

Held in Room 526, at the Statehouse at 3:30 a. m./p. m., on January 22, 19 79.

All members were present except:

The next meeting of the Committee will be held at 3:30 a. m./p. m., on January 23, 19 79.These minutes of the meeting held on the 17th January, 19 79 were considered, corrected and approved.

JOSEPH J. HOAGLAND*Chairman*

The conferees appearing before the Committee were:

Rep. Pat Augustine, Co-Sponsor of HB 2081
Rep. Ruth Wilken, Sponsor of HB 2068
Susan Upham, Project Coordinator for the Battered Women's Task Force of Topeka, Kansas
Joan Wagnon, Executive Director of the Topeka Y.W.C.A. and a member of the Battered Women's Task Force of Topeka, Kansas
John House, Attorney with Legal Aid Society of Topeka, Inc.
Sister Beata Weiss, member of Adorers of the Most Precious Blood of Christ, Wichita, Kansas, a Roman Catholic Religious Order
Larry R. Rute, Director of the Legal Aid Society of Topeka, Inc.
Pamela Johnston, Women's Transitional Care Services, Inc., Lawrence
Judy Teusink, Registered Lobbyist for the Kansas Women's Political Caucus
"Debbie" - a battered victim

The meeting was called to order by Chairman Hoagland at 3:30 p.m. The Chairman introduced Rep. Augustine, sponsor of HB 2081, who briefly described the bill to the committee. Chairman Hoagland then referred HB 2081 to the Criminal Law Sub-Committee for further review and recommendation.

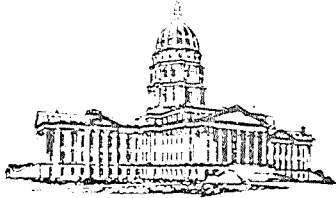
The Chairman then introduced Rep. Wilken, sponsor of HB 2068, who described the bill and it's necessity to the committee (SEE ATTACHMENT # 1 - 4 pages). Rep. Wilken then introduced proponent Susan Upham, Project Coordinator for the Battered Women's Task Force of Topeka, Kansas, who favors the bill. (SEE ATTACHMENT # 2). The next proponent introduced was Joan Wagnon, Executive Director of the Topeka Y.W.C.A. and a member of the Battered Women's Task Force of Topeka, who gave a brief statement (SEE ATTACHMENT # 3 - 2 pages). John House, Attorney with Legal Aid Society of Topeka, Inc. then gave a lengthy testimony, including some suggested amendments and his statement in favor of the bill (SEE ATTACHMENT # 4 - 5 pages). Following Mr. House, Sister Beata Weiss, member of Adorers of the Most Precious Blood of Christ, Wichita, Kansas, a Roman Catholic Religious Order, made a brief statement in favor of HB 2068 (SEE ATTACHMENT # 5). Next Susan Upham introduced a battered victim, "Debbie", who gave a brief statement of praise for the Women's Task Force and reiterated the need for this type of legislation.

The next proponent to speak was Larry R. Rute, Director of Legal Aid Society of Topeka, Inc., who briefly outlined statistics supporting the bill (SEE ATTACHMENT # 6 - 5 pages). Pamela Johnston of the Women's Transitional Care Services, Inc. of Lawrence, then gave her statement in support of the bill (SEE ATTACHMENT # 7 - 2 pages). The last proponent to appear before the committee was Judy Teusink, registered lobbyist for the Kansas Women's Political Caucus (SEE ATTACHMENT #8).

Chairman Hoagland then asked for statements from those opposing HB 2068, but there were no opponents present. Several representatives then designated questions to the sponsor of the bill and the two attorneys representing Legal Aid Society of Topeka. Following the questions and answers, Chairman Hoagland referred HB 2068 to the Family Law Sub-Committee for further study and recommendation.

The meeting adjourned at 4:50 p.m.

RUTH W. WILKIN
REPRESENTATIVE FIFTY-SIXTH DISTRICT
1610 WILLOW AVENUE
TOPEKA, KANSAS 66606



TOPEKA

HOUSE OF
REPRESENTATIVES

HOUSE BILL 2068

January 22, 1979

Mr. Chairman & Members of the Committee:

Thank you for this hearing on H.B. 2068 dealing with family violence and abuse. A little over a year ago I became a member of the Battered Women's Task Force in Topeka, an organization established to meet a severe need. I have had my eyes opened about this problem and its extent in Topeka and Kansas. A number of people directly involved with the work of the Task Force will testify today.

House bill 2068 is patterned after a Pennsylvania statute, and a similiar bill passed the Kansas Senate last year 38-1 but came to this committee late in the session and did not have a hearing here. The purpose of the bill is to provide a civil remedy instead of criminal penalty to diffuse cases of battering. Our experience shows many women do not want to file divorce proceedings to obtain a restraining order. Neither do they want to file criminal charges against their husband. They simply want him to stop beating them and perhaps leave them alone for a time. This bill provides for a judge to issue a temporary protection order. It also provides for a peace bond. Those who are to follow me will explain how helpful these would be in actual situations they know about. I believe this is a necessary step in between our present system of doing nothing on the one hand or breaking up a family on the other.

Atch. 1

Testimony on H.B. 2068
REP. RUTH WILKIN
January 22, 1979

Attached to my statement is a sheet entitled Battered Women in Prison done by the United Methodist Church of Metro, St. Louis. They point out that in 1978 there were 164 women in Rentz Correctional Center near Jefferson City, Thirty-five were imprisoned on homicide and assault charges. Interviews with the women ascertained 60% of the women assaulted or killed a husband, father or lover who was trying to harm them, 15% killed in defense of a third person (often a child) and 15% killed husband who had harmed them in the past, for a total of 85% of the women in the category.

We need to find ways to diffuse these very volatile situations before more violence occurs. This bill does not proprot to stop family violence, but I believe it is a step that will help save families and perhaps lives.

Mr. Chairman, I will be happy to answer questions but I believe in the interest of time it would be better to hear from the members of the Task Force. I am sure many of your questions will be answered by those who are following me.'

My first conferee is Susan Upham, Coordinator for the Battered Women's Task of Topeka.

BATTERED WOMEN IN PRISON

Gerri Redden
United Methodist Metro Ministry
St. Louis, Missouri

Women prisoners in Missouri are incarcerated at Rentz Correctional Center near Jefferson City. On August 15, 1978, 164 women were imprisoned there. Thirty-five of those were imprisoned on assault and homicide charges. Women in this group were interviewed to find out their relationship with their victim and the extent of abuse in the relationship. The survey found that sixty percent of the women had assaulted or killed husbands, fathers, lovers or tricks who were trying to harm them prior to the assault or killing. Ten percent assaulted or killed in defense of a third party; fifteen percent of the women killed husbands who had harmed them in the past. The remaining fifteen percent assaulted or killed victims who had not previously harmed them.

Forty-two percent of the women who acted in self-defense reported a history of abuse by their victims, yet only eight percent of the group who attacked victims harming them pled "not guilty because of self-defense" at their trials. Eighty-four percent of this group pled guilty, half of them on the advise of their attorneys who told them they would stand a better chance of getting a shorter sentence if they pled guilty.¹

Many of the women were not told of the possibility either of pleading self-defense or of asking for a reduction of a murder charge to manslaughter.

Two-thirds of the women with a history of abuse had called the police prior to the final attack. Many had called the police several times. Almost all felt the police were not helpful. Sometimes the police offered advice and sometimes excuses. Often, the police refused to come at all.

The women told stories of continuous victimization:

Marjorie M. had been beaten by her husband ever since she could remember, but when he picked up a baseball bat and started to attack her eight year old son, it was more than she could take. Marjorie picked up a gun and shot her husband twice, killing him.

Carmen W. was frequently beaten and kicked by her drunken boyfriend with whom she had been living for two years. One night, after a particularly severe beating, her boyfriend started to leave, saying he would be coming back and would beat her until she would beg him to kill her. Carmen threw a cup of gasoline she kept for rug cleaning and set him on fire.

Spouse abuse has been termed one of the most under-reported and prevalent crimes in American society. It is currently estimated that between 4.5 and 20 million women are battered by their husbands each year. In Missouri alone, there are an estimated 450,000 battered women, many of

1. Statistics gathered from a report by Tara Leny: Defense for Battered Women

whom will live out their lives as victims of domestic violence. A small percentage of these women will retaliate, killing their spouse. Of the women who decide to end their torture in this manner, many will become inmates of Rentz Farm either because of insufficient representation by their lawyers, or because they feel they deserve to be punished for the "crime" they have committed.

Is the crime, in fact, murder, or is it spouse abuse with the end result that the attacker is stopped by the most sure method available?

Is the perpetrator of the crime the woman or is it the society which continues to place the "private sanctity of the home" above the well being of those who abide there?

It is time to look openly and honestly at the problem of spouse abuse in each of our communities.

STATEMENT TO: Judiciary Committee, House of Representatives
January, 1979

BY: Susan Upham, Project Coordinator for the Battered Women's Task Force of
Topeka, Kansas

SUPPORTING: HB 2068 concerning abuse of adults and children by certain adults

Mr. Chairman and Representatives:

I am Susan Upham, Project Coordinator for the Battered Women's Task Force of Topeka, Kansas. The Task Force provides social services to victims of spouse assault and their families. Services include emergency housing, food and clothing, crisis intervention counseling, and referral to appropriate community and social service agencies. The project also provides for public education and liaison with law enforcement and other legal agencies, as well as coordination of community efforts.

Battered women have emerged as a major social problem in this country in recent months. Since February, 1978, women in Shawnee County have been able to contact the Battered Women's Task Force for emergency assistance. The Task Force has offered support and aid to battered women and their families as they strive to restructure their lives.

Prior to the organization of the Task Force, there were few services available for these victims and their families. Many agencies were receiving requests for help from these women. There was a pressing need for coordination of what services did exist, and a need to establish crisis intervention services. The Battered Women's Project has been funded since April, 1978 by the Governor's Committee on Criminal Administration. GCCA funds provided salaries for a coordinator, part time secretary and office services. An Additional staff person was assigned to the Task Force in October, 1978 (Public Service Employment, CETA Title VI).

Currently the Task Force has 20 trained crisis counselors who work evenings and weekends as volunteers to augment paid staff.

Since April, 1978, the Task Force has assisted 165 women and 194 children.

The needs of these women are great. The statistical report on the first 6 months of the program show that 80% of the women were unemployed when they requested services, so they are often financially dependent on their husbands. Eighty per cent (80%) of the women also have children with them. We have assisted women with as many as 7 children. Presently, we have 10 women and 12 children in housing with our program. One woman, Mrs. B. has 4 children and is pregnant. She wants desperately to return home but must wait until her husband admits himself for alcoholic treatment at a local hospital. He has refused to seek treatment if she files for divorce. This case is not atypical. HB 2068 would be of great assistance in Mrs. B's situation.

Due to the increasing demand for services for Battered Women, a State-wide Coalition has formed, linking 11 cities across Kansas. Currently, the cities involved are Topeka, Wichita, Lawrence, Hutchinson, Emporia, Manhattan, Great Bend, Overland Park, Salina, Concordia, and Marysville.

I speak not only for the needs of women in Topeka but also for women all across the state of Kansas. HB 2068 is an initial step to provide additional protection to battered women in this state.

Atch. 2

YOUNG WOMEN'S CHRISTIAN ASSOCIATION
OF TOPEKA, KANSASTELEPHONE
233-1750225 WEST 12TH ST
TOPEKA, KANSAS 66612

STATEMENT TO: Judiciary Committee, House of Representatives, January 22, 1979

BY: Joan Wagnon, Executive Director, Topeka YWCA, and member of the Battered Women's Task Force of Topeka

SUPPORTING: H.B. 2068, an act relating to civil actions and protection from abuse.

Mr. Chairman and Representatives:

I am Joan Wagnon, Executive Director of the Topeka YWCA and member of the Battered Women's Task Force since its inception in 1976. As a member of the Task Force I have participated in every area of service delivery. I have also served as administrator for the grant which we now have from the Governor's Committee on Criminal Administration.

Approximately a year ago I gave testimony in the Kansas Senate on a similar bill which was not enacted. Since that time I have noticed numerous instances when the provisions that are contained in H.B. 2068 would have enabled us to give better service to battered women.

Often when a woman comes to the Task Force for help, she is in such an agitated, emotional state that she is not ready to make permanent decisions affecting her future. If the only alternative open to her is either to file for divorce (or separate maintenance) or to press criminal charges against her husband, she may be unwilling to do either. However, if she doesn't exercise these present options she has no redress to regain access to the home she left in order to avoid further abuse. H.B. 2068 would allow women to petition the court for relief; the court could then grant temporary possession of the residence to the woman, could give her custody of the children. In some cases this would eliminate the need for her and her children to flee the home. In many cases, the women do not wish to press for divorce, but wish to work for restructuring the marriage. This is in keeping with commonly-held values to preserve the marriage. This bill would allow for better emergency intervention and reduce the necessity for outside housing for the woman until the violent situation can "cool down" and she can plan for her alternatives.

Another option which H.B. 2068 presents is an alternative to sending the husband to jail. The peace bond which is included in H.B. 2068 gives that additional alternative. Our experience has been that women are reluctant to file criminal charges against their husbands, but feel that "something needs to happen to shake him up." A peace bond may in fact provide that remedy.

Let me give you some specific instances from cases during the past year where H.B. 2068 would have made a difference. Mrs. C was a white female in her middle 20's, of Roman Catholic religion, who arrived at the YWCA one very cold morning with a five-month-old child. Her husband had been drunk the night before; they had fought, and he had beaten her. When he passed out she grabbed the child and fled for safety. Because of her religion she did not want to file for divorce, but she had no way to protect herself from his anger. With this bill she would have been able to get an order from the court giving her temporary custody of the home and the child until such time as she could establish contact with her husband again and work through the decision-making process. She ultimately reconciled with her husband and they entered a counseling program. However, she was in emergency housing for a period of about six days while she filed for legal separation and could not return to her home for her things.

Another case involved a young woman with a small child. She, too, was unwilling to file divorce proceedings. While she was at work, her husband went to the baby-sitter and removed the preschool child from the sitter's care. The police were unable to help the woman get the child back; the husband then used the child as a way to force his wife to return home. Under H.B. 2068 she could have received temporary custody of the child, thus preventing such an action. These two circumstances have occurred many times during the past year with clients of the Battered Women's Task Force.

Over and over we hear, "Why should I have to leave my home?" H.B. 2068 would help remedy this problem. Women could get an order which would allow them temporary possession of the home and custody of the children while deciding on a course of action. Since so many women who do file divorce proceedings or criminal charges against their husbands ultimately drop these charges, an alternative such as this bill offers appears to be helpful. The decision to divorce is a difficult one and should not be made under crisis circumstances.

During the spring of last year the Task Force showed a film which we made entitled "Battered Women: A Public or Private Matter?" to over 2,000 people in the Topeka area. The public response to this film might be of interest to you as legislators. The question which the film raises, "Is this a public or private matter?", is an important one. For years people have held that what happens between a man and wife is not a matter of public concern. But public agencies are receiving more and more requests for help from women who feel they have no alternatives. H.B. 2068 would provide a civil remedy for a very widespread social problem. It would increase our options in helping battered women. Our experience in showing the film indicates widespread public support for such a bill. The reaction generally was that a woman deserves and needs greater legal alternatives for this problem than are presently available.

I urge you to support H.B. 2068.

TESTIMONY OF JOHN HOUSE*
CONCERNING HOUSE BILL No. 2068

Legal Aid Society of Topeka, Inc.
112 West 6th Street - 5th Floor
Topeka, Kansas 66603
phone: (913) 354-8531

My name is John House. I'm an attorney at the Legal Aid Society of Topeka. Each of the attorneys at Legal Aid takes an area of law particularly important to poor people and specializes in that area. For the last couple of years, I've been the attorney in our office who primarily works with juvenile and family law problems. I have therefore dealt over and over again with this domestic abuse problem.

I want to start my testimony by saying that this is an excellent bill overall, but we do want to suggest some amendments. Most of them are minor clarifications. We also suggest adding a severability clause just in case -- but I have carefully gone over this bill word by word and I feel very confident that it can pass any constitutional test.

There are two significant changes however. The first at lines 0036 thru 0042. We would delete all of that sexual abuse of a minor. It is fully and adequately covered by other laws and is really something entirely different from family physical violence which all of the rest of this bill is really aimed at.

Secondly, we would add to the wording of the definition of "Family or household members" at lines 0045, 46, & 47. I think the intent of this bill is to include unmarried people living together, but the wording is not crystal clear and I think that it really should be. We would want to add the phrase "persons not related, but sharing a common residence" to make this bill clearly applicable to both married and unmarried abuse cases.

Now, speaking in support of the bill, I would first like to call your attention to a part of this bill that I think is extremely important, and that is Section 11 -- which allows the court to order the putting up of a peace bond in either the actions brought under this bill or within the divorce laws. As every attorney, judge, police officer, and sooner or later almost every battered woman knows, there is a very serious deficiency in the state of our laws with respect to restraining orders. They just have no teeth -- or, at least, their bite is so far removed that it just does not work as any deterrent. As you know, if a restraining order is obtained, but the guy doesn't obey it, he goes on and beats the woman up anyway, then she has to come back in

Atch. 4

and file what is essentially a whole 'nother case, the guy has to be served with more legal papers, you get a trial set -- here in Topeka, that is oftentimes as long as a month away -- you have to have that trial and "convict" this guy of breaking the restraining order. Then the judge begins to decide what punishment he should get. It's much to little -- much to late. At the time the guy gets mad, he doesn't feel that he has anything at stake.

What this bill does is -- if he has beaten her once -- then the judge can hurt him where it really hurts, in his pocket. The guy has to put up a bond of up to \$5,000.00 as a guarantee that he is going to remember the restraining order. The money is already out of his pocket. If he behaves, then he gets it back. If he doesn't, he already knows what, at least, part of his punishment is going to be -- he is going to lose his money! I very strongly support this.

Now, turning to the bill as a whole, and as I said before, I work with a lot of these abuse cases and I support this bill and I like it because what it does is to provide me and my clients with some additional and stronger tools to work on the problem of family abuse, within the civil side of the court. I think that this is where the courts can come into play -- in protecting the woman and giving her a chance to choose her directions thereafter. I don't think the way to get at domestic abuse is by passing or making any additional criminal laws.

Domestic abuse has that special characteristic, it's just that, it's domestic -- it involves and comes out of the family. If you take that problem and start trying to stuff it into a criminal court -- well, you know that just doesn't work because you've got the district attorney or the county attorney's office involved, in a lot of cases you've got defense attorneys to provide for the defendant, you've got jury trials and proof beyond a reasonable doubt, and potentially prison involved. There is not a district attorney in the state, I'm sure, that wouldn't tell you that he or she just hates this kind of a case. 8 or 9 times out of 10 the woman won't testify when it gets down to trial, and juries just "know" better than to convict.

What this bill does is to provide a civil alternative that allows the court to protect an abused woman, without putting both of them on trial.

As I have said, I am an attorney who is faced with these types of cases every week and as we have suggested amending

this bill, I wholeheartedly support it and urge its passage. I have desperately needed this tool to help my clients in particularly two types of cases.

The first is the married woman who is faced with an abuse problem but who does not want to break up her marriage. My only answer to her is divorce or a separate maintenance action. But what she needs and wants is some immediate measure to guarantee her safety and the safety of her children while she searches for other professional community services for her and her husband. A separate maintenance action is really not appropriate because it is a rather bulky procedure which contemplates a substantial period of separation. A separate maintenance action involves all of the same steps as a divorce -- the big difference being in that at the end of the trial the judge grants a decree of separate maintenance rather than a decree of divorce. What this bill would let me do for my clients in this type of a case is to, within 10 days, have a hearing on what has happened, get some separate housing straightened out, provide for some temporary support or some child support, and maybe get a restraining order with the teeth in it. We are not going to be messing around at this stage with taxes, who is going to get title to the real estate, and who is going to be responsible for what bills. If the family gets back together again shortly -- then that's great! This bill has allowed us to take action without forcing a break up of that family. If it doesn't work out, then is when we can go on with a divorce or what ever. What this bill does is give us a means of getting these parties apart and getting that abuse stopped.

At this point I have to say that at this time what too often happens is that the woman has no other alternative and so she files for divorce and the court and the attorneys and a lot of people are moving in one direction, and then low and behold she calls up and says, "We've been able to straighten things out -- please dismiss the divorce." That ends up wasting my time, the court's time, other counsel's time -- the whole judicial system is plagued by this problem as I'm sure my fellow attorneys on this Committee can attest to. This bill would short circuit a lot of that because we'll be dealing with the problem that needs to be dealt with, and not trying to fit it into a procedure that is not appropriate.

The other case, the other type of client this bill is going to help me deal with is the unmarried couple who live together

and get all their property and money and households all tangled up together. You and I both know that this is happening -- more and more -- and nothing is going to turn that around. When this woman's boyfriend starts bouncing her around their apartment, she has got only a couple of choices. One is to start a criminal case -- and again, this situation no more belongs in the criminal courts than the married abuse case, because you are really dealing with the same thing. Her other choice is to start claiming and making up a common law marriage so that she can come down to my office and file for divorce, and then we have the same thing I just talked about coming around all over again.

As we suggest amending it, this bill will take care of this type of case and let us deal with the real problem, without making up some new ones.

My final point, and another reason I wholeheartedly support this bill is that I think it is going to help the police officer who answers the domestic disturbance call by giving him some more room to work with. Right now when the officer comes on this type of a situation -- and again now I'm talking primarily about the living together kind of case -- since the parties are not married and the officer knows divorce is not an answer, the only tool he has is to arrest on a criminal charge. As I've already said, this kind of a case does not really belong in the criminal courts, but the officer knows that the only way this woman is going to get any protection is if he starts a criminal case. As you can see the officer is in a real bind because he knows there is no real answer. I suggest that this bill is going to give that woman some where else to turn.

Well, again I support this bill and I urge you to pass it. It's something we've needed for a long time. Thank you.

*John House, attorney at law
BED, University of Kansas, 1972, JD, University of Kansas, 1976
admitted to the bar, Kansas, April, 1977
Family and Juvenile Law Specialist, Legal Aid Society of Topeka,
Inc., 1977 -

HOUSE BILL 2068

By Representative Wilkin

Additions and corrections suggested by the Legal Aid Society of Topeka, Inc.:

Line:

- 0035 strike the last word "or", strike the semi-colon and add a period
- 0036 strike all of this line
thru
0042 ~~strike all of this line~~
- 0046 strike the words "or other"
- 0047 strike the period and add: ", or persons not related but sharing a common residence."
- 0081 strike semi-colon and add: "to the plaintiff;"
- 0083 strike semi-colon and add: "of the parties;"
- 0176 strike the period and "When a" and add: ", and the court may further hold the defendant in contempt and punish him or her in accordance with law. When a"
- 0185 add:
"Sec. 13 Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable."

STATEMENT: supporting HB 2068

TO: Judiciary Committee, House of Representatives
January 22, 1979

BY: Beata Weiss, member of Adorers of the Most Precious Blood of Christ
Wichita, Ks., a Roman Catholic Religious Order

Mr. Chairman and Representatives:

I am Beata Weiss. My ministry is social justice, with emphases "to identify with women in society, to work toward liberation in solidarity with all who are striving to promote the true dignity of women." (General Assembly Acts, Rome, 1975) My community's statement is supported by six papal and two episcopal documents preceding 1975, and more later. My involvements are local, state, national, and international.

I have been active with the Topeka Battered Women's Task Force since its inception, May, 1976. I served on its Advisory Committee for a grant from Arts and Humanities. I participate in the training of advocates, soliciting models for shelter, and educating the public. We aid and support women with food, shelter, finances, and counseling. But immediate safety for the abused family members sometimes seems insurmountable.

Some examples to illustrate. One woman and her four year old daughter slept on the neighbor's floor during the night while her husband sold their furniture before threstening the neighbor. (Police said it was joint property and could do nothing.) One woman waited four days to return home for clothing before we could find protection to accompany her. Another woman, renting from her mother, while running for safety for herself and her children, had to contend with the anger of her 11, 9, and 7 year olds because they had to leave their home. One woman stood outside her apartment, begging the two police present to protect and accompany her inside to get shoes and coat so that she could go to work. In each of these cases, we are told that police need more legal authorization to evict the batterer, provide protection to the abused, or feel safe themselves.

I think that HB 2068 attempts to offer relief to the abused, protection from the abuser, channels enabling the cessation of destruction and family violence.

Thank you.

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TESTIMONY OF LARRY R. RUTE
CONCERNING HOUSE BILL NO. 2068

Legal Aid Society of Topeka, Inc.
112 West 6th Street - 5th Floor
Topeka, Kansas 66603

Phone: (913) 354-8531

My name is Larry R. Rute. I am the director of the Legal Aid Society of Topeka. In the course of our representation of low income clients, we estimate that we represent some 1,000 people per year with respect to domestic and juvenile law problems. In recent years, our office has noted an upsurge of domestic abuse cases. In many such matters we have discovered that the Kansas law presently affords little or no recourse in combatting such a severe domestic problem.

Contrary to the view that many of us hold dear, the American home can be found to be a terrifying battle ground. Those of us who are intimately involved in the day to day workings of our legal system, lawyers, judges, police officers and the like, have already discovered that the common household is the scene of our nation's most insidious form of repression and physical cruelty--the battered woman.

In representing literally hundreds of women and children in Topeka domestic cases, the Legal Aid Society of Topeka has interviewed countless women who have been punched, slapped, kicked, thrown across rooms and down stairs, struck with brooms, kitchen utensils, and belts, threatened with knives, scissors, and guns. These same women ultimately suffer injuries ranging from bruises, lacerations, to fractured jaws, broken bones, concussions, and miscarriages. In a period of only three months, between January and March of 1978, Topeka Legal Aid Society interviewed some 39 battered women.

Atch. 6

The plight of battered women in Topeka is not just an isolated phenomenon. In fact, abuse of women is among the most common place of serious crimes. In any given year, available statistics suggest that there may be between one and 28 million women nationally who have been beaten by the man they live with. The United States Department of Labor reports that approximately 40% of American marriages alone will experience at least one incident of violence during the period of matrimonial relationship. More over, FBI figures show that one fourth of all murders in the United States occur within the family, and half of these are husband-wife killings. Of even greater concern is the evidence that women beating is a self perpetuating phenomenon. Research now indicates that at least 10-20% of the children who witness parental violence eventually become batterers when they themselves reach adulthood.

Unfortunately, accurate statistics are not available in many instances as women do not report their plight and thereby suffer in silence. We do know that spouse beating is not the exclusive domain of the poor. Family violence clearly appears to cut across race, class and background lines. A special task force in Montgomery County, Maryland, one of the nation's wealthiest areas, reported an estimated 650 incidents of assault by husbands alone within a one year period.

The drain on community medical facilities, social and governmental agencies, law enforcement departments, juvenile courts and upon the very structure of the family itself, is enourmous. Only in recent years have concerned and committed women, lawyers, physicians, social workers, ex-battered spouses, and legislators joined hands.

Why is it that women endure, sometimes for years, such terror and degradation. In large part it is because they feel they have no other choice. Fear itself plays a significant role in explaining the battered woman syndrome. Women are simply frightened into silence or submission, many of them feeling that the way to avoid punishment and/or death is to placate the man they live with. Assaulted women have been convinced that their ordeal is freakish and shameful--or their own fault. Many police officers and judges alike assume that the woman provokes the man and, in report after report, it remains the responsibility of the battered woman to convince the police officer or the judge that she is truly a victim. If battered women find themselves in a psychological or cultural bind, with a law enforcement and judicial system that does not work for them, it is only part of the problem. Their economic dependence on the very man who abuses them usually keeps them in their place. Even the many women who are employed outside the home are keenly aware of their limited earning power. But they know that, upon separation, they will not only get the children but will bear full financial responsibility for them.

In this state as in other states, it is against the law to physically attack another person, but, if the assailant is married to his victim or, the victim is living with the assailant, the law is unlikely to be enforced. Although, the "domestic complaints" appear to constitute the majority of all calls for police assistance, police policy generally dictates that these calls result in few if any arrests. Police simply do not treat such calls as high priority items. In some localities, for example, a woman who calls the police is advised to remove herself from the home or to report to the station house the next business day if the assailant is her husband or boyfriend. In many localities throughout the state the police

are reluctant to assemble evidence so will avoid arrest in all situations where there has been an assault between individuals living together. For example, the Shawnee County District Attorney's office, until recently, had instituted a policy wherein the prosecutor required a "three day cooling off period" before the District Attorney's office would prosecute such an assault complaint.

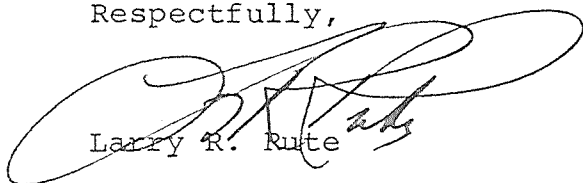
In the civil sector, married women who have been assaulted are often advised to seek a restraining order issued by the District Court which subjects the husband to contempt of Court charges if he violates the order by attacking his wife again. The process of obtaining such an order can be time consuming, expensive, and humiliating. Even after the woman has survived the red tape and attorney's fees involved in getting such an order, and having it served upon her husband, a woman is likely to find that her efforts were futile when she seeks to have it enforced. If she calls the police, she may be told to call her attorney, and even if she succeeds in once again serving her husband and hauling him before a judge, she is unlikely to obtain relief for judges rarely imprison a man for wife beating.

For the unmarried woman, the problem is even more severe. When an unmarried woman attempts to bring charges against the man she lives with, she may well be told that her only recourse is to obtain a restraining order through a divorce action. For such a woman (assuming that the elements for a valid common law marriage are not present), there is simply no legal remedy, short of filing an assault charge subject to all or more of the obstacles outlined above.

At every turn, the abused woman must confront a legal system that presently is indifferent--if not downright hostile--to her need for protection. For this reason, I today am lending my

support to representatives Wilkins House Bill No. 2068. It is this bill, as further described by Mr. House, that provides all women in this state an honest simple remedy to this urgent social problem. Thank you for your consideration of my testimony.

Respectfully,



Larry R. Rute

TO: The House Judiciary Committee

FROM: Pamela Johnston, Women's Transitional Care Services, Inc.
P.O. Box 633, Lawrence, Kansas 66044

RE: House Bill No. 2068

DATE: January 22, 1979

Women's Transitional Care Services (WTCS) is critically aware of the need for legislation which would facilitate community efforts to protect victims of family violence. Many of these needs are addressed by H. 2068 concerning protection from abuse.

WTCS operates a shelter house for battered women and their dependent children. Residents of our shelter are usually women who have been physically assaulted by the man with whom they reside, or they are in danger of physical abuse. Many are in danger of being killed, and guns are often involved in these situations.

It is critical that victims of family violence have easy access to the courts for protection. Following are a few of the problems encountered by our clients and addressed by H. 2068.

--A woman is assaulted or threatened on Friday night and must wait until Monday to seek protection through the courts (addressed by Sec. 8).

--She stays in an abusive or dangerous situation because she has no money in her own name or has no place to go (addressed by Sec. 6 (2) and (3)).

--She cannot get the abusing husband to leave the home (addressed by Sec. 6 (5)).

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page 2, re: H. 2068, WTCS, Inc.

--Violent husbands routinely ignore restraining orders (addressed by Sec. 11, the Peace bond). For instances in which a spouse and/or children have been threatened by a gun, I would recommend even more stringent sanctions against individuals breaking restraining orders than are provided by H. 2068.

Respectfully,



Pamela C. Johnston
President
Lawrence Women's Transitional Care Services, Inc.

THE KANSAS WOMEN'S POLITICAL CAUCUS
TESTIMONY ON HOUSE BILL 2068
BEFORE
THE HOUSE JUDICIARY COMMITTEE

*

JANUARY 22, 1979

My name is Judy Teusink and I am the registered lobbyist for the Kansas Women's Political Caucus. I am speaking in favor of House Bill 2068.

As stated in our state by-laws, The Kansas Women's Political Caucus aspires to reach out to all who see the need to rearrange priorities in our society... and to those who are willing to direct their efforts toward correcting injustices that diminish the dignity of every human being. I think it is becoming increasingly fashionable to label many of these injustices as "women's issues" somehow divesting the labeler then of any responsibility for or participation in solutions. The often repeated phrase that if you're not part of the solution, then you're part of the problem seems applicable.

The problem that House Bill 2068 addresses is as old as the Chinese custom of foot binding and as contemporary as the largely unchallenged addage that a man's home is his castle. While the Caucus and many other groups are addressing the deeply ingrained stereotypes and role models that perpetuate the battering syndrome, there are people right now who need more immediate remedies. The KWPC urges passage of this bill that provides to some a speedier means of getting protection and the financial clout behind the restraining order, of the peace bond.

We further recommend that there be an amendment to the bill allocating monies to provide shelter and counseling for abuse victims. Any person dealing directly with this problem supports the need for such shelters, whether that person is the police officer on the scene, the attorney providing counsel or the friend who helps out at the risk of violence to herself and family.

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