

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

The meeting was called to order by Senator Elwaine F. Pomeroy at
Chairperson

10:00 a.m. ~~pm~~ on March 22, 1983 in room 514-S of the Capitol.

All members were present ~~except~~ : Senators Pomeroy, Winter, Burke, Feleciano, Gaar,
Gaines, Hein, Hess, Mulich, Steineger and Werts.

Committee staff present: Mary Torrence, Revisor of Statutes
Mike Heim, Legislative Research Department
Mark Burghart, Legislative Research Department

Conferees appearing before the committee:

Representative Ruth Luzzati
Elizabeth Taylor, Kansas Association of Domestic Violence Programs
Kansas Association for Education of Young
Barbara Reinert, Kansas Women's Political Caucus

House Bill 2206 - Protection from Abuse Act amendment.

Representative Ruth Luzzati testified in support of the bill, and she explained this bill was introduced at her request by the House Judiciary Committee. A copy of her remarks is attached (See Attachment #1). She explained the bill, as introduced, contained recommended changes to the Protection From Abuse Act. The House committee amended the bill to extend further the coverage to all persons who reside together; she endorses their amendment. Committee discussion with her followed.

Elizabeth Taylor testified in support of the bill. She stated the law should include in-laws, and the elderly who move in with children. They are seeing more elderly women in this position than they did in the early days. Considerable committee discussion was held concerning the time allowed for a person to go in and get her belongings out of the house. A committee member suggested amending the bill to provide that where the defendant is the owner of the house, and is not married to the plaintiff, the court cannot order exclusive possession of the residence, but the court can make all other orders provided in the law and further order that law enforcement officer to accompany her to gather her goods. Elizabeth Taylor was in support of that suggestion.

Barbara Reinert stated her organization concurs with Elizabeth Taylor's testimony, and they also agree with the committee member's suggestion to allow the person time to gather her belongings.

Senate Bill 407 - Redistricting of judicial districts and elimination of judgeship.

The chairman reviewed House Bill 2114 and the sections that relate to this bill. Following committee discussion, Senator Gaines moved to amend the bill to provide for a new Thirty-First Judicial District, and that court will also be held in Chanute and Erie; Senator Werts seconded the motion, and the motion carried. Senator Gaines moved to amend the bill to provide the effective date be July 1, 1983; Senator Hess seconded the motion, and the motion carried. Senator Hess moved to amend the bill to provide that in the event of a death or removal of the magistrate judge in Cherokee County, the position be eliminated; Senator Gaines seconded the motion. Following committee discussion, the motion carried. Following further committee discussion, Senator Winter moved to report the bill favorably as amended; Senator Hess seconded the motion, and the motion carried. Senator Hess then discussed introduction of a bill to provide for aligning Labette, Montgomery and Chatauqua Counties as requested by Judge Sell. Committee discussion followed. No motion was made.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,
room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 22, 1983

House Bill 2033 - Notice of taking of deposition.

The chairman pointed out the proposed amendments from the court reporters. Senator Hein moved to report the bill favorably; Senator Winter seconded the motion. Senator Winter made a substitute motion to amend the bill on page 5, line 185 and 164, by changing registered or certified to first class; Senator Hein seconded the motion, and the motion carried. Senator Gaar moved to amend the bill to provide the changes in transcripts made on a standard form be approved by rule of the supreme court; Senator Mulich seconded the motion, and the motion carried. Senator Hess moved to report the bill favorably as amended; Senator Winter seconded the motion, and the motion carried.

House Bill 2009 - Intimidation of witnesses and victims-civil and criminal matters.

The chairman reviewed the bill. Senator Hein moved to amend the bill by striking New Section 4 and renumbering new sections; Senator Winter seconded the motion, and the motion carried. Senator Mulich moved to amend the bill in line 94 by striking "credible heresay or"; Senator Winter seconded the motion, and the motion carried. Senator Hein moved to amend the bill in line 149 by striking "On and after the effective date of this act"; Senator Mulich seconded the motion, and the motion carried. Senator Hess moved to amend the bill to apply also to municipal courts; Senator Werts seconded the motion, and the motion carried. Following further committee discussion, Senator Hein moved to report the bill favorably as amended; Senator Werts seconded the motion, and the motion carried.

House Bill 2112 - Place of trial for civil actions.

The chairman reviewed the bill and pointed out the recommendation by Judicial Council relating to the place of the trial. Following committee discussion, Senator Winter moved to report the bill favorably; Senator Steineger seconded the motion. Following further discussion, Senator Winter moved to amend the bill by removing the word "however" in line 27; Senator Mulich seconded the motion, and the motion carried. Senator Winter moved to report the bill favorable as amended; Senator Feleciano seconded the motion, and the motion carried.

The meeting adjourned.

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Mary Ann Nielsen	1307 No Armour, Wichita	Wichita Junior League
Joni Jurnier	234 N. Terrace Wichita	" " "
Heather L. Hull	6913 Stonegate, Wichita 67206	" " "
Barb Reinert	Topeka	Ks. Women's Polit. Council
Harry DeSpaw	2112 N. 83 K.C. KS	
David Collins	5712 Parkview	YWCA Women
Kelen Cochran	8436 E. Lincoln Wichita, KS. 67207	YWCA Women's Crisis Center
Patty Johnson	8410 Stoneridge Wichita	Gr. League of Wichita
Larry Hums	Lawrence	Sen. Steingeger's Staff
Elizabeth E. Taylor	Topeka	KAPVP + KAEYC
Gregg Miller	Law	Steingeger
John Peth	Topeka	Times
Kathleen Sedelius	Topeka	KTLA

RUTH LUZZATI
REPRESENTATIVE EIGHTY-FOURTH DISTRICT
SEDGWICK COUNTY
5203 PLAZA LANE
WICHITA, KANSAS 67208



TOPEKA

HOUSE OF
REPRESENTATIVES

March 21, 1983

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER WAYS AND MEANS
MEMBER LEGISLATIVE POST AUDIT

TO: Members of the Senate Judiciary Committee
FROM: Representative Ruth Luzzati
RE: HB 2206

Mr. Chairman, and Members of the Committee:

I would greatly appreciate your favorable action on House Bill 2206, a bill the House Judiciary Committee introduced at my request.

Last August the Governor's Task Force on Domestic Violence, on which I served, submitted its final report and recommendations to the Governor. In addition to addressing the growing problem of domestic violence through prevention, mediation, and better education of law enforcement personnel, we on the Task Force made specific recommendations for legislation. This bill was one.

After reviewing the statutes, the Task Force summarized its findings as follows:

Modification of the Protection from Abuse Act.

The Committee examined the present Protection from Abuse Act (K.S.A. 60-3101 to 60-3111) and found that its remedial provisions were ample to protect those within its purview. However, the statute strictly limits the relation of the abuser and the abused. There must be a tie by blood or by marriage and legal access to the same residence. This means that many abused parties cannot use the statute to protect themselves because they do not meet this relationship requirement. This can be a harmful restriction given the realities of today's lifestyles. Not only those living together without benefit of marriage, but elderly persons with caretakers may be in need of relief from abuse.

Atch. 1

The Committee recognizes that troublesome issues can arise if Protection from Abuse is made applicable to those unrelated by blood or marriage. Ownership of property is prime among these. Protection from Abuse enables the judge to give possession of the residence to either the abuser or the victim. Often the equities mandate that the victim be given exclusive possession in order to have time to adjust to a changed situation without fear of further abuse.

If the property rights reside solely in the abuser, this could be deemed a denial of due process. In order to avert this claim, the Committee recommends that the Protection from Abuse Act (K.S.A. 60-3101 to 60-3111) be extended to cover unmarried cohabitants with a proviso that exclusive possession of the residence in such cases be limited to ten (10) days when the abuser is the owner of the property or is primarily responsible for leasing it. This would give the victim an opportunity to make other arrangements without unduly depriving the other party of property rights. Such a provision recognizes the need for protection for the victim without placing an undue burden on the abuser. It also recognizes the need to deal with domestic violence in a consistent manner. Violence between intimates should not be ignored because the abuser and abused are not legally related. The physical and psychological impact is still destructive and all victims should be protected under the law.

The Committee also recommends that the Protection from Abuse Act, including this new provision, be made to apply specifically to elderly persons. The elderly are often in need of care and have limited choices. In order to prevent anyone from taking advantage of this situation, the elderly should also be able to use Protection from Abuse to protect themselves when necessary.

HB 2206, as introduced, contained these recommended changes to the Protection from Abuse Act. The House Committee amended the bill to extend further the coverage to all persons who reside together. I endorse their amendment.

Thank you for your consideration of this bill and for hearing my views today.

Addendum: Members of the Governor's Task Force on Domestic Violence

Dr. Frances Horowitz, Chairman
Vice Chancellor for Research and
Dean of the Graduate School,
University of Kansas.

Judge Herbert Walton
District Court, Johnson County.

Senator Jane Eldredge
Lawrence.

Gregory Waller
Assistant District Attorney,
Sedgwick County.

Mickey De Hook
Chief of Police, Newton.

Roberta Thuston
Homemaker and Civic Volunteer on Area
Agency Board, Coffeyville.

Karen Ferguson
SRS Social Worker, Garden City.

Cindy Enriken
Founder of network of Domestic Violence
Crisis Shelters, Salina.

Representative Ruth Luzzati
Wichita.

Staff: Ann Rowland
Law Student at University of Kansas,
now a Governor's Fellow.