

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Vice-Chairman Ehrlich at
Chairperson

10 a.m./p.m. on February 14, 1984 in room 526-S of the Capitol.

All members were present except:

Senator Meyers, excused, and Senator Johnston

Committee staff present:

Emalene Correll, Legislative Research Department
Bill Wolff, Legislative Research Department
Norman Furse, Revisor of Statutes Office

Conferees appearing before the committee:

Dan Boyd, President, Salina Landlords' Association, Salina, Kansas
Howard W. Snyder, Families for Mental Health, Inc., Johnson County
Sharaine J. Rice, Lenexa, Kansas
Robert G. Harvey, President, Kansas Alliance for Special Education, Olathe
Julie Brown, Right to Life of Kansas
Michael Lechner, Executive Secretary, Kansas Advisory Committee on
Employment of the Handicapped
Nancy Belohlavek, Director, Community Support Program, Association of
Community Mental Health Centers of Kansas
Michael Byington, Kansas Association for the Blind and Visually Impaired, Inc.
Mitch Cooper, Executive Director, Topeka Resource Center for the Handicapped
Sharon Cook, Director, Kansas Commission for Hearing Impaired
Bill Reyer, President, Kansas Council of Disabled Persons
Gordon Hahn, The Associated Landlords of Kansas, Inc., Topeka

Others present: see attached list

SB 366 - Prohibiting discrimination because of a handicap

Dan Boyd, President, Salina Landlords Association, testified that they oppose SB 366 as it now reads. He expressed concerns about the bill in the area of remodeling, and questioned whether the property owner was mandated to make necessary remodeling in order to accommodate a handicapped person.

Howard W. Snyder, Families for Mental Health, Inc., Johnson County, testified in support of SB 366, and distributed testimony stating that if Kansas refuses to allow people the opportunity to live as normal a life as possible and become productive citizens, the state will end up having to take responsibility for providing a minimal life for them at a great cost to all. Mr. Snyder also distributed a memorandum from the Mental Health Association of Johnson County stating their support for SB 366. (Attachment #1).

Sharaine Rice, Lenexa, distributed testimony stating her support for SB 366. She said that favorable action on this bill will have a long lasting effect in preventing and prohibiting discrimination against the disabled citizens of Kansas. She also distributed testimony from Maggie Shreve, Director, The Whole Person, Inc., stating their support for SB 366. (Attachment #2).

Robert G. Harvey, Kansas Alliance for Special Education, Inc., testified in support of SB 366, and distributed testimony stating that this bill will provide the impetus for this state to fully accept handicapped into our society as active and producing members. (Attachment #3).

Julie Brown, Right to Life in Kansas, testified that SB 366 does not address infanticide of newborn handicapped children and distributed an amendment which would specifically prohibit doctors and hospitals from

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10 a.m.~~pm~~ on February 14, 1984

depriving a handicapped child of nutrition or medical treatment necessary to sustain life, if such nutrition or medical treatment generally is provided to similarly situated non-handicapped children. (Attachment #4.)

Michael Lechner, Executive Secretary, Kansas Advisory Committee on Employment of the Handicapped, testified in support of SB 366, and distributed testimony responding to issues raised by The Associated Landlords of Kansas in their testimony to the PH&W Committee last spring. (Attachment #5.)

Nancy Belohlavek, Director, Community Support Program, Association of Community Mental Health Centers of Kansas, testified in support of SB 366, and distributed testimony stating that this bill would go far toward ensuring that the mentally handicapped would receive equal treatment under the laws of the state. For the first time mentally handicapped people would be included under the Kansas Act Against Discrimination. (Attachment #6.)

Michael Byington, Kansas Association for the Blind and Visually Impaired, Inc., testified in support of SB 366, and distributed testimony citing several examples of discrimination against the handicapped. Mr. Byington stated that the discrimination which is taking place outside the boundaries of the current Kansas Act against Discrimination is an overall problem. (Attachment #7.)

Mitch Cooper, Executive Director, Topeka Resource Center for the Handicapped, testified in support of SB 366, and distributed testimony stating that this bill is designed to cover all disabilities, and also seeks to prohibit discriminatory practices against the handicapped in housing and real estate loans. Unfair discrimination against handicapped persons carries both high social and economic costs, according to Mr. Cooper. He also distributed a letter from Michael Byington supporting SB 366. (Attachment #8.)

Sharon Cook, Director, Kansas Commission for the Hearing Impaired, testified in support of SB 366, and stated that hearing impaired people are often discriminated against in the areas of employment and housing. She feels this bill would be very good for them, and would like to see the existing law enforced.

Bill Reyer, President, Kansas Council of Disabled Persons, testified in support of SB 366, and distributed testimony stating that this bill provides the necessary vehicle to bring much existing legislation into compliance with anti-discrimination regulations. (Attachment #9.)

Gordon Hahn, The Associated Landlords of Kansas, Inc., testified in opposition to SB 366, and distributed testimony stating that the bill was well-intentioned, but had many major problems. Mr. Hahn cited areas of the bill which were of concern to the landlords, and offered several suggestions. (Attachment #10.)

Senator Ehrlich announced that the hearing on SB 366 would be continued tomorrow.

The meeting was adjourned.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-14-84

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

| NAME AND ADDRESS | ORGANIZATION |
|----------------------------------|--|
| Larry E Wolgast | DHR |
| Susan Schindler | Budget Division |
| Becky Kohlig | KANA |
| Lynelle King | K-state News' Bureau |
| Martha Gabehaus c/o KANSAS | Ks. Advisory Committee on Employ. of the Handicapped |
| Richard Schutz | SRS |
| Penny Gottula | KS PLAN for deaf-Blind |
| Janet Schalansky | Ks Planning Council on DD |
| Dan Boyd | Salina Landlords Inc. |
| JANET STUBBS | HBAK |
| Shawn Leatherman | Ks Health Care Assn |
| Madeline Umholtz | KUCL |
| Glorance Jakubec, Manhattan, Ks. | |
| Ray M. Metzger | MHA/K |
| Betty Stowers | ✓ |
| KEITH G. LANDOIS | CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS |
| Ray Petty | Kansas advisory committee on ^{employment} of the Handicapped |
| Jean Lewellen | Rehab Soc, SRS |
| Pat Goodman | RTLK |
| Julie Brown | RTLK |
| Don Karr | T.R.C.H. |
| Howard & Lou Snyder | Families for Mental Health - Johnson County |

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-14-84

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Mike Lechner

Ks. Advisory Committee on
Employment of the Handicapped

Robert Harvey

Ks Alliance for Special Education

Bill Rieger

Ks Council of Disabled Persons

Mary Rieger

Ks Council of Disabled Persons

Nancy Silberman

Assoc. of Community M.H.C. of Ks.

Bobby Gene Fisher

Deafness Assn. of the World

Michael Byington

Ks Assn. for Blind and V.I. Inc.

Mary Sims

" " " " " "

Sharaine Rice

the WHOLE PERSON, INC.
and as a citizen

Mitch Cooper

Togetha Independent Living
Resource Center, Inc.

Leonard W. Schreiber

Member, advisory committee, Employment of
Handicapped

John Croman - Media, Lawrence →

Audio-Reader Network,

#1 - 2-14-84

F. F. M. H.

Families For Mental Health, Inc.

JOHNSON COUNTY

P. O. Box 2452

Shawnee Mission, Kans. 66201

February 14, 1984

I am appearing today as Past President of Families For Mental Health of Johnson County, to testify in favor of Senate Bill 366 which extends the antidiscrimination laws to people with mental handicaps. Families For Mental Health is an organization for people that have family members suffering from mental illness. In addition to Johnson County there are 5 other groups: Kansas City, Wichita, Topeka, Newton and McPherson. I am also representing these groups.

On a personal basis I am the father of a 24 year old son who has mental illness, and my overriding concern is that he will have the best life he can possibly have within the limits of his ability. Under present Kansas law any employer can refuse my son a job just because he suffers from an illness, any landlord or real estate person can refuse my son a place to live just because he suffers from an illness, any public accomodation can refuse him admittance just because he suffers from an illness. All of these can be done with the blessing of the State of Kansas.

If my son cannot work, cannot find a place to live, cannot utilize public accomodations, how will he have any kind of life much less a kind of life that we all believe is necessary for ourselves?

I have been a landlord for 28 years, so I truely understand all of the potential problems involved having a person with mental illness as a tenant, however, I firmly believe that people's basic rights far outweigh any problems that might occur. If Kansas is going to refuse to allow people the opportunity to live as normal a life as possible and become productive citizens, then the State will end up having to take the full responsibility for providing a minimal life for these people at great cost to all.

So on behalf of Families For Mental Health and all people who are suffering from mental illness throughout Kansas we strongly urge that the bill be passed favorably so that these people will have an opportunity for the best life possible.


Howard W. Snyder

Atch. 1



THE MENTAL HEALTH ASSOCIATION OF JOHNSON COUNTY

7208 West 80th Street • Room 208 • Overland Park, Kansas 66204

913 • 381-2707

EXECUTIVE DIRECTOR
Sue Beckman

PRESIDENT
Nita Washburn

VICE PRESIDENT
Beverly Rose
Don Robertson
Deb Grimes

SECRETARY
Joanne Francisco

TREASURER
Ken Selzer

BOARD OF DIRECTORS
Marcia Berkley
Jim Borth
Evie Bowman
Paul Bowman
Wanda Chinnery
Sue Chopra
Linda Coburn
Joanne Francisco
Gene Fritz
Dixie Glenn
Mary Goetze
Deb Grimes
Stefan Hodes
Phyllis Maizlish
Barbara McConahay
Lorraine Murray
Frank Neff
Blake Ohsol
Don Robertson
Bev Rose
Leonard Rose
Eve Schick
Ken Selzer
Bob Shapiro
Paul Silbersher
Howard Snyder
Jim Vader
JoEl Vogt
Nel Walstrom
Nita Washburn

PROFESSIONAL CONSULTANTS
Elizabeth Barker-Smith, M.D.
Harold Boyts, M.S.W.
Jude Bridgeman, L.S.C.S.W.
Jean Erwin
Art Foster, Ph.D.
SuEllen Fried
Roberta Gilbert, M.D.
Sharon Helm, Ph.D.
Fowler Jones, M.D.
H. Ivor Jones, M.D.
Lucia Landon, L.M.S.W.
Ray Morgan
Jean Peterson, Ph.D.
Hon. Joseph Pierron
Janelle Ramsburg, R.N., M.S.W.
O. Dale Smith, M.D.
Penny Wade

TO: Senate Public Health & Welfare Committee

Jan Meyers, Chairperson

Roy Ehrlich

Bert Chaney

Francis Gordon

Mike Johnston

Edward Roitz

Gus Bogina

James Francisco

Leroy Hayden

Bill Morris

Ben Vidricksen

RE: SB 366

On behalf of the more than 1000 members of the Mental Health Association of Johnson County, we urge you to support SB366, which extends the anti-discrimination laws to include those people with mental/emotional handicaps. We believe that it is unfair and inhumane to refuse a person work, living accomodations and access to public facilities because he/she suffers from an illness.

A UNITED WAY AGENCY



Help to Help!

Testimony for S.B. 366

February 14, 1984

I am speaking as a citizen of Kansas who currently resides in an apartment complex in Lenexa. I am strongly in favor of S.B. 366.

As a disabled person, as well as an advocate for disabled peoples' rights, I have witnessed discrimination against people who have physical, mental, and emotional disabilities. As a group, disabled people have always had to fight to prove they will not accept second class citizenship. Many disabled people encounter discrimination on a daily basis.

It is my understanding that The Associated Landlords of Kansas, Inc. has been the sole opponent to the passage of S.B. 366. While I have read their views on S.B. 366, I feel their concerns are unjustified. In my apartment complex, for example, we have residents who are deaf, hard-of-hearing, and mentally retarded, as well as one or two who possess multiple disabilities. To my knowledge, they have not been disruptive. As the Kansas Advisory Committee on Employment of the Handicapped has stated in the past, if a disabled person causes damage to the property they are renting, the landlord or management has the right to deal with them in exactly the same manner they would deal with a non-disabled person. We are not asking for special privileges. We are asking for equal opportunity to enjoy the same rights and privileges given to non-disabled Kansans.

As taxpaying citizens of Kansas, disabled Kansans, no matter what their disability, are entitled to equal access in employment, public accommodations, and housing. By acting favorably on S.B. 366, you will be taking a positive step which will have a long lasting effect in preventing and prohibiting discrimination against the disabled citizens of Kansas. I urge you to vote for S.B. 366.

Sincerely,

Sharaine J. Rice

Sharaine J. Rice
12512 W. 97th Terrace
Apt. #300
Lenexa, Kansas 66215
(913)888-4300

Atch. 2



TO: Jan Meyers, Chairperson
Kansas Senate Public Health and Welfare Committee

FROM: Maggie Shreve, Executive Director
The WHOLE PERSON, Inc. *Maggie Shreve*

DATE: February 14, 1984

REGARDING: The WHOLE PERSON's Support of SB 366

The WHOLE PERSON, Inc. is an advocacy and service organization for people with physical and developmental disabilities in Greater Kansas City. The WHOLE PERSON serves Johnson and Wyandotte Counties in Kansas as well as four counties in Missouri. We support SB 366 as it is currently written.

Many of the changes which need to occur before disabled people can actively participate in our society are related to discrimination as a class. The WHOLE PERSON has been working toward a different image of disabled persons for over 6 years, yet we still see basic problems as a result of overt discrimination against persons with all kinds of disabilities. We have tried to eliminate such discrimination by demonstrating that disabled people are no different than non-disabled people in almost every way. Demonstration of this principle through media efforts, organizational materials and literature, in-person presentations and the like has not been sufficient. Time has come to legislate non-discrimination for disabled citizens.

We see SB 366 as a solution to the issue of discrimination in the state of Kansas. Like minorities of a racial, ethnic, religious or sexual nature, persons with disabilities should not be discriminated against in public arenas simply because of their disabilities. We are not asking for special treatment - just equal treatment. At this time, all disabled people do not necessarily have the right to equal treatment or opportunity in law. SB 366 would amend Kansas' existing anti-discrimination law so that this inequity is resolved.

The WHOLE PERSON sees no substantial grounds for opposition to this bill. In the area of housing for example, if a tenant is renting property and because of a disability does damage to that property, the landlord has the same right to remove that tenant as s/he would have if a non-disabled tenant incurred damage to the property. As stated above, The WHOLE PERSON and other disability groups are only asking that disabled people be treated as equals with all other citizens.

If you or members of your Committee have any questions regarding our position on SB 366, please do not hesitate to contact us. We are sorry that we could only send one representative from our organization to this bill's hearing. Ms. Sharaine Rice can speak for The WHOLE PERSON if any questions arise during the public hearing. Thank you for your time and attention.

SENATE BILL 366

Committee on Public Health and Welfare
Kansas State Senate

Presented by Robert G. Harvey
President, Kansas Alliance for Special Education, Inc.

My name is Robert Harvey and while I am representing the Kansas Alliance for Special Education regarding this bill, I am also speaking as a citizen of this state who is looking toward the future.

The State of Kansas has made great strides in its desire to aid those of its citizens that have a handicapping condition. Our concerns start with our children. We only need to look at the amount of dollars spent on Special Education to see the extent of this states committment.

The State of Kansas has passed legislation to eliminate discrimination in the employment of handicapped individuals.

For all that has been done we cannot now "rest on our laurels."

Senate Bill 366 will provide the impetus for this State to fully accept the handicapped into our society; not as beneficiaries of expanded social service programs, but as active and producing members.

We fully support the definition change which would eliminate the word "physical" from the text of the law. Mental handicaps can be as debilitating as any of the physical handicaps. The word physical needs to be eliminated to corelate with the federal definition found in Section 504 of the Rehabilitation Act of 1973.

We also fully support the inclusion of disability in the factors upon which discrimination in housing are prohibited. By the omission of disabling conditions we are, in effect, supporting discrimination. The basic human needs for food and shelter are perhaps taken for granted by those of us who have never had to face rejection and discrimination in obtaining these basic "rights".

How many times have we heard stories of community rejections of group homes, independent living facilities, and disabled neighbors. We have all heard, "they are necessary, but not in my neighborhood." Has anyone ever given a valid reason for this argument? In the obtaining of housing and real estate loans does the money change color when received from a handicapped individual?

While simplistic, and trivial, the question has some merit. Are we telling our disabled and handicapped citizens that they don't have the same rights as all others in our society?

Others who have testified have given specifics on what these changes will do in our state. There is little need to repeat those comments.

Finally, the Kansas Alliance for Special Education is strongly in favor of passage of Senate Bill 366. We ask for your support.

Thank you.

SENATE PUBLIC HEALTH AND WELFARE

#4 - 2-14-84

February 14, 1984

Madam Chairman, members of the committee;

I appreciate the opportunity to present this testimony. My name is Julie Brown, I represent the Right to Life of Kansas.

Kansas law prohibits discrimination against handicapped individuals in the areas of employment practices, housing, access to public accommodations, and so forth. It does not address, however, the most serious discrimination of all, Infanticide of newborn handicapped infants. Both President Reagan, and Dr. Everett Koop, the Surgeon General of the United States have spoken out on this issue.

The case of Infant Doe, a handicapped newborn who was denied medical treatment and nutrition for twenty days while he literally starved to death - brought to the nation's attention a practice that has become all too common in our hospitals. Private sources have reported similar incidents to us even in two of our Kansas hospitals.

The significance of Infant Doe's case is that the Indiana Supreme Court upheld his "mercy killing" on the grounds that he would not have been able to live what the Court, the doctor, and the parents judged to be a "quality life". He was handicapped. He was afflicted with Downs Syndrome, more commonly known as mongolism. Infant Doe also had a medical problem that is common in many Downs babies; a problem that is easily corrected with relatively minor surgery; a damaged esophagus. Without the surgery to repair his esophagus he could not survive. If he had not also been afflicted with the handicap of Downs Syndrome there would have been no question. The surgery would have been scheduled routinely and immediately. Infant Doe would have survived. He did not. He starved slowly, deprived of either tube feeding or the surgery that would allow him to nurse normally. It took him twenty days to die, during which time Right to Life attorneys and a loving couple willing

Julie B.

to adopt and care for him, frantically exhausted all legal remedies to save him. In Indiana, where Infant Doe was born and in every state of the Union it would not have been legal to discriminate against him because of his handicap. The law would have protected his right to the same housing, the same employment opportunities, the same educational opportunities as a non-handicapped person, but it did not protect his very life. All of those laws were of no use to Infant Doe. And they are of no use to other handicapped infants and children who are not allowed to live; who are denied the same medical treatment that a non-handicapped child would be afforded - simply because they are handicapped.

President Reagan has said that infanticide of newborn handicapped infants is prohibited in hospitals receiving federal funds. But even if that is enforced it does not speak to the public policy of the state of Kansas. We need to act to protect our own children. We can begin to address this serious policy question today in Senate Bill 366. We have a suggested amendment that was originally drafted, as part of a proposal for the state of Indiana, by legal counsel for the National Right to Life Committee and checked by a local attorney. It would specifically prohibit doctors and hospitals from depriving a handicapped child of nutrition necessary to sustain life or necessary medical treatment - if such nutrition or medical treatment generally is provided to similarly situated non-handicapped children. We urge the adoption of this amendment to Senate Bill 366 to address the most tragic area of discrimination toward the handicapped - deprivation of their very life.

Thank You.

Senate Bill 366 be amended by adding a new section following line 688:

Sec. 13. (a) As used in this section;

"Health care facility" means:

- (1) any general hospital and any other similar type of hospital; and
- (2) any related facilities, including extended care facilities and extended service facilities, operated in connection with hospitals.

"Child" means a person under eighteen years of age.

"Handicapped child" means any child who (1) has a physical or mental disability or impairment which requires the provision of multiple services during an extended period of time; or

- (2) is regarded as having any such disability or impairment.

"Medical treatment" means medical, surgical or nursing treatment or care, and includes diagnostic and other procedures to assess the nature and extent of disability and to determine the appropriate medical, surgical or nursing care for it.

(b) Discrimination Against Handicapped Children Prohibited. No resident physician or other professional staff member of a health care facility or any other physician, health care professional or other person using the facilities of a health care facility, shall deprive a handicapped child of nutrition which is necessary to sustain life, or deprive a handicapped child of medical treatment which is to remedy or ameliorate a life-threatening medical condition, if

- (1) any such deprivation is carried out for the purpose of causing or allowing the death of such child; and

- (2) such nutrition or medical treatment generally is provided to similarly situated handicapped and non-handicapped children.

(c) a handicapped child affected by a violation of section (b) of this chapter shall be considered a child in need of services under K.S.A. 38-1502.

#5- 2-14-84

TESTIMONY GIVEN IN FAVOR OF SENATE BILL 366
PRESENTED TO THE
SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

BY

MICHAEL LECHNER

EXECUTIVE SECRETARY

KANSAS ADVISORY COMMITTEE ON EMPLOYMENT OF THE HANDICAPPED

FEBRUARY 14, 1984

Atch. 5

I appreciate very much this opportunity to testify before the committee in favor of Senate Bill 366. I will use this opportunity to respond to issues raised by The Associated Landlords of Kansas in their testimony presented last spring before you.

Question 1.

Landlords' Position:

"The bill's definition of handicapped may be appropriate for the helping professions use, but for purposes of this bill it is extremely general, vague, and apparently, all inclusive."

KACEH Response:

The definition used for "handicapped" can be found in use within:

- a) Kansas Governor's Executive Order 80-47 in use since October 21, 1980.
- b) The Federal regulations published in 1975 by Department of Labor have been used as a model for other agencies and state use.

These documents are not for "helping professions". They are for employment protections for handicapped persons.

Landlords' Position:

"This definition does not delineate the degree of impairment or whether that impairment is likely to cause anti-social or dangerous behavior to other residents or to the landlord."

KACEH Response:

The bill does not exempt disabled persons from obeying the law. Landlords can take legal action against criminal behavior without regard to the person's disability.

Landlords' Position:

"What are major 'life activities' to be considered?"

KACEH Response:

Major life activities are not specified in the bill since they are determined by rules and regulations.

Landlords' Position:

"What are the 'records of impairment' and aren't these records often protected by the privacy acts?"

KACEH Response:

Most formal records are protected, but there are informal methods of obtaining such information. The bill does NOT

prohibit normal screening of prospective tenants, which includes income stability, references, word of mouth and personal acquaintance which are presently used by landlords.

Landlords' Position:

"Who decides if the person is 'regarded' as having an impairment? There are no specifics or limitations in this definition."

KACEH Response:

A person is handicapped if that person is regarded as such by the property owner.

Landlords' Position:

"We could be required to knowingly rent to the mentally disabled with unpredictable behavior patterns including extreme 'John Hinckley' personality types."

KACEH Response:

The liability for release of mentally disabled individuals with unpredictable behavior patterns into the community rests with the medical professionals, not property owners.

Question 2.

Landlords' Position:

"According to the bill, the landlord is not legally required to make modifications to his building to accommodate the handicap. However, according to legal counsel, this does not protect the landlord from liability should a handicapped person be injured or killed while living in a building that doesn't provide safeguards for his handicap. Such an accident will most likely be considered a 'foreseeable accident' without proper safeguards provided. Therefore, the landlord will be held liable."

KACEH Response:

Should a landlord rent to a disabled person, that person is entitled to the same safeguards as other residents.

Question 3.

Landlords' Position:

"The increase in liability exposure would be very dangerous and an unfair burden for the property owner, causing increase in insurance rates."

KACEH Response:

Insurance rates are based on the number of claims, not the number of handicapped residents. There are no actuarial figures available indicating that handicapped persons are more accident prone, thereby increasing insurance premiums.

Question 4.

Landlords' Position:

"Otherwise, providing handicapped modifications obviously can be very expensive - too expensive for most to bear.

KACEH Response:

- 1) The bill does not require the landlord to bear the cost of accessibility modification to a rental unit and clearly indicates (lines 0400-0404) "nothing in the Kansas act against discrimination shall be construed to require the construction of any special facilities or fixtures for the physically handicapped, except as provided by K.S.A. 58-1301 et seq...."
- 2) K.S.A. 58-1310 requires modification to rental apartment complexes and temporary lodging facilities which contain twenty (20) units or more, except that the provisions of the act applies only to ten percent (10%) of those units.
- 3) The Kansas Handicapped Accessibility Tax Credit (K.S.A. 79-32,175 to 79-32,179 as amended) allows a landlord to claim a tax credit if money is spent to make all or part of a rental property accessible to handicapped persons.
- 4) K.S.A. 58-1301 requires modifications to conform to ANSI standards, not customized accommodation.

Question 5.

Landlords' Position:

If the property owner could and did go to the expense of modification to accommodate a particular handicapped individual, that handicapped resident eventually moves leaving the landlord with a unit modified to suit a particular handicap but not necessarily other kinds of handicap. The unit would likely not be desirable for a non-handicapped person.

KACEH Response:

K.S.A. 58-1301 requires modifications to conform to ANSI standards, not customized accommodations to rental units. ANSI standards indicate the degree of modification necessary to accommodate a handicapped person while leaving the unit usable by the public.

Question 6.

Landlords' Position:

"An additional legal problem regarding the mental handicapped is that of the landlord entering into a contract (lease agreement) with a mentally impaired individual. It is likely that while the landlord would be bound to the contract, the mentally impaired individual would not. The lease would then be of no value in

settling contractual disputes."

KACEH Response:

If a mentally disabled person has been judged to be incompetent a legal guardian, conservator or natural parent would be the signee on contracts.

Additionally, most landlords require that a security deposit be received before occupancy.

Question 7.

Landlords' Position:

"In speaking for our other residents, under terms of this bill, how would we deal with a mentally impaired person who becomes disruptive to the peaceful enjoyment expected by them. A disruptive behavior could be considered a mental impairment, one we would be forbidden to eliminate from our property. Also, we would be unable to act in response to complaints from our other residents."

KACEH Response:

The bill does NOT exempt disabled persons from obeying the law. Landlords can take legal action against criminal behavior without regard to the person's disability.

Question 8.

Landlords' Position:

"Finally, most landlords in Kansas are small - most manage and maintain their own property, most are not trained to deal with all the special needs, both physical and mental, that they may meet under this vague and all-encompassing bill. Most landlords do not feel they have the qualifications to deal with these situations."

KACEH Response:

Landlords are not obligated to practice medical or psychological diagnoses of their tenants nor to become trained in the personal special needs some handicapped persons may need and are quite capable of obtaining without assistance from their landlords.

Landlords' Position:

"The landlord-tenant relation as well as relations between residents are different, often more complex, and longer term than most business relationships such as a restaurant or barber shop business transaction. For all the above reasons, this bill places an unfair and too heavy burden on the individual landlord."

KACEH Response:

The definition used for handicapped is currently used in the education and employment of handicapped persons. These education and employment situations last longer and are more complex than landlord-tenant interactions or restaurant or barber shop business transactions.

Landlords' Recommendation:

1. "Perhaps the various new subsidized housing projects should be required to have higher than 10% of handicapped residents."

KACEH Response:

The spirit of the bill is to increase the mobility and freedom of choice for handicapped persons and not to perpetuate "handicapped ghettos". The historic Brown v. Board of Education case addressed the problem of segregation. "We conclude that in the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal." This same concept applies to housing.

Landlords' Recommendation:

2. "Perhaps more use of grants for disabled veterans should be encouraged."

KACEH Response:

The grants available to permanent and total service connected disabled veterans are for the costs incurred in building, buying, remodeling or paying the indebtedness of a home and are NOT authorized for the paying of unit rent.

Landlords' Recommendation:

3. "Perhaps rewrite the bill so that the handicapped person must be qualified and able to live in the unit without alterations and the state accepting all liability and additional insurance costs."

KACEH Response:

Requiring handicapped persons to live only where alterations need not be made would perpetuate a segregation of this minority from the general population.

It is not the state's role to insure private enterprise. Property owners have always assumed the costs associated with their property.

Landlord's Recommendation

4. "Perhaps various incentives should be considered to encourage more private enterprise to provide handicapped housing."

KACEH Response:

Landlords should avail themselves of the Kansas Handicap Accessibility Tax Credit (K.S.A. 79-32,175 to 79-32,179 as amended). The tax credit lets a landlord claim a tax credit for money spent to make all or part of a rental property accessible to handicapped persons. Fifty percent of the actual cost of such alterations may be claimed as a tax credit as long as the credit does not exceed \$10,000. If the alteration exceeds the amount of state income tax that the business owes it may carry over the extra credit up to four years.

#6 - 2-14-84



Association of Community Mental Health Centers of Kansas

820 Quincy, Suite 416/ Topeka, Kansas 66612/913 234-4773

Paul M. Klotz, Executive Director

REMARKS TO:

SENATE PUBLIC HEALTH & WELFARE

JAN MEYERS, CHAIRPERSON

By: Nancy Belohlavek, Director, Community Support Program Date: February 14, 1984

Re: S.B. 366

The Association of Community Mental Health Centers of Kansas supports the passage of S.B. 366. For the first time, mentally handicapped people would be included under the Kansas Act Against Discrimination.

Mental health centers in Kansas currently see over 80,000 patients per year. We feel that these patients (former and current) need equal protection under the law, particularly as it relates to employment, housing, and other accommodations. Without such protection, the people we serve have no hope of ever truly escaping their handicap and becoming a part of the mainstream of normal day to day living.

The goal of Mental Health Services is to prepare an individual to live as independently as possible within our communities. Kansas has demonstrated a concern and in fact protects the rights of mentally handicapped in institutions and hospitals. Senate Bill 366 would provide the protection in our communities where mentally handicapped are striving to become participating members.

It is estimated that 15 to 20 percent of Kansas citizens have been in need, or will be in need of mental health intervention at some time in their life. That is a large segment of Kansas society who have been or could potentially be faced with discrimination as a result of their mental handicap.

The stigma of mental illness remains strong and still disallows many basic rights to those who are, or who have been, in psychological treatment.

Senate Bill 366 would go far toward insuring that the mentally handicapped would receive equal treatment under the laws of the state. Such equity would allow many more of the mentally ill to return to the economic and social mainstream of Kansas Life.

Thank you for this opportunity to comment.

Alch. 6

Clinton D. Willisie
President

Larry W. Nikkel
President Elect

Dwight Young
Vice President

E. W. "Dub" Rakestraw
Past President

Michael L. Taylor
Treasurer

Kermit George
Secretary

Harriet Griffith
Bd. Mem. at Large

H-7 - 2-14-84

Kansas Association for the Blind and Visually Impaired, Inc.

February 8, 1984

TO: Senator Jan Meyers, Chair, Senate Public Health and Welfare

FROM: Legislative Committee, Mary Adams, Chair
Robert Tabor, Member
Michael Byington, Lobby

SUBJECT: SB 366

We are writing to express our organization's continued support for SB 366. The need for this legislative change is quite real. People are currently discriminated against in this state due to their handicaps, and under current law, there is little that can be done. We shall provide a few examples below.

One of our members was looking for an apartment. She found one she liked and was reluctantly quoted a price of \$250.00 per month plus a full month's rent as deposit. It so happened that, unknown to her at the time, one of her friends who was not disabled had also looked at this same apartment. The non-handicapped friend had been quoted \$215.00 per month with no deposit. When asked, the landlord specifically stated that the extra money was for damage that our member might do because of her blindness.

Another of our members was told that she could not rent an apartment because she uses a guide dog. The landlord refused to understand that the guide dog was not a pet, but rather a piece of adaptive equipment necessary to the blind person's independent mobility.

Yet another of our members was refused service in a restaurant because he could not read the menu. The restaurant manager stated, "We've treated you as we would anyone else. We gave you a menu. If you can not see to read it, you do not need to eat here."

✓ We are a statewide organization. The incidents exemplified above occurred in three different parts of the state. The discrimination which is taking place outside the boundaries of the current Kansas Act against Discrimination is not just happening in one small part of the state. It is an overall problem.

Thank you for your time in reviewing this material. Please inform us when a hearing is scheduled on SB 366. We herewith request to offer testimony.

Feb. 7

TESTIMONY
TO
SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE
FEBRUARY 14, 1984

By: Mitch Cooper
Representing: Topeka Resource Center for the Handicapped
Re: SB 366

SB 366 represents an effort to advance the rights of all disabled persons. Our organizational goal is to enhance the opportunities for handicapped individuals to live as independently as possible. As such, we firmly believe that SB 366 would be a move in the right direction.

SB 366 is designed to cover all disabilities. Thus, it replaces an otherwise fragmented approach to protection against discrimination. As a cross-disability service organization, we have observed many claims of acts of discrimination against persons with a wide range of handicapping conditions, not only those with physical disabilities.

SB 366 also seeks to prohibit discriminatory practices against the handicapped in housing and in regard to real estate loans. Physically disabled persons may face architectural barriers, but this is not the only unfair obstacle to the handicapped in their desire to obtain an adequate supply of accessible housing. There are far too many units that exclude all types of disabled persons on the basis of unwarranted discrimination based on a needless fear, grounded in ignorance.

Unfair discrimination against handicapped persons carries both high social and economic costs. It is commendable that the legislature is attempting to close the door on such negative and archaic practices by its consideration of SB 366.



TOPEKA RESOURCE CENTER FOR THE HANDICAPPED

West Tenth Professional Building
1119 West Tenth Topeka, Kansas 66604

MITCH COOPER, L.M.S.W.
Executive Director

February 8, 1984

Telephone
913-233-6323
TTY-233-6788

Senator Jan Meyers, Chairperson
Senate Public Health and Welfare Committee
Kansas Senate
State Capitol
Topeka, Kansas 66612

Dear Senator Meyers:

It is my understanding that it would be helpful to the progress of Senate Bill 366 for examples to be offered of situations where discrimination has taken place, and where the present Kansas Act Against Discrimination has not proven adequate in dealing with the problem. The purpose of this letter is to provide such examples.

As a professional advocate for disabled individuals, I have attempted, over the last two years, to assist three mentally retarded workers who all had similar discrimination situations with their employers. These three individuals were clearly being taken advantage of by their employers who apparently felt that it was perfectly all right to take advantage of these workers because they were retarded and did not know any better anyway. While the workers involved were aware that their treatment was not fair, and thus came to me, the employers were in fact correct. They were not receiving federal funds making federal civil rights involvement possible, and according to the Kansas Act Against Discrimination, they were doing nothing wrong.

A blind consumer working with our center was recently refused a bank loan to buy a car. The consumer was financially qualified for the loan, and was interested in obtaining a car which her son was going to drive for her. The bank involved, however, implied that it would be a poor risk to make a car loan to a blind person.

A deaf consumer was recently refused interpreter services while being questioned by the police. The Kansas Civil Rights Commission could not take a complaint concerning the matter because the consumer had been treated as anyone else might have been while under police questioning.

Another blind consumer was refused the right to apply for a job at a large department store because he could not see to fill out the application, and the store's policy was that a person could not receive assistance in filling out an application, and could not take it out of the store personnel office. The Kansas Civil Rights Commission initially refused to take the complaint because the applicant had been treated no differently than anyone else. The case was later filed on a technicality. The application had never been placed in the applicant's hand.

Discrimination is occurring unchecked. The legislation contained in Senate Bill 366 needs to become law.

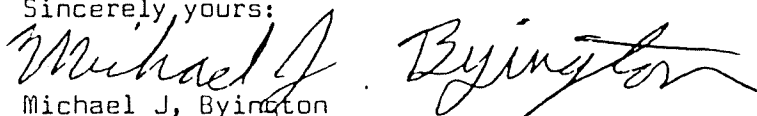
A Project of the Topeka Independent Living Resource Center, Inc.

attach to Atch. 8

February 9, 1984
page two

Thank you for your past assistance with this legislation. Thank you also
for your consideration of these comments.

Sincerely, yours:

A handwritten signature in cursive script that reads "Michael J. Byington". The signature is written in dark ink and is positioned above the typed name and title.

Michael J. Byington
Outreach Advocate/Case Manager

MJB/mjb

Distinguished Members of the Committee:

My name is Bill Reyer, President of the Kansas Council of Disabled Persons. I appreciate this opportunity to speak to you on behalf of Senate Bill 366.

Senate Bill 366 provides the necessary vehicle to bring much existing legislation into compliance with anti-discrimination regulations. This legislation will demonstrate to all Kansans that this state, above all, wishes to ensure human rights and human dignity are preserved.

In 1950, after spending five years in the V.A. Hospital, I discovered that outside the hospital I had no rights - in employment, housing, or access to public buildings. It was only because one person cared that I was able to obtain a job and obtain the necessary transportation to keep it.

The important aspect of this legislation is that persons with different types of disabilities will no longer need to depend on kind-hearted persons for assistance. It will be their right to live wherever they want and have access to whatever activities in their communities they choose to pursue.

I understand the concerns of business persons and landlords. There are credits available that will help ease the financial burden of the changes. However, it is important to realize how unfair it is to make generalizations about groups of persons and then deny their access to rich, independent lives.

You have a responsibility to all citizens of Kansas, including those with physical or mental impairments. Please pass Senate Bill 366.

Alch. 9



THE ASSOCIATED LANDLORDS OF KANSAS, INC.
P.O. BOX 4282, SHAWNEE MISSION, KS. 66204

February 14, 1984

Consideration of Senate Bill 366

After decided thought and debate, The Associated Landlords of Kansas (TALK) decided at their fall meeting that the proposed statutory amendment contained in Senate Bill 366 was not in the best interests of Kansas landlords.

TALK is made up of more than 900 individual landlords from across the state, with chapters in Johnson, Shawnee, Wyandotte, Sedgwick, and Reno counties. Local chapters, newly formed and not yet affiliated, are also in Saline and Harvey counties. Most of the members are individuals owning primarily single-family homes, who manage and maintain their properties themselves while working at other jobs to earn their living.

First, TALK wants everyone to know that although we are opposed to SB 366, we are not opposed to renting to the handicapped. But obviously not all housing is appropriate to all people. It is our responsibility and right to make every reasonable effort to rent our housing appropriately for the long term mutual benefit of the prospective tenant, other current tenants, and our own investments.

We think this bill is no doubt well-intentioned, but it has many major problems. Some of these are as follows:

- 1. The bill's definition of handicapped may be appropriate for the helping profession's use, but for purposes of this bill, it is extremely general, vague, and apparently, all inclusive.

This definition does not delineate the degree of impairment, or whether that impairment is likely to cause anti-social or dangerous behavior to other residents or to the landlord.

What are "major life activities" to be considered? The "impairments" are evidently not limited to those that wouldn't cause problems due to any physical limitations of the rented structure. Nor are they limited to mental "life activities" that wouldn't be likely to cause special problems for the landlord and other residents. What are the "records of impairment", and aren't these records often protected by various "privacy" acts? Who decides if the person is "regarded" as having an impairment? There are no specifics or limitations in this definition. In addition to this being true of physical handicaps, we could be required

McCh. 10

to knowingly rent to the mentally disturbed/disabled with unpredictable behavior patterns including extreme deviant personality types.

2. According to the bill, the landlord is not legally required to make modifications to the building to accommodate the handicap. However, according to legal counsel, this does not protect the landlord from liability should a handicapped person be injured or killed while living in a building that doesn't provide safeguards for the handicapped. Such an accident will most likely be considered a "foreseeable accident" without proper safeguards provided. Therefore, the landlord would be held liable.

3. The increase in liability exposure would be very dangerous and an unfair burden for the property owner, causing an increase in insurance rates.

4. Otherwise, providing handicapped modifications can be very expensive - too expensive for most individual landlords to bear.

5. If the property owner did go to the expense and trouble of modifying to accommodate a particular handicapped individual, that handicapped individual will eventually move, leaving the landlord with a unit modified to suit a particular handicap but not necessarily other kinds of handicap. The unit would not likely be desirable for a non-handicapped person.

6. An additional legal problem regarding the mentally handicapped is that of the landlord entering into a contract (lease agreement) with a mentally impaired individual. It is likely that while the landlord would be bound to the contract, the mentally impaired individual would not. The lease would then be of no value in determining the rights and obligations of the parties in settling contractual disputes.

7. In speaking for our other residents, under terms of this bill, how would a landlord deal with a mentally-impaired person who becomes disruptive or dangerous in a multiple-family dwelling? Any disruptive behavior, by any person, could be protected by this bill, no matter how severe, destroying the peaceful enjoyment of the premises by the other tenants. A landlord could be faced by the departure of all the other tenants, but be totally unable to remove the offending individual.

8. Finally, most landlords in Kansas are very small. Most manage and maintain their own property, and are not trained to deal with all the special needs of handicapped individuals, either physical or mental, that they may meet under this vague and all-encompassing bill.

The landlord-tenant relation as well as relations between residents are often different, often more complex, and often occur over a longer term than other business transactions such as those in the retail trades. For all the above reasons, this bill would place an unfair burden on the individual landlord.

While we oppose SB 366 for the above reasons, we recognize the special needs of the handicapped in our society, and would offer these suggestions:

1. Perhaps the newer subsidized housing projects could be designed to provide more than the present 10% occupancy levels by handicapped residents.
2. Greater use of grants for use by disabled veterans could be considered.
3. Perhaps the bill could be re-written so that the handicapped individual must be able to live in the dwelling unit without requiring modifications, and that the tenant or state would accept all liability and additional insurance costs.
4. Various incentives might be created to encourage additional private enterprise acceptance of the increased risks inherent in providing housing for the handicapped.

Since most landlords in the state are extremely small business concerns, and since most of them already operate with consistent negative cash flows, a bill like this would further weaken the ability of landlords to sustain their investment. This weakened investment climate would have cascading negative effects on housing throughout the state. Since landlords presently provide much of the state's housing, this should be avoided as much as possible.

We appreciate your consideration of our concerns. As it is presently, The Associated Landlords of Kansas do not support this bill, and would encourage you to hold the bill in committee until it can be modified so that it does not place an unfair burden on landlords and existing tenants. If the bill must be reported out of committee, we would hope that it will be reported unfavorably.