

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Bob Frey at
Chairperson

3:30 ~~am~~/p.m. on February 16, 1983 in room 526-S of the Capitol.

All members were present except:

Representatives Erne and Justice were excused.

Committee staff present:

Mark Burghart, Legislative Research Department
Mike Heim, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Nedra Spingler, Secretary

Conferees appearing before the committee:

Representative Ruth Luzzati
Anne Rowland, Governor's Task Force on Domestic Violence
Elizabeth Taylor, Kansas Association on Domestic Violence Programs

HB 2206 - An act relating to remedies for certain abused persons.

A hearing was held on the bill. Representative Luzzati said it was the first of a package recommended by the Governor's Task Force on Domestic Violence. The bill would place the elderly and cohabitating persons under provisions of the protection from abuse act and would identify these persons as separate problems. New language on page 3 (c) protects these persons from being evicted permanently from the place of abode.

Anne Rowland, former staff person to the Governor's Task Force, said a number of states have the same provisions as HB 2206. The definition in the bill for unmarried cohabitant was added because this abuse occurs mainly in these relationships.

Elizabeth Taylor, Kansas Association on Domestic Violence Programs, gave a statement in support of HB 2206 (Attachment No.1). In additional remarks, she said most of the housed women served by the Topeka Battered Women's Shelter come from cohabitative relationships. A member questioned if the conjugal relationship in the definition was necessary and suggested the law should protect all people living together whether conjugal or not. Ms. Taylor had no objection to this suggestion. Ms. Rowland said the Governor's Task Force discussed this possibility, but believed applying provisions to all persons would be too broad. Potential constitutional questions could arise such as property rights. Ms. Rowland said the present law is just becoming known as a tool. Where it has been used, it has been successful in helping people. Ms. Taylor said the Topeka Shelter uses it successfully.

The Chairman noted Joan Hamilton, Shawnee County District Attorney's Office, supported the bill.

HB 2234 - An act relating to jury trials.

Representative Peterson, sponsor, stated the bill was requested by judges in different jurisdictions who have problems with the jury trial demand being withdrawn. The major change in the law is in the new language in lines 45 and 46. Provisions serve notice that a jury trial should be requested when the pleading is filed or else it may not be available.

HB 2163 - An act relating to traffic laws.

The Chairman appointed Representatives Patrick, Wunsch, and Ediger to serve on a subcommittee to recommend action on this bill, the subcommittee to report on February 24.

Insurance Laws

The Chairman reported that a meeting of lawmakers, the Insurance Department, Kansas Trial Lawyers Association, and the Kansas Bar Association would be held February 17 to work out compromises on insurance laws.

The Chairman adjourned the meeting at 4:25 p.m.



KADVP

Kansas Association ATTACHMENT # 1
Domestic Violence Programs

February 16, 1983

TESTIMONY ON HOUSE BILL 2206

Dear House Judiciary Committee Members:

We would like to support the changes in the Protection from Abuse Act as made in H.B. 2206. The addition of protection of the elderly person under this bill is very important to KADVP since we serve women of all ages who are abused. Currently under this Protection from Abuse Act, the elderly are only covered if the abuser is related by blood or marriage. There seems to be some legal question, however, as to how far that marriage requirement extends. It is a point of legal question as to whether or not it extends to include in-laws. Today society encourages us to care for our elderly relatives. With the economy as it is, often times the elderly will move in with children rather than in to a nursing facility. Thus, we see that there are potential abusers in the household who are not covered under the current Protection from Abuse Statute. For instance, last year in the Topeka area a woman of age 60 sought our help after being beaten over a period of time by her son-in-law. She was told that she would not be covered except under the battery statutes. This woman had little actual relief, however, since she had very limited income and was virtually dependant on her family. We are seeing more elderly women in this position now than we have in earlier days and we would like to see them protected by the elements of relief available in the Protection from Abuse Act.

We would also support the inclusion of cohabitating persons under the act. We do not support the lifting of moral standards nor decreasing the importance of the institution of marriage; but this should not be a moral question that is legislated. Cohabitating should not exempt a person from protection under the law from abuse.

Again the question may be raised that there are other avenues of relief such as those available under a charge of battery. The relief provided for by the Protection from Abuse Act is much different and more closely meets the needs of the person who is abused in the home, regardless of marital status. The immediacy of relief is the key difference between relief available under the different statutes.

From those domestic violence agencies who reported in 1982, over 300 of the women housed across Kansas were cohabitating. Those agencies reporting represented only 62% of the agencies serving victims of domestic violence. This would indicate that approximately

425 victims of domestic violence were unmarried cohabitants.
We feel that these individuals should be afforded the
protection available under H.B. 2206.

Thank you for your consideration of this legislation.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth E. Taylor". The signature is fluid and elegant, with a prominent initial 'E'.

Elizabeth E. Taylor
Legislative Consultant
for KADVP