds, are responsible for eliminating nearly 50 percent of African Americans conceived in the U.S. each year, as compared to 20 percent of white, unborn children. In 2008, federally funded clinics were exposed as having agreed to accept funds from persons who expressly requested that the donation be used to reduce the African American population. There is currently no law to prohibit this in the U.S. or in Arizona, which needs to be addressed.

Representative Montenegro responded to questions concerning justification for the legislation. Regarding the affidavit to be signed by the doctor, he indicated that it will be kept by the doctor. Discussion followed about when the sex of a fetus can be determined, how the bill will be enforced and how violations will be exposed.

Mr. Heinz commented that the Medical Board will take away a practitioner's license if an act of unprofessional conduct is substantiated. It is not to be taken lightly, especially in circumstances where it is impossible to even establish that this is occurring. He does not want to see the licenses of medical providers placed in jeopardy for what he perceives as unenforceable legislation.

Representative Montenegro opined that such an action is serious enough that the practitioner should not be able to practice medicine.

Sydney Hay, Defending America's Future, spoke in support of HB2443. She showed *The Economist* magazine with the headline, "Gendercide - What Happened to 100 Million Baby

Girls.” She said the article states that whether overtly killed, aborted or abandoned to die, well over 100 million girls have disappeared from the world, and many experts now believe that sex selection abortion is the primary cause. It is a practice that evidence shows goes on in this country. She quoted from the findings and declarations of HR1822 from the 111th Congress, which states that sex selection abortions are performed in the U.S. and cites a March 2008 report published in the proceedings of the *National Academy of Sciences* by a Columbia University economist.

Ms. Hay related that these abortions are grisly and inhumane because they take place after the sex is determined by an ultrasound, which is the reason they should be stopped. Countries that have been the worst offenders in the past, like India and China, have since enacted total bans. Since the U.S. has not done so, it is a safe haven for those who seek to do what is illegal in their own country. She added that since 1973, illegal abortion has killed more African Americans than other medical or criminal causes combined. She provided the following information in support of the bill:

- Press release from The Frederick Douglass Foundation (Attachment 18).
- Letter from U.S. Congressman Trent Franks (Attachment 19).
- Letter from Day Gardner, President, National Black Pro-Life Union (Attachment 20).

Ms. Hay responded to questions concerning the need for the bill in Arizona, statistics in economically disadvantaged areas and abortion statistics from DHS.

In response to a question, Representative Montenegro indicated that he does not anticipate lawsuits, but if that were to happen, the statistics are available.

Vice-Chairman Carter announced the names of those who signed up in support of HB2443 but did not speak:

Beth Straley, Campaign Administrator, 40 Days For Life, representing self
James Hallgren, Assistant Prayer Coordinator, 40 Days for Life, representing self
Ron Johnson, Executive Director, Arizona Catholic Conference
Cathi Herrod, President, Center for Arizona Policy
Patti Waldrup, representing self

Vice-Chairman Carter announced the names of those who signed up in opposition to HB2443 but did not speak:

Barbara Burkholder, representing self
Susan Shaw, representing self
Katherine Boxley, representing self
Serena Boyd, representing self
Eric Ehst, National Organization for Women
Bryan Howard, President, Planned Parenthood Arizona
Michelle Steinberg, Director of Public Affairs, Planned Parenthood Arizona
Theresa Ulmer, Consultant, Planned Parenthood Arizona
Ed Casper, representing self

Vice-Chairman Carter announced the names of those who signed up as neutral on HB2443 but did not speak:

David Wells, Faculty, Arizona State University; Board Member, Arizona Citizen Action; representing self

Question was called on the motion that the Ash 14-line amendment to HB2443 dated 2/8/11 (Attachment 16) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2443 as amended do pass. The motion carried by a roll call vote of 5-3-0-1 (Attachment 21).

Without objection, the meeting adjourned at 11:07 a.m.

Linda Taylor, Committee Secretary
February 21, 2011

(Original minutes, attachments and audio on file in the Chief Clerk's Office; video archives available at <http://www.azleg.gov>)