

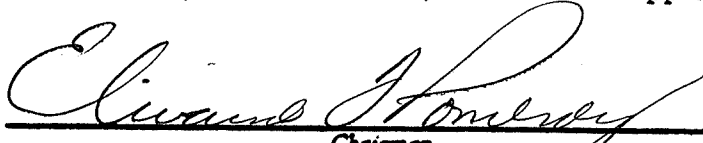
MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

Held in Room 519 S, at the Statehouse at 10:00 a. m./p. m., on March 27, 1979

All members were present except: Senators Gaines and Simpson

The next meeting of the Committee will be held at 10:00 a. m./p. m., on March 28, 1979

~~These minutes of the meeting held on xx 19. xx were considered, corrected and approved.~~



Chairman

The conferees appearing before the Committee were:

- Judy Teusink - Kansas Women's Political Caucus
- Joan Wagnon - Young Women's Christian Association
- Pamela Johnston - Women's Transitional Care
- Larry R. Rute - Topeka Legal Aid Society
- Ken Gorman - Topeka Police Department
- Robert Tilton - Kansas Sheriffs' Association
- Elizabeth Erickson - Battered Women's Task Force of Topeka

Staff present:

- Art Griggs - Revisor of Statutes
- Jerry Stephens - Legislative Research Department
- Wayne Morris - Legislative Research Department

House Bill No. 2619

Procedures to aid abused persons. Judy Teusink testified in support of the bill. She reminded the committee that the committee had passed Senate Bill 579 during the 1978 Session, which was a very similar bill. She explained the bill is basically for persons who find themselves in a battered position in the home. Such persons presently do not have access to the court system on the emergency basis that the bill provides.

Joan Wagnon testified in support of the bill; a copy of her statement is attached. Committee discussion with her followed.

Elizabeth Erickson spoke in support of the bill; a copy of her statement is attached.

Pamela Johnston testified in support of the bill; her statement is attached. Committee discussion with her followed.

Larry Rute testified in support of the bill; a copy of his statement is attached. He stated that the emergency relief provided for in the bill/^{is} presently practically unavailable. Considerable committee discussion with him followed.

Ken Gorman, of the Topeka Police Department, testified in support of the bill. He stated that in his seven years with the department he has worked in hundreds of domestic situations, and most of those have involved some types of battery. Committee discussion with him followed.

continued -

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or

Minutes of the Senate Committee on Judiciary March 27, 1979.

HB 2619

Bob Tilton testified in support of the bill. He stated the Kansas Sheriffs' Association is in full support of the changes provided for in the bill.

The meeting adjourned.

These minutes were read and approved
by the committee on 4-25-79.

3-27-79

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Jean Wagon	225 W 12 th	Ywca
Elizabeth Zwick	225 W. 12 th	Battered Women's Task Force of Topeka
Catherine P. Freedy	225 W 12 th	Battered Women Task Force
Dianne Hicks	225 W 12 th	Battered Women Task Force
Jerry R. Rusk	117 W 6 th , Topeka	Topeka Legal Aid Society
Dottie Hinder	117 Woodlawn	KWPC
Family Johnson	1311 Prairie Ave ^{Lawrence}	Women's Transitional Care
Ken Thomas	Topeka	Topeka Police Dept
Judy Teusink	Topeka	KWPC
Bob Scott	Topeka	NASW
Beth Weiss	Topeka	
Paul Johnson	KLS	Topeka
Marilyn Bracht	LWVK	Lawrence
Robert Sutton	Kans Sheriff Assoc	Topeka
Kathleen Sedgwick	Topeka	KTLA
Charles V. Hamm	SOB	SRS
Mary L. Slaybaugh	SOB	SRS
Rosmary E. Katz	1631 W 9 th Topeka	
Dorothy Werth	1228 Miller Dr Junction City	
Donna Selvin	Rt 3 Box 24 Junction City	
Marti Miller	1201 Miller Dr. Junction City	
Jeanne Kinking	825 Crestview Junction City	
Steve Treaster	1029 Delaware, law. Sen. Bureau	
Max More	Topeka	KODAA



3-27-79

Young Women's Christian Association

225 W. 12th St., Topeka, Kansas 66612
913-233-1750

STATEMENT TO: Senate Judiciary Committee, March 27, 1979

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

SUPPORTING: H.B 2619, an act relating to civil actions and protection from abuse.

Mr. Chairman and Senators:

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 am also serving as administrator for the grant which we now have from the Governor's Committee on Criminal Administration.

Approximately a year ago I gave testimony before this committee 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. 2619 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. 2619 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 helpful feature is the section on criminal trespass. So often in our experience, the temporary restraining orders women have obtained were useless since no arrests could be made when they were violated. Under provisions amended into this bill, spouses who violate the restraining order can now be arrested. This provision should enhance a law enforcement officer's ability to correct certain situations.



Let me give you some specific instances from cases during the past year where H.B. 2619 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. 2619 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?" This bill 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 wife-battering 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. 2619 would provide a civil remedy for a very wide-spread social problem. It would increase our options in helping battered women. Our experience in showing the film indicates wide-spread 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. 2619.

3-27-79

Statement to: Judiciary Committee, Kansas Senate
March 1979

By: Elizabeth Erickson, Project Coordinator for the Battered Women's Task Force
of Topeka, Kansas.

Supporting: Amended House Bill 2619 concerning abuse of adults and children
by certain adults.

Mr. Chairman and Representatives:

I am Elizabeth Erickson, 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 Task Force 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). 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 208 women and 268 children. The needs of these women are great. Eighty percent of the women are unemployed when they request services, so they are often financially dependent on their husbands. Eighty percent of the women also have children with them. We have assisted women with as many as seven. As you can see, battered women come to us with little or no financial support, the financial and emotional burden of young children, and the desperate need to find safety and shelter.

Due to the increasing demand for services for battered women, a state-wide coalition has formed, linking eleven 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 2619 is an initial step to provide additional protection to battered women in this state.

Lawrence Women's Transitional
Care Services, Inc.

Testimony before the Senate Judiciary
Committee supporting H.B.2619,
an Act concerning Abuse of Adults
and Children

March 27, 1979

Women's Transitional Care Services operates a shelter house and counseling service for battered women. Para-professional volunteer counselors provide emotional support, practical assistance, and referral for victims of domestic violence.

House Bill 2619 provides civil remedies not currently available to victims of spouse assault. Presently, a woman who has been beaten by her husband cannot get any help from the courts without first filing for divorce. When she flees her home in danger of her life, she faces critical dilemmas that may seem worse than the violence she wishes to escape. As an example, let me relate a fairly typical case, with names and details changed to protect confidentiality.

Mrs. Smith was referred to WTCS by the police. Her husband had beaten her severely for the third time in their two-year marriage. She was terrified of leaving: with two small children (one just an infant), she had no means of supporting herself and children; her husband threatened to fight for custody of the children if she left, on the grounds that she been in a mental institution earlier in her life; and he would not provide any financial support for her or her children if she left. The only way Mrs. Smith could insure custody of her children and financial support was to file for divorce.

This woman believed in the sanctity of the family and would consider divorce only after all other means failed. She loved her husband and felt that he needed counseling. She certainly did not want to stay in the home, endangering herself and her children. She wanted to spend time apart from him, to contemplate and decide for herself what was best for her and her children, and hopefully to allow him to think things through and seek counseling in the meantime.

H.B. 2619 would provide civil relief for Mrs. Smith and others like her, who wish to hold their families together but for a time at least to live apart from a violent spouse. Section 5 of the bill, providing emergency access to civil relief, answers the critical situation in which a woman is beaten on Friday night and may be killed if she waits until Monday for protective orders.

Presently the restraining order is the only legal protection an abused spouse has for keeping the assailant away from her. The restraining order presently has no teeth, and is often ignored by the assailant. Under H.B. 2619, breaking a restraining order would be criminal trespass and thus strengthen one of the few legal weapons the battered spouse has.

Domestic violence has been popularly viewed as a cyclical problem, as old as the so-called war between the sexes, and that nothing much can be done about it. Those of us working with battered women, all across the country, are learning that it is a solvable problem, that the women who flee to our shelters want to live without fear and danger, and that our clients emerge as healthy, self-directed individuals able to free themselves from lives of terror and abuse in spite of legal and economic obstacles. Please help us put an end to violence in the American home, and support H.B. 2619.

Pamela Johnston
WTCS, Inc.

TESTIMONY OF LARRY R. RUTE
BEFORE THE SENATE JUDICIARY COMMITTEE
CONCERNING HOUSE BILL NO. 2619
AS AMENDED BY THE HOUSE COMMITTEE ON
FEDERAL AND STATE AFFAIRS

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 600 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 incidious 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, or an average of 160 batterings per year. The

Topeka Police Department field officers report indicates that within the Topeka city limits alone, some 2,599 "family troubles" were reported for the year 1978.

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. No other statistics so graphically establishes the fact that battering can and does lead directly to murder.

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 to combat this problem.

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 House Bill No. 2619 as amended. It is this bill that provides many women in this state an honest simple remedy to an urgent social problem. Thank you for your consideration of my testimony.

Respectfully submitted,

Larry R. Rute