

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Senator Jan Meyers at
Chairperson

10 a.m./~~p.m.~~ on February 24, 1983 in room 526-S of the Capitol.

All members were present except:

senator Roitz, excused

Committee staff present:

Emalene Correll and Norman Furse

Conferees appearing before the committee:

Sylvia Houglanđ, Department on Aging
Dr. Robert Harder, Department of Social and Rehabilitation Services
Darlene Stearns, Consultation of Cooperating Churches in Kansas, Inc.
Elizabeth Sergent, RN, Topeka
Nickie Stein, RN, member KSNA
Keith Landis, Christian Science Committee on Publication for Kansas

Others present: see attached list

SB 251 - investigation of reports of abuse or neglect of adults

Sylvia Houglanđ, Department on Aging, testified in support of SB 251, and distributed testimony stating that this bill provides SRS with clear statutory authority to protect the health and welfare of the elderly. It also provides confidentiality; limited immunity for reporters of abuse; injunctive relief against abusers; and legal authority to investigate. DOA believes that SB 251 provides for an immediate response to what could be life threatening situations. (Attachment #1).

Dr. Robert Harder, SRS, testified in support of SB 251, and distributed testimony stating that this bill is needed to provide legal protection to the social worker who is conducting the investigation; to provide protection from suit to those reporting; and to make it illegal to terminate a person from employment for making a report of abuse or neglect. This bill does not change current statutes requiring report of abuse and neglect in medical facilities. (Attachment #2). Dr. Harder also distributed a graph giving statistics on reports of abuse in medical and non-medical facilities in Kansas. (Attachment #3).

Darlene Stearns, legislative coordinator for the Consultation of Cooperating Churches in Kansas, Inc., testified in support of SB 251, and stated that family members do abuse one another, and these adults deserve the same protection as children.

Elizabeth Sergent, RN, Topeka, testified in support of SB 251, and distributed testimony relating her experiences in a nursing home, and suggesting that the word "solely" in line 92 be deleted. (Attachment #4).

Nickie Stein, RN, Topeka, testified in support of SB 251, and said that this bill would further alert nurses to their responsibility for reporting cases of abuse, and that they have a network of communication so that nurses realize they do have that responsibility.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10 a.m./~~p.m.~~ on February 24, 1983.

Keith Landis, Christian Science Committee on Publication for Kansas, requested that SB 251 be amended by adding a paragraph after line 54, on Page 2, and distributed copies of the proposed amendment to committee members. (Attachment #5).

SB 294 - professional advertising under the healing arts act

Norman Furse, Revisor of Statutes office, suggested a language change was needed in lines 140-141 in SB 294.

Senator Gordon moved that lines 139 through 141 be deleted. Senator Ehrlich seconded the motion and it carried.

Senator Johnston moved that SB 294 be reported favorably, as amended. Senator Morris seconded the motion and it carried.

Senator Hayden moved that the minutes of February 23, 1983, be approved. Senator Gordon seconded the motion and it carried.

The meeting was adjourned.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-24-83

(PLEASE PRINT)

NAME AND ADDRESS

ORGANIZATION

Robert Hagen

SRS

Sylvia Douglass

KDPA

Dorlene Stearns

CCRN

KEITH P LANDIS

CHRISTIAN SENATE COMMITTEE
ON PUBLICATION FOR CANCERS

By Eugene, Rd

—

ETHEL SPAN

JERRY SAULTON

KS MEDICAL SOCIETY

M Chamberland

Sedan, KS

Gary Robbins

KS Optometric ASSN

Nickie Stein

KS St. Nurses' Assn.

Jeanette Livingston

J.F. ^{Living} Reginald's Union APPNRT#

Sister Ellen Richardson

Catholic Church Off - Services to Aging

SENATE BILL 251
TESTIMONY
Kansas Department on Aging

Bill Summary: Provides statutory authority to investigate and report abuse and neglect of non-institutionalized elderly by SRS and to provide protective services.

Bill Provisions:

1. Abuse and Neglect Reporting

- a. Requires SRS to investigate abuse and neglect reports of non-institutionalized elderly within 48 hours.
- b. Requires an evaluation to determine the condition of the adult and whether abuse or neglect is substantiated.
- c. Evaluation must include a determination of whether protective services are needed.
- d. Provides confidentiality for the reporter.
- e. Provides immunity from civil liability for those who report or testify and from having employment terminated.

2. Protective Services Provisions

- a. Provides protective services to adults who consent.
- b. If the Secretary has reason to believe that the adult lacks capacity to consent, shall determine whether a petition for guardian or conservator should be filed.
- c. Provides for application of injunctive relief by SRS against a caretaker to allow protective services if the adult abused or neglected consents.
- d. Authorizes initial review of protective services within 45 days - re-evaluations within 6 months.

Testimony:

The Kansas Department on Aging supports the investigation of adult abuse and neglect for non-institutional elderly and the provision of protective services.

SRS has indicated in their reports that a total of 1,247 reports of adult abuse and neglect were received. Of these 863, or 69%, were for abuse and neglect of non-institutional adults. 56% involved persons 60 and over. Of these, 48% (414) were confirmed and 32% were potential risks. 70% of all reported cases had some implication for assistance.

Kansas statistics closely parallel reports nationally which show a significant proportion of older abuse occurs outside of institutions. It is estimated that nationally 4% of the non-institutional are unable to protect themselves against abuse, neglect, or exploitation. Kansas data also seems to parallel national data in that the abused are female, with the abuser being a family member or relative. With the growing number of people 75+ and increased survival into 80's, the chances for abuse are increased.

Although we do not have specific information, if this national pattern holds true, they are also the old elderly, 75+, having some physical or mental impairment. In other words, they are the most vulnerable in need of protection. No one knows for sure how many are affected.

SRS currently provides these services under their general authority to protect the health and welfare. SB 251 provides the clear statutory authority to provide these services. The bill would insure that these services would be continued, that those non-institutionalized would continue to be served, and that the reporters have clear authority. It also provides confidentiality, limited immunity for reporters, injunctive relief against abusers, and legal authority to investigate.

SB 251 closely follows the language and provisions in the child abuse reporting statute, the adult abuse reporting statute for institutionalized elderly, and applies those protections to other vulnerable adults.

The bill covers major problem areas from consent to protective services, providing civil immunity to reporters, lack of capacity, and injunctive relief from abusers.

SB 251 provides for an immediate response to what could be life-threatening situations.

2-24-83

State Department of Social and Rehabilitation Services

Senate Bill 251

Short Title of Bill

An act requiring reporting and investigation of abuse and neglect for person residing outside a medical institution.

Background of Bill

The legislature previously passed legislation requiring the reporting of abuse and neglect by professional personnel in medical facilities including nursing homes (K.S.A. 39/1401-1410). This bill requires reporting of abuse and neglect of all adults outside of medical facilities. Both the law and the bill require investigation, provision of services and record keeping by Social and Rehabilitation Services.

Currently Social and Rehabilitation Services has an adult abuse and neglect reporting and investigating system in place based on the powers and duties given to the Secretary of Social and Rehabilitation Services. This bill defines more specifically the right to provide this service. The bill also provides immunity to those reporting, as well as some protection of the records.

Purpose of the Bill

The bill is needed to provide legal protection to the social worker who is currently doing the investigation, to provide protection from suit to those reporting, and makes it illegal to terminate a person from employment for making a report. The bill does not change current statutes requiring report of abuse and neglect in medical facilities.

SRS Recommendation

Social and Rehabilitation Services supports this bill.

Office of the Secretary
February 21, 1983

2-24-83 #3

State of Kansas
 Department of Social and Rehabilitation Services
 Adult Services

Reports/Reporters of Abuse, Neglect, Exploitation

NON-MEDICAL FACILITIES

MEDICAL FACILITIES

Reports:	FY80	FY81	FY82	FY83 (7/82-1/83)	FY80	FY81	FY82	FY83 (7/82-1/83)
Reports Received	704	937	863	454	NA	247	384	189
Reports Confirmed	315	406	414	198	NA	82	126	81
Percentage Confirmed	45%	43%	48%	44%	NA	33%	33%	43%
Reporters:								
Medical Professional/ Personnel*	107(15%)	147(16%)	98(11%)	73(16%)	NA	68(28%)	192(50%)	95(50%)
Family	96(14%)	124(13%)	133(16%)	76(17%)	NA	65(26%)	93(25%)	32(17%)
Neighbor/Friend	106(15%)	132(14%)	183(21%)	100(22%)	NA	11(4%)	22(6%)	17(9%)
SRS Staff	92(13%)	101(11%)	98(12%)	67(15%)	NA	11(4%)	11(3%)	17(9%)
Community Agencies	89(13%)	142(15%)	121(14%)	43(9%)	NA	29(12%)	10(3%)	2(1%)
Self	83(12%)	90(9%)	67(8%)	21(5%)	NA	15(6%)	9(2%)	10(5%)
Law/Legal Profession	30(4%)	56(6%)	44(5%)	24(5%)	NA	2(1%)	8(2%)	1(0%)
Anonymous	29(4%)	33(4%)	29(3%)	19(4%)	NA	18(7%)	17(4%)	14(7%)
Other	72(10%)	112(12%)	89(10%)	31(7%)	NA	28(12%)	22(5%)	1(0%)

Atch. 3

2-24-83 #3

TESTIMONY AT HEARING
ON
THE SENATE BILL-251

THURSDAY, 24 FEB 83
10:00 a.m.

LIZ SERGENT, R.N.

This is an affirmative response to the proposed S B 251.
0090,0091,0092,and 0093, page 3.(b)"No employer shall terminate the employment of, prevent or impair the practice or occupation of or impose any other sanction on any employee solely for the reason that such employee made or caused to be made a report under this act."

The word, " solely," provides the employer with a loophole. This loophole is that the employer can terminate an employee for vague reasons, without ever mentioning the fact that the employee ever reported abuse of a resident to him. This is a fact that I am painfully aware of, because it has happened to me several times in the past ten years.

This may come as a surprise, but there is not rampant abuse in the nursing homes-to my knowledge. I have been a Supervisor on the 3-11 shift and the 11-7 Shift, and have been Director of Nurses in three homes in the city of Topeka. The problems that led me to my present state of unemployment and Blacklisting, are the result of my reporting abuse to the residents in these nursing homes.

To be brief, one of the most specific examples deals with a resident who sustained bruises on both forearms. I was Director of Nurses in the home until August, 1982, and saw the bruises when I made my first rounds on a Monday morning. The resident was quite ill, but did name the person who had helped her up out of her chair, and who was reportedly, rough with her. I reported it to the Administrator, but I honestly believed that her skin was just delicate. The " guilty " employee

denied being rough with the resident or of causing the bruises. The family came, saw the bruises, asked me what happened, I told them, they reported it to S.R.S., and I told the investigator for S.R.S. that there was apparently no " guilty " offender. Later, the woman died of her chronic illness,(unrelated to the injuries to her arms.) and the matter was closed....or was it?? In a casual conversation with the aides, I mentioned the incident, and the aide replied, " Well.^{"X"}....did do that, and we knew it." I was really shocked. I asked why they had remained silent??The reply, " We have seen what happened to you, and we don't want to lose our jobs." The family later told me, the aides had told them who hurt their mother, that's why they assumed I was lying. I was terminated. No one else has ever been terminated because of any report that I have made.

Although my experience has been to see several cases of abuse, the majority of the aides in the nursing home never get credit for the hard work they do on a daily basis.The Director or Supervisor should be able to obtain the cooperation of the Administrator of a facility to provide the best nursing care possible. Terminating me, and branding me a "trouble maker who can't get along with others," is no solution. My professional reputation as a Registered Nurse is valuable to me, as well as my near completed course in Adult Care Administration.

Thank you for your shared concern in this matter, and for possibly finding an alternative to the word, "solely," in the Bill. It is my desire to clear my record of any wrong doing, so that others will not suppress information because of fear.

Christian Science Committee on Publication For Kansas

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Office Phone
913/233-7483

To: Senate Committee on Public Health and Welfare
Re: SB 251

It is requested that Senate Bill 251 be amended by adding,
after line 0054 on page 2:

"No person shall be considered to be abused or neglected for the sole reason that such person relies upon spiritual means through prayer alone for treatment in accordance with the tenets and practices of a recognized church or religious denomination in lieu of medical treatment."

This is the same wording which was added to SB 33 by this committee and approved by the Senate.

The suggested provision simply makes clear that a person relying on spiritual means for treatment in lieu of medical treatment will not for that reason alone be considered to be abused or neglected.

The presence of any other factor of abuse or neglect would be cause for reporting and investigation as required by this bill.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your committee on Public Health and Welfare

Recommends that Senate Bill No. 294

"AN ACT concerning the Kansas healing arts act; relating to advertisements of professional services; amending K.S.A. 65-2836, 65-2837 and 65-2842 and repealing the existing sections."

Be amended:

On page 4, in line 139, by striking all after the period; by striking all of lines 140 and 141;

And the bill be passed as amended.

Chairperson