

Approved 1-31-85
Date sh

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin Littlejohn at
Chairperson

1:30 a/m/p.m. on January 29, 1985 in room 313-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Research
Bill Wolff, Research
Norm Furse, Revisor
Sue Hill, Secy. to Committee

Conferees appearing before the committee:

Dr. Robert Harder, Secy. of Dept. of Social Rehabilitation Services
Dick Charlton, Ks. Rehabilitation Association, also, ADAPT, KPERTI
Ray Petty, KACEH, Ks. Advisory Comm. on Employment of Handicapped
Paul Klotz, Association of Community of mental Health of Kansas
Michael Bailey, Civil Rights Commission
Michael Byington, Ks. Association for Blind & Visually Impaired
Gordon Hahn, The Associated Landlords of Kansas
Howard Snyder of KFFMH, Kansas Families for Mental Health
Ron Pavelka, Ks. Advocacy & Protectives Services for the Developmentally Disabled, Inc.
(Printed testimony from John Kelly, of Ks. Comm. on Employment of Handicapped

Visitors register attached.

Chairman called meeting or order and indicated that (Attachment No. 1) is the fiscal note discussed yesterday in committee on HB 2018. He then invited Dr. Harder to speak.

Dr. Harder distributed hand-out to committee, (see Attachment No. 2-A), for details. He stated the Dept. of SRS supports HB 2018, but strongly recommends amendments to broaden the definition given to "handicap". In the present language it is not equivalent to the commonly recognized and understood definition of handicap that has legal precedent in the Fed. act of 1973. Further, SRS programs serve persons with all types of disabilities, and stated 9 out of 10 in this room will become disabled at some point in their lives, and that without the proposed amendments, many of us might be denied civil rights. SRS clearly supports a change in legislation that speaks to this issue. The proposed language for amendments for HB 2018 is indicated in lengthy form in (Attachment No. 2-B), i.e., suggesting Federal definition of "handicapped person", term, physical or mental impairment, term major life activities.

Dr. Harder then answered numerous questions from committee members.

Mr. Dick Charlton then spoke to committee stating that the organizations he represents strongly support HB 2018, and supports the inclusion of the amendment to include the extending the definition of "handicapped". He answered a few questions from committee.

Mr. Ray Petty, Ks. Advisory Committee on employment of the Handicapped distributed hand-out. (See Attachment No. 3.) for details. He stated that during the Interim there were large numbers of people to testify, and their testimony is on record, so he urged these records be reviewed, rather than have them all repeat that testimony in front of this committee Hearing. He stated KACEH agrees with the proposed amended language on the physically and mentally handicapped under the various protected activities of Kansas Law. Further, they agree the scope of the definition of both physically and mentally disabled should be all-encompassing, and he then answered questions from committee. He cited some examples about employment discrimination.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
 room 313-S, Statehouse, at 1:30 a./p.m. on January 29, 1985

Paul Klotz, Exec. Dir. of Community Mental Health Centers of Ks, distributed his printed testimony, (see Attachment No. 4), for details. He stated they feel it is imperative that mentally handicapped individuals be included under the Ks. Act Against Discrimination, particularly as it relates to employment, housing, and other accommodations, and without this protection these people have no hope of ever becoming a part of the mainstream of normal day to day living. They hope that after all the time and work that has been put into trying to reform this issue that it won't be left hanging, but that it can be resolved. He answered questions from committee.

Mr. Michael Bailey, Civil Rights Commission spoke to the support of HB 2018, if the Commission can get the necessary resources to carry out their necessary enforce-provisions that is expected of them. They do not want to be put into a position where they cannot enforce. They are in support of this bill with a few minor changes. He cited some examples of discrimination. A suggested change in language of "handicap" was distributed to committee members and will be referred to later in minutes as (Attachment No. 10.) He answered questions, i.e., fiscal note, and immutable looks, etc.

Mr. Michael Byington, Ks. Association of Blind and Visually Handicapped, distributed printed testimony, (see Attachment No. 5), for details. Stated that HB 2018 in its present form would provide protection against discrimination against mentally handicapped individuals. This is long overdue he said. However, the bill needs to be amended to also afford protection to those who have a record of impairments or are regarded as having impairments or a record of some handicap. He cites some specific cases where persons were discriminated against. Stated there is current double standard where physically handicapped people have some limited civil rights protections, but mentally handicapped people have none at all. He spoke to some refinement in the description of "handicapped". He then answered questions.

Mr. Gordon Hahn, The Associated Landlords of Kansas distributed hand-out, (see Attachment No. 6), for details. He stated their Association (TALK) had appeared before earlier Legislative Committees, and they were disturbed about an earlier proposal (SB 366), but now feel the Interim Legislative committee work should be praised, as they struggled and found solutions to the problems in HB 2018. Landlords know the penalties involved in discrimination cases can be severe, so they have no alternative but to respond to civil rights complaints.

Mr. Howard Snyder, President of K.F.F.M.H, spoke from printed testimony, (see Attachment No. 7), for details. He spoke in qualified support of HB 2018. Says discrimination is rooted in ignorance and fed by fear. Their support is for the philosophy of including handicapped persons under the protection of the anti-discrimination laws. Their qualified support has concerns with the definition of "handicap". As a landlord, he understands all of the potential problems involved but feels people's basic rights far outweigh any problems that might occur. He urged HB 2018 be passed with an amended definition of handicap to include, "having a history of handicap", so these people will have opportunities they have been denied.

Chair had committee to note printed testimony of John Kelly, Exec. Secy. of Ks. Planning Council on developmental Disabilities, (see Attachment No. 8.) for details. They support HB 2018, but request this committee to consider amending the definition used for "handicapped" person in the bill. Further, they feel that HB 2018 deletes a significant portion of the content contained in SB 366 and Proposal 41, i.e., "has a history of", or "is regarded as".

Mr. Ron Pavelka, KAPS, gave hand-out, (see Attachment No. 9), for details. In the interest of time, he briefly summarized his testimony, saying they support HB 2018, and the trend of today to continue to try and make it possible for the mentally retarded and mentally ill persons to remain in their home communities, and the need for non discrimination is vital in this regard. There were questions raised on a reference in hand-out, (Disabled persons and the law), and Emalene Correll noted it was a lengthy item, and those wishing to research it could contact her for assistance.

Attachment No. 10, is the suggested changes for definition by Civil Rights Commission.
 Meeting adjourned 3:10 p.m.

425-5

Attn #1
1-29-85

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|---|-----------|
| 25 | 2018 |
| Fiscal Note 1985 Session January 28, 1985 | Bill Note |

The Honorable Marvin Littlejohn, Chairperson
Committee on Public Health and Welfare
House of Representatives
Third Floor, Statehouse

Dear Representative Littlejohn:

SUBJECT: Fiscal Note for House Bill No. 2018 by Special
Committee on Health and Welfare

In accordance with K.S.A. 75-3715a, the following fiscal note concerning House Bill No. 2018 is respectfully submitted to your committee.

House Bill No. 2018 amends the Kansas act against discrimination from "physical handicap" to "handicap". The term "handicap" is defined as any condition unrelated to a person's ability to engage in a particular job or occupation in which a person has a physical or mental impairment which substantially limits one or more major life activities. "Physical or mental impairment" is defined in the bill to mean any physiological disorder, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems. "Major life activities" means functions such as caring for oneself, walking, seeing, hearing, speaking, learning, and working.

The Commission states that information is insufficient at this time to reliably estimate the number of persons within the state who would be eligible to file under this provision. However, experience of surrounding states with similar provisions would indicate the Commission might expect 20 to 60 additional complaints per year should the act be passed.

This increase in caseload would require one additional investigator at a cost of \$21,758, exclusive of salary plan revision. In addition, the Commission indicated \$5,000 would be required to obtain professional assistance related to determining the scope or type of mental disability.

In summary, passage of House Bill No. 2018 would increase State General Fund operating expenses by \$26,758 effective FY 1986 and would be in addition to amounts included in the FY 1986 Governor's Report.

Alden K. Shields
Alden K. Shields
Director of the Budget

AKS:SKS:sr

Attn #1
1-29-85

*Attn. # 2-a.
1-29-85*

State Department of Social and Rehabilitation Services

Statement Regarding H.B. 2018

1. Kansas Act Against Discrimination:

An act concerning the Kansas act against discrimination; relating to discrimination because of a handicap; amending K.S.A. 44-1001, 44-1002, 44-1004, 44-1006, 44-1009, 44-1015, 44-1016, 44-1017, 44-1018, 44-1027 and 44-1030 and K.S.A. 1984 Supp. 44-1005 and repealing the existing sections.

2. Purpose:

To offer protection in employment, public accommodations, housing, and real estate loans to handicapped persons, redefining the term "handicap", so that it includes both physical and mental disabilities.

3. Background:

Under current legislation, persons handicapped by mental or emotional disabilities have no protection under state law against discrimination in employment, public accommodations, housing and real estate loans. Persons who are physically handicapped have no protection against discrimination in housing and real estate loans. There are no data to support that this population should be denied the rights accorded to other citizens. Ironically, major efforts made by these persons to achieve self-sufficiency through training and therapy can be destroyed or severely set back by acts of discrimination.

Proposal 41, which was considered by the Interim Committee in 1984, provided a definition of "handicap" which was similar in language and intent to the federal definition given in the Rehabilitation Act. The federal definition provides civil rights protections not only to those persons defined in H.B. 2018, but also to persons who have a history of handicap or who are perceived by others to be handicapped. Legislators and employers were concerned that the inclusion of history or perception of handicap could force the employment and maintenance of incompetent disabled employees. The Interim Committee included disclaimers in H.B. 2018 which would nullify this concern. Considering the possible impact on many persons who have a history of handicap or who are perceived as handicapped, we support the definition of "handicap" provided in the federal legislation.

Throughout its history and in accordance with the Rehabilitation Act of 1973, Kansas Social and Rehabilitation Services has invested staff and resources to assure that persons with disabilities may have the same freedoms, vocational opportunities and human rights as persons without disabilities. Amending the definition of "handicap" and providing protection against discrimination in housing and real estate loans will lessen the discrepancies between federal and state legislation and will increase equality in protection of civil rights for citizens of Kansas.

*Attn. # 2-a.
1-29-85*

4. Effect of Passage:

Passage of this bill would reduce the exclusion of persons with certain handicaps from equal rights to access in employment, public accommodations, housing and real estate loans and to protection from discrimination which is accorded other Kansans. Violations of these protections would be investigated and prosecuted by the Kansas Commission on Civil Rights.

Equal protection against discrimination will improve the capabilities of many handicapped persons to live and interact in their own communities. In the long term, this will decrease need for dependency on social programs for support.

5. SRS Recommendation:

Social and Rehabilitation Services serves or purchases services for persons with all types of disabilities. Programs such as Home and Community Based Services, Rehabilitation Services and Independent Living Centers are designed for use by all handicapped persons and have proven to be cost effective. They are also valuable in promoting human growth and dignity for persons with disabilities. We believe that, with our assistance, handicapped persons demonstrate their ability to live in and contribute to their own communities. To promote this outcome, we must guarantee all handicapped persons the same civil rights assured to non-handicapped persons.

There is a comparable outcome whether persons have a handicap or if they are simply perceived as having one. Social and Rehabilitation Services recognizes the difference between "handicap" and "disability" and promotes the ideal that citizens should not be handicapped by prejudices of other persons. Social and Rehabilitation Services supports H.B. 2018, and strongly recommends the bill be amended, expanding the definition of "handicap" to parallel the federal definition, thereby including those persons who have a history of a mental or physical impairment or who are perceived to be handicapped.

Robert C. Harder, Secretary
Office of the Secretary
Social and Rehabilitation Services
296-3271

TESTIMONY REGARDING KANSAS ACT AGAINST DISCRIMINATION

Mr. Chairman, Members of the Committee:

I appreciate the opportunity to appear before this committee regarding the proposed amendments to the Kansas Act Against Discrimination.

The Department of Social and Rehabilitation Services supports this bill, but strongly recommends amendments to broaden the definition given to "handicap". The definition of "handicap" in H.B. 2018 is not equivalent to the commonly recognized and understood definition of handicap that has legal precedent in the federal Rehabilitation Act of 1973 and its amendments. This amendment intends to include those persons who have a history of mental or physical impairment or may be perceived to be handicapped.

We have, throughout our history, invested significant amounts of staff resources and program development in assuring that persons with disabilities may have the same freedoms, vocational opportunities and human rights as persons without disabilities. All Kansans are entitled to the same access and protection in housing, employment, public accommodation and real estate loans. In its present form H.B. 2018 would exclude certain "minority groups" from protection against discrimination. We believe that a revision in the definition of "handicap" to include those persons who have a history of handicap or who are perceived to be handicapped would eliminate the division or exclusion of persons from civil rights protections, so that all citizens may share equal rights, therefore recognizing each Kansan for his or her own abilities and worth.

SRS programs serve persons with all types of disabilities. Programs such as Home and Community Based Services, Rehabilitation Services, and Centers for Independent Living, designed for utilization by all handicapped persons, have proven to be cost effective as well as truly valuable in providing human growth and dignity for persons with disabilities. We believe that, in order to enable handicapped persons to prepare themselves to live in and contribute to their own communities, we must guarantee them the same civil rights assured other Kansans.

This past year 80,000 Kansans had contact with community mental health centers. Of these persons served, approximately 12,000 persons would be considered chronically mentally ill. In FY 1984 SRS Rehabilitation Services were provided to 3,018 clients who were mentally handicapped, and 423 of these persons were employed, enabling them to become tax payers and contributing members of society. These persons' handicaps are less visible than others'; however, major steps toward their rehabilitation includes opportunities for independent living and gainful employment. Currently these persons, as well as others with "invisible" handicaps, have no protection under state law in employment, public accommodations, housing or real estate loans. Ironically, major efforts made through training and therapy so that they can achieve self-sufficiency can be destroyed or severely set back by an act of discrimination.

We must consider the facts. Ninety percent of all Kansans, including the aged--possibly nine out of every ten in this room--will become disabled at some point in their lives. This is particularly significant when we consider

that by the year 2000, in only 15 years, 22%-23% of the population will be 65 years of age or older. Some estimates say that control of cancer and heart disease will increase the population 65 years of age or older to 50% by the year 2020, only 35 years away.

Without these amendments, many of us now and in the future might be denied our civil rights. Current legislation protects our rights of employment if we are physically disabled, but would not allow us protections if we want to rent or buy housing. H.B. 2018 would protect our rights to all these facets of daily living if we have certain physical or mental disabilities, but would not protect us if we had a history of cancer or if we had been hospitalized for depression. A person who is perceived to be handicapped should receive the same protection under law as the person who is handicapped. The rights of all persons should be protected in all areas, including employment, public accommodation, housing and loans.

The point is clear. Social and Rehabilitation Services supports a change in legislation which guarantees not only the rights of persons who are now disabled, but the future rights and protections for ourselves and others who are currently non-disabled. Our reservations are that individuals who have a history of disability or who are perceived by others as being disabled are not covered under H.B. 2018 in its present form. Amendment to broaden the definition of "handicap" will offer protection from discrimination that stems from fears and prejudices that may surround a history of earlier impairment.

To provide for nondiscrimination in all sectors of American life without securing the same rights for all persons would be an injustice to all of us.

Thank you for the opportunity to present this information.

Robert C. Harder, Secretary
Office of the Secretary
Social and Rehabilitation Services
296-3271

*Attn. # 2-10
1-29-85*

KANSAS ACT AGAINST DISCRIMINATION

H.B. 2018

Background

The Special Committee on Public Health and Welfare has approved the following definition of "handicap":

"(j) The term 'handicap' means any condition unrelated to a person's ability to engage in a particular job or occupation in which a person has a physical or mental impairment which substantially limits one or more major life activities.

"(k) The term 'physical or mental impairment' means: (1) Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or (2) any mental or physiological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness and specific learning disabilities. The term 'physical or mental impairment' shall not include alcoholism, drug abuse or a physiological disorder or condition which is a contagious disease.

"(l) The term 'major life activities' means functions such as, but not limited to, caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working."

This definition deletes a significant portion of the content contained in Proposal 41. The definition in Proposal 41 was similar in language and intent to the federal definition covered under 28 CFR Part 39 Enforcement of Nondiscrimination on the Basis of Handicap in programs or activities conducted by the federal government. The definition proposed by the Special Committee on Public Health and Welfare is more limiting in coverage than the current federal definition, deleting the sections from Proposal 41 which define persons who have a history of impairment or who are perceived as being impaired.

This section of the definition was dropped because legislators and employers were concerned that its inclusion might force the employment and maintenance of disabled, incompetent workers. However, disclaimers were added to the bill which protect the employer, landlord or banker from being forced to provide a higher degree of care to a handicapped person and which require the handicapped person to meet the obligations to perform functions or protect property or repay loans in the same manner as non-handicapped persons.

The definition given in the Rehabilitation Act of 1973 has legal precedent and would protect the rights of all Kansans without creating an undue burden on employers, landlords or bankers.

*Attn. 2-B
1-29-85*

We suggest using the federal definition (modified):

✓ "'Handicapped person' means any person who (i) has a physical or mental impairment which substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.

✓ "'Physical or mental impairment' means (same as in H.B. 2018).

✓ "'Major life activities' means (same as in H.B. 2018).

✓ "'Has a record of such an impairment' means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

✓ "'Is regarded as having an impairment' means has a physical or mental impairment that does not substantially limit major life activities but that is treated by others as constituting such a limitation; has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or has none of the impairments defined in this section but is treated by others as having such an impairment."

Use of the same definition will allow Kansans who are victims of discrimination on the basis of handicap to be protected equally by state and federal law.

(Section 7(3) of the Act; 29 U.S.C. 706(d))

"Eligible" or "eligibility," when used in relation to an individual's qualification for vocational rehabilitation services, refers to a certification that:

(i) An individual has a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment, and

(ii) Vocational rehabilitation services may reasonably be expected to benefit the individual in terms of employability.

(Section 7(7) of the Act; 29 U.S.C. 706(7))

"Employability" refers to a determination that the provision of vocational rehabilitation services is likely to enable an individual to enter or retain employment consistent with his capacities and abilities in the competitive labor market; the practice of a profession; self-employment; homemaking; farm or family work (including work for which payment is in kind rather than in cash); sheltered employment; homebound employment; or other gainful work.

(Section 12(c) of the Act; 29 U.S.C. 711(c))

"Establishment of a rehabilitation facility" means:

(i) The acquisition, expansion, remodeling, or alteration of existing buildings, necessary to adapt them or increase their effectiveness for rehabilitation facility purposes;

(ii) The acquisition of initial or additional equipment for these buildings essential for providing vocational rehabilitation services; or

(iii) The initial or additional staffing of a rehabilitation facility for a period, in the case of any individual staff person, not longer than 4 years and 3 months.

(Section 7(4) of the Act; 29 U.S.C. 706(4))

"Evaluation of vocational rehabilitation potential" means, as appropriate, in each case:

(i) A preliminary diagnostic study to determine that an individual is eligible for vocational rehabilitation services;

(ii) A thorough diagnostic study consisting of a comprehensive evaluation of pertinent factors bearing on the individual's handicap to employment and vocational rehabilitation potential, in order to determine which vocational rehabilitation services may be of benefit to the individual in terms of employability;

(iii) Any other goods or services necessary to determine the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational

rehabilitation services in terms of employability;

(iv) Referral to other agencies or organizations, when appropriate; and

(v) The provision of vocational rehabilitation services to an individual during an extended evaluation of rehabilitation potential for the purpose of determining whether the individual is a handicapped individual for whom a vocational goal is feasible.

(Section 7(5) of the Act; 29 U.S.C. 706(5))

"Family member" or "member of the family" means any relative by blood or marriage of a handicapped individual and other individual living in the same household with whom the handicapped individual has a close interpersonal relationship.

(Section 103(a)(3) of the Act; 29 U.S.C. 723(a)(3))

"Handicapped individual" except in § 361.15(b), § 361.51(e), and § 361.52(g) means an individual:

(i) Who has a physical or mental disability which for that individual constitutes or results in a substantial handicap to employment; and

(ii) Who can reasonably be expected to benefit in terms of employability from the provision of vocational rehabilitation services, or for whom an extended evaluation of vocational rehabilitation potential is necessary to determine whether he or she might reasonably be expected to benefit in terms of employability from the provision of vocational rehabilitation services;

(Section 7(7)(A) of the Act; 29 U.S.C. 706(7)(A))

"Handicapped individual," for purposes of § 361.15(b), § 361.51(e), and § 361.52(g), means an individual:

(i) Who has a physical or mental impairment which substantially limits one or more major life activities;

(ii) Who has a record of such an impairment; or

(iii) Who is regarded as having such an impairment.

(Section 7(7)(B) of the Act; 29 U.S.C. 706(7)(B))

"Local agency," unless the context clearly indicates differently, means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has the sole responsibility under an agreement with the State agency to conduct a vocational rehabilitation program in the locality under the supervision of the State agency in accordance with the State plan.

(Section 7(8) of the Act; 29 U.S.C. 706(8))

"Physical and mental restoration services" means:

(i) Medical or corrective surgical treatment;

(ii) Diagnosis and treatment for mental or emotional disorders by a physician skilled in the diagnosis and treatment of such disorders or by a psychologist licensed or certified in accordance with State laws and regulations;

(iii) Dentistry;

(iv) Nursing services;

(v) Necessary hospitalization (either inpatient or outpatient care) in connection with surgery or treatment and clinic services;

(vi) Convalescent or nursing home care;

(vii) Drugs and supplies;

(viii) Prosthetic, orthotic or other assistive devices including hearing aids, essential to obtaining or retaining employment;

(ix) Eyeglasses and visual services, including visual training, and the examination and services necessary for the prescription and provision of eyeglasses, contact lenses, microscopic lenses, telescopic lenses, and other special visual aids, prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

(x) Podiatry;

(xi) Physical therapy;

(xii) Occupational therapy;

(xiii) Speech or hearing therapy;

(xiv) Psychological services;

(xv) Therapeutic recreation services;

(xvi) Medical or medically related social work services;

(xvii) Treatment of either acute or chronic medical complications and emergencies which are associated with or arise out of the provision of physical and mental restoration services; or which are inherent in the condition under treatment;

(xviii) Special services for the treatment of individual suffering from end-stage renal disease, including transplantation, dialysis, artificial kidneys, and supplies; and

(xix) Other medical or medically related rehabilitation services including art therapy, dance therapy, music therapy and psychodrama.

(Section 103(a)(4) of the Act; 29 U.S.C. 723(a)(4))

"Physical or mental disability" means a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's employment activities or vocational functioning.

(Section 7(7)(A)(i) of the Act; 29 U.S.C. 706(7)(A)(i))

Title 45—Public Welfare

Subtitle A—Department of Health and Human Services

§ 84.4

ions.
his part, the term:
"means the Rehabilitation
1973, Pub. L. 93-112, as
the Rehabilitation Act
of 1974, Pub. L. 93-516,

"504" means section 504

ion of the Handicapped
that statute as amended
tion for all Handicapped
of 1975, Pub. L. 94-142,
et seq.

"Department" means the De-
partment of Health and Human Serv-

"Director" means the Director of
Civil Rights of the De-

"State" means any state or
subdivision, any instru-
state or its political sub-
public or private agency,
organization, or other
person to which Federal
tance is extended direct-
another recipient, in-
cessor, assignee, or
a recipient, but exclud-
the beneficiary of the as-

"Not for assistance" means
nt for assistance" means
mits an application, re-
required to be approved
ent official or by a re-
condition to becoming a

"Financial assistance"
d financial assistance"
nt, loan, contract (other
ement contract or a con-
nce or guaranty), or any
ment by which the De-
ides or otherwise makes
ance in the form of:

of Federal personnel; or
d personal property or
or use of such proper-

or leases of such prop-
an fair market value or
sideration; and
s from a subsequent
se of such property if
are of its fair market
turned to the Federal

(i) "Facility" means all or any por-
tion of buildings, structures, equip-
ment, roads, walks, parking lots, or
other real or personal property or in-
terest in such property.

(j) "Handicapped person." (1)
"Handicapped persons" means any
person who (i) has a physical or
mental impairment which substantial-
ly limits one or more major life activi-
ties, (ii) has a record of such an im-
pairment, or (iii) is regarded as having
such an impairment.

(2) As used in paragraph (j)(1) of
this section, the phrase:

(i) "Physical or mental impairment"
means (A) any physiological disorder
or condition, cosmetic disfigurement,
or anatomical loss affecting one or
more of the following body systems:
neurological; musculoskeletal; special
sense organs; respiratory, including
speech organs; cardiovascular; repro-
ductive, digestive, genito-urinary;
hemic and lymphatic; skin; and endo-
crine; or (B) any mental or psychologi-
cal disorder, such as mental retarda-
tion, organic brain syndrome, emotion-
al or mental illness, and specific learn-
ing disabilities.

(ii) "Major life activities" means
functions such as caring for one's self,
performing manual tasks, walking,
seeing, hearing, speaking, breathing,
learning, and working.

(iii) "Has a record of such an impair-
ment" means has a history of, or has
been misclassified as having, a mental
or physical impairment that substan-
tially limits one or more major life ac-
tivities.

(iv) "Is regarded as having an im-
pairment" means (A) has a physical or
mental impairment that does not sub-
stantially limit major life activities but
that is treated by a recipient as consti-
tuting such a limitation; (B) has a
physical or mental impairment that
substantially limits major life activi-
ties only as a result of the attitudes of
others toward such impairment; or (C)
has none of the impairments defined
in paragraph (j)(2)(i) of this section
but is treated by a recipient as having
such an impairment.

(k) "Qualified handicapped person"
means:

(i) With respect to employment, a
handicapped person who, with reason-

able accommodation, can perform the
essential functions of the job in ques-
tion;

(2) With respect to public preschool
elementary, secondary, or adult educa-
tional services, a handicapped person
(i) of an age during which nonhandi-
capped persons are provided such serv-
ices, (ii) of any age during which it is
mandatory under state law to provide
such services to handicapped persons,
or (iii) to whom a state is required to
provide a free appropriate public edu-
cation under Section 612 of the Educa-
tion of the Handicapped Act; and

(3) With respect to postsecondary
and vocational education services, a
handicapped person who meets the
academic and technical standards re-
quisite to admission or participation in
the recipient's education program or
activity;

(4) With respect to other services, a
handicapped person who meets the es-
sential eligibility requirements for the
receipt of such services.

(l) "Handicap" means any condition
or characteristic that renders a person
a handicapped person as defined in
paragraph (j) of this section.

§ 84.4 Discrimination prohibited.

(a) *General.* No qualified handi-
capped person shall, on the basis of
handicap, be excluded from participa-
tion in, be denied the benefits of, or
otherwise be subjected to discrimina-
tion under any program or activity
which receives or benefits from Feder-
al financial assistance.

(b) *Discriminatory actions prohibi-
ted.* (1) A recipient, in providing any
aid, benefit, or service, may not, direct-
ly or through contractual, licensing, or
other arrangements, on the basis of
handicap:

(i) Deny a qualified handicapped
person the opportunity to participate
in or benefit from the aid, benefit, or
service;

(ii) Afford a qualified handicapped
person an opportunity to participate
in or benefit from the aid, benefit, or
service that is not equal to that afford-
ed others;

(iii) Provide a qualified handicapped
person with an aid, benefit, or service



1430 S. Topeka Avenue
Topeka, Kansas 66612-1877
913-232-7828 Voice/TTY
567-0828 Kans-A-N



*Attn. #3
1-29-85*

TO: House Committee on Public Health and Welfare
FROM: Kansas Advisory Committee on Employment of the Handicapped
DATE: January 29, 1985
SUBJECT: House Bill No. 2018, Proposed amendments to the Kansas Act
Against Discrimination

The Special Committee on Public Health and Welfare concluded "that the Kansas Act Against Discrimination should be amended to include the physically and mentally handicapped under the various protected activities of the Kansas Law." We agree.

The Special Committee concluded "that the scope of the definition should be all-encompassing, i.e. should include both physically and mentally disabled individuals regardless of the cause of the disability." We agree.

"In addition, the committee believes that any definition of handicap should be sufficiently clear that an employer, proprietor, financial institution, realtor, or other person can easily determine the actions that are prohibited by law." Again, we agree.

The committee recommended that "careful attention be given to this definition by the legislative committees that consider House Bill No. 2018 and by conferees who meet with such committees." Having heard the hypothetical examples voiced yesterday in this committee, and having spoken with members of this committee, I judge that I am not the only person confused by the current phrasing of the definition.

Further, it must be pointed out with regard to the expressed conclusion of the Special Committee, that a phrase crucial to an "all-encompassing" definition has been omitted. Persons who are mentally restored, yet have a history of mental disability are not covered under the current wording. Surely that was not intended. By omitting "record or history of impairment" wording, the committee undermined its own expressed intent to protect persons stigmatized by mental disability. Those who have recovered and who have returned to community living, who have no mental impairment yet are victims of prejudice and discrimination must be among the persons the bill seeks to benefit. There can be no doubt about that.

*Attn. #3
1-29-85*

We believe the following definition is better suited to the committee's expressed intent and is far easier to understand:

The term "handicap" means any condition in which a person has: 1) a physical or mental impairment which substantially limits one or more major life activities, or 2) a record of such an impairment; provided that such condition is unrelated to a person's ability to execute the essential functions of a particular job or occupation.

We believe this wording clearly establishes the intended scope of the term "handicap" and strengthens the necessary work-related provision. We recommend that this definition be substituted for the one contained in Sec. 2(j).

There is a technical problem however, with using this same definition in Sec. 7(h) because the work-related phrase is irrelevant to housing discrimination. The desired definition is accomplished by replacing the semicolon in the above definition with a period and by deleting the final phrase.

Finally, we ask the committee to consider the re-insertion of one phrase taken from Senate Bill 366, the original initiative to amend this Act, which was introduced during the 1983 session. That phrase was contained in Sec. 5 and it referred to existing statutes which require that 10% of the units in new or renovated apartment complexes of 20 or more units must be accessible to disabled people. The new wording would be:

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. and rules and regulations adopted pursuant thereto.

The reason for including this reference is to enhance the understanding of the uninitiated reader.

With the exception of this last recommendation, we believe these amendments are essential to the quality and clarity of House Bill No. 2018. Thank you for the opportunity to address these issues. I am available to answer questions as the committee sees fit.



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:

HOUSE PUBLIC HEALTH AND WELFARE

REPRESENTATIVE LITTLEJOHN

By: Paul M. Klotz, Executive Director

Date: January 29, 1985

RE: H.B. 2018

The Association of Community Mental Health Centers of Kansas supports the passage of H.B. 2018 as it was initially introduced (S.B. 366). It is imperative that mentally handicapped individuals 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. H.B. 2018 as the concept was initially introduced would have provided the protection in our communities where mentally handicapped are striving to become participating members. Without this concept integrated into our state laws, much of our expenditures in time and money are lost.

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.

This bill, if it would conform more to Federal law, 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.

*Attn. #4
1-29-85*

Larry W. Nikkel
President

Dwight Young
President Elect

Paul Thomas
Vice President

Clinton D. Willis
Past President

Michael L. Taylor
Treasurer

Steven J. Solomon
Secretary

Harriet Griffith
Bd. Mem. at Large

*Attn. #5
1-29-85*



TOPEKA RESOURCE CENTER FOR THE HANDICAPPED

West Tenth Professional Building
1119 West Tenth Topeka, Kansas 66604

Telephone
913-233-6323
TTY-233-6788

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

January 31, 1985

TO: House Public Health and Welfare

FROM: Michael J. Byington

SUBJECT: HB 2018

I work for the Topeka Resource Center for the Handicapped, a center for independent living serving all types of disabled individuals. I also lobby for the Kansas Association for the Blind and Visually Impaired Inc., and I have done some legislative advocacy for persons with epilepsy as well as worked legislatively with other segments of the developmentally disabled population. Normally, when I communicate with the Kansas Legislature, I make certain to let it be known what hat I am wearing. In reference to this bill, however, I am on my own time, but am certainly wearing all of those hats. This is truly an issue which relates to all disabled individuals.

If a person is mentally disabled in the State of Kansas, that person has no civil rights afforded him/her under current Kansas law. If a person has a physical disability, it is presently completely legal to refuse him/her housing, or to refuse him/her a bank loan even if he/she has excellent credit. If a person is recovered from, but has a record of, some impairment, mental or physical, that person also has no civil rights afforded him/her under current Kansas law. Furthermore, if a person has no disability whatsoever, but is thought to have a disability, that person also may be discriminated against under current Kansas law.

The above must be changed. HB 2018, in its current form, would change one of the above factors. I endorse it in this effort, but I am quite certain it needs to be amended to deal with the other two factors as well.

In its current form, the bill would provide protection against discrimination against mentally handicapped individuals. This is long overdue. The definition used in the bill of a disabled or handicapped person, however, needs additions. It must be amended to also afford protection to those who have a record of impairments or are regarded as having impairments.

In the remainder of this document, I shall thus deal with two areas. I shall comment on the merits of the bill in its present form. I shall then discuss the need for the above referenced amendment.

*Attn. #5
1-29-85*

Of my credentials as an advocate for the disabled, the most important relating to this legislation is that I assist disabled people with civil rights complaints as a part of my job. Thus I can factually state from a position of personal knowledge that there are certain types of extremely repugnant discrimination which occasionally take place against disabled people in Kansas, and which can not be covered under current law. Many of you who are on this committee heard testimony on this issue during last year's legislative session or during the interim study last summer. I am thus not going to inundate you with additional example upon example. I shall offer, however, three examples of actual discrimination which has taken place, and which is not coverable under the present Kansas Act Against Discrimination.

A food service establishment here in Topeka, had several mentally retarded employees. Certainly this establishment is to be commended for its willingness to employ the disabled, but unfortunately it also employed one rather sadistic supervisor who was abusing his retarded employees. He would threaten them consistently with the loss of their jobs, threaten to beat them if they did not work extremely hard, and otherwise treat them in an abusive and disrespectful manner different from that used in dealing with non-retarded employees. His actions were legal under Kansas law. They still are. Fortunately, he finally was dismissed by the employer after his actions came to its attention when he sexually propositioned both a male and a female retarded employee. This was of course illegal, and he got caught thus resulting in his termination. It is indeed sad, however, that before this happened, the employees being abused came forward and attempted to get legal protection, but could not do so due to inadequacies of Kansas law.

A blind lady who was employed, and who has a good credit record went to a bank to get a loan to buy a car. Her son had become of age to drive, and she was buying the car for family use. The bank officer did not even offer her the respect of inviting her back to his desk or office. He simply informed her rather loudly in the bank lobby that they did not make car loans to blind people. The next day this same lady went to another lending institution and got the loan in less than 15 minutes. There was no recourse, however, she could take against the first institution for the indignities she had been caused due to the extreme lackings in Kansas civil rights laws. This is still the case.

A mentally disabled Veteran and his wife moved to Kansas recently. He had a full disability pension of over \$1600.00 per month from the Veteran's Administration, but a rental agency would not rent him a dwelling. They said this was because he had no garnisheeable income. This policy may or may not have been designed to discriminate against handicapped individuals. A competent investigation could determine whether discrimination had taken place. Usually this is done by a civil rights investigator posing as being in a similar situation to the person alleging discrimination minus the factor alleged to be causing that discrimination. In this case, for example, the civil rights investigator would pose as an individual who has a \$1600.00 non-garnisheeable income, but not having a mental disability. If

rental is offered, then a case could be made that discrimination took place due to the mental disability rather than housing having been denied for the stated reason. This is how the system should work, but it will not currently work this way in Kansas. Handicapped people currently have no protection against housing discrimination under state law. Therefore, the Kansas Civil Rights Commission simply could not investigate the case.

The current double standard where physically handicapped people have some limited civil rights protections, and mentally handicapped people have none at all, in fact results in the potential of no one in the state having any civil rights coverage whatsoever. If a person is rightfully being accused of discrimination, all they must do is prove that they discriminated because they thought the person was a little strange, and not because the person was black or Jewish or blind or whatever. If they can pull that off, then under current Kansas law, it is perfectly all right. This certainly means that multiply handicapped people have no civil rights protections in Kansas. All the potential discriminator has to do to legally discriminate is carefully select the type of disability he/she chooses for the reason for discrimination. If he/she chooses the mental disability, for example, when dealing with a mentally retarded deaf person, then he/she is in the legal clear.

Certainly the above paragraphs document the need to change the Kansas Act Against Discrimination, but as long as this is to be done, it might as well be done right. As is shown above, if one person may be potentially legally discriminated against, then anyone else might be regarded as possessing the same quality and also be discriminated against due to that quality. Under current Kansas law, and under the provisions of HB 2018 in its present form, I, if I were a landlord, a banker, or other service provider, could say to any of you legislators, "You had to be crazy to vote the way you did last session. Because I think you had to be crazy, I regard you as being crazy; I clearly see that you have a record of being crazy, and therefore, I am not going to do business with you." To deal with these problems, the definition of a disabled or handicapped person needs to be expanded to cover being regarded as having an impairment or having a record of an impairment. I urge you to amend HB 2018 accordingly. Certainly, for example, a cured mental illness should not be allowed to follow its former owner around haunting him/her for the next twenty, thirty, forty, or longer years. Under current Kansas law, however, and under the present provisions of HB 2018 this can most definitely happen. Please strengthen HB 2018 by strengthening the definition section as I have described; then please report this bill favorably and help it become law. Thank you.

(J) "HANDICAPPED PERSON" (1) "HANDICAPPED PERSON" MEANS ANY PERSON WHO (I) HAS A PHYSICAL OR MENTAL IMPAIRMENT WHICH SUBSTANTIALLY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES, (II) HAS A RECORD OF SUCH AN IMPAIRMENT, OR (III) IS REGARDED AS HAVING SUCH AN IMPAIRMENT.

A disabled person shall be defined as: any person with a physical, developmental, mental, or emotional impairment which would substantially limit one or more major life activities such as learning, communication, mobility, self and health care, socialization, employment, housing, and recreation. This would include any individual who is so limited as a result of having a record of such an impairment or being regarded as having such an impairment. Major areas of disability include but are not limited to: vision, hearing, sensory, mobility, respiratory, and/or mental impairments, mental illness, learning disabilities, deafness, head trauma, chronic, disabling, life threatening, and/or terminal illness, intractable pain, job related injuries, aging, epilepsy.

*Attn. # 6
1-29-85*

TALK - The Associated Landlords of Kansas
P. O. Box 4282
Shawnee Mission, Kansas
(913)-232-4476

January 29th, 1985
Comments on House Bill 2018

The Associated Landlords of Kansas (TALK) is pleased to appear before the House Public Health and Welfare Committee to discuss House Bill 2018. In previous Legislative sessions we were disturbed about an earlier proposal (SB366), and offered several suggestions we felt necessary to improve it. We feel the interim legislative committee work should be praised, as they struggled and found solutions to the problems raised with them this summer.

One potential problem remains with the proposed legislation that we can foresee. Numerous landlords across the state recount problems with being threatened by prospective tenants who are not approved to rent a dwelling based on past histories or creditworthiness. Such tenants indicate they will file a complaint with the Civil Rights Commission in response to the turndown. Landlords faced with this problem face potential significant financial and time demands as they weigh the risks involved in maintaining their position or giving in to the tenant's threat.

Landlords know the penalties involved in discrimination cases can be severe, so they have no alternative but to actively respond to civil rights complaints. Already working with a negative cash-flow on most properties, landlords face significant added costs when they must respond to unfounded complaints. We would like to see some approach adopted which would allow victims of unfounded complaints to recover at least their direct financial costs in such cases.

*Attn. #6.
1-29-85*

K.F.F.M.H.

Kansas Families For Mental Health

1268 Western
Topeka, Kansas 66612
913-232-6807

HB 2018

January 29, 1985

*Attn #7
1-29-85*

My name is Howard Snyder from Prairie Village. I am testifying today in qualified support of House Bill 2018. I am President of KFFMH which is a new statewide organization of local family support groups who have family members suffering from long term mental illness. We have local chapters in Lawrence, Topeka, Johnson County, Kansas City, Wichita, Hiawatha, Concordia, Manhattan, Hutchinson, Newton, McPherson, Winfield and Emporia.

Discrimination is rooted in ignorance and fed by fear. One of the communities fears is that if a "different" person moves into their neighborhood their property values will decline. I have been a professional real estate appraiser for 17 years and have performed between 5 and 10,000 real estate appraisals. In that time in no case have I ever found a reduction of property values caused by a mix of different kinds of people in an area. Decline of property values is caused by poor physical maintenance of properties and that problem cuts across all people and it cannot be predicted ahead of time. In no case have I ever found neighborhood deterioration which was started by handicapped people.

Our support is for the philosophy of including handicapped persons under the protection of the anti-discrimination laws. Our qualification of this support concerns the definition of handicap which does not include people who have a history of a handicap but do not appear handicapped today. As an example a person who spent a period of time in a psychiatric hospital seven years ago, but is recovered and functioning well today is not protected from discrimination due to the wording of the bill.

My wife and I have a 25 year old son who has had a brain disease for 6 years called schizophrenia. With proper treatment our son may be able to function at a level that he could provide his own needs and be a productive member of society. But, if he is shut out of housing, and shut out from the opportunity of productive work how will he be able to meet his own needs and be productive?

All of our families face the problem of a family member who may not be functional. If our family members cannot be productive through their own efforts and with our help who then is going to take care of them? Does the state intend to take on the full responsibility for providing a reasonable quality of life for those people whom the private sector refuses to deal with? If neither the state nor the private sector are going to fulfill their responsibility to low functioning people, who then will do it? Will we have more and more people living and dieing on the streets?

Much of the opposition to this bill will be from landlords. I have been a landlord for 29 years, so I truly 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.

So on behalf of KFFMH, and all people who are suffering from mental illness throughout Kansas we strongly urge that the bill be passed with an amended definition of handicap to include "having a history of handicap", so that these people will have an opportunity for the best life possible.

Howard W. Snyder
Howard W. Snyder
President
*Attn #7
1-29-85*



KANSAS PLANNING COUNCIL

*Attn. # 8
1-29-85*

JOHN CARLIN
Governor

on DEVELOPMENTAL DISABILITIES SERVICES

Fifth Floor North
State Office Building
Topeka, Kansas 66612
Ph. (913) 296-2608

Testimony for House Committee
on Public Health and Welfare
concerning
House Bill 2018

On behalf of the Kansas Planning Council for Developmental Disabilities Services (KPCDD), I wish to thank Chairperson Littlejohn and members of the House Committee on Public Health and Welfare for this opportunity to lend our support to the philosophy of House Bill 2018, but respectfully request that the Public Health and Welfare Committee consider amending the definition used for "handicapped" person in the bill.

The KPCDD was created by K.S.A. 74-5501 in response to Federal legislation. Our mission is to improve the quality of life, maximize the developmental potential, and assure the participation of the Developmentally Disabled citizen in the privileges and freedoms available to all Kansans. We believe that all Kansans with disabilities are entitled to the same equal access and protection provided to other Kansans in housing, employment, public accommodation and lending institutions.

House Bill 2018, while extending privileges to some handicapped persons, falls short in its coverage to all handicapped persons by not using the definition which Senate Bill 366 and Proposal 41 originally used. SB 366 and Proposal 41 used Section 504, of the Rehabilitation Act's definition of what constitutes a "handicapped" person.

HB 2018 deletes a significant portion of the content contained in SB 366 and Proposal 41, i.e. "has a history of" or "is regarded as". Without these amendments, those who would have been afforded protections will not be able to look to the Kansas Act Against Discrimination for shelter against discriminatory acts.

Again, thank you for the opportunity to present this information.

John F. Kelly, Executive Secretary
Kansas Planning Council on
Developmental Disabilities
296-2608

January 28, 1985

*Attn. # 8
1-29-85*

Ron ~~Latour~~ Pavelka

Attn. #9
1-29-1985

Kansas Advocacy & Protective Services for the Developmentally Disabled, Inc.



Suite 2, the Denholm Bldg.
513 Leavenworth
Manhattan, KS 66502
(913) 776-1541

Chairperson

R. C. (Pete) Loux
Wichita

TO: The House Committee on Public Health & Welfare
Representative Marvin Littlejohn, Chairperson

Vice Chairperson

Robert Anderson
Ottawa

FROM: Kansas Advocacy and Protective Services for
the Developmentally Disabled, Inc.

Secretary

Robert Epps
Topeka

DATE: January 29, 1985

RE: HB 2018

Treasurer

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Sen. Norma Daniels
Valley Center

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Concordia

Mary Hohman
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James Magg
Topeka

W. Patrick Russell
Topeka

W. H. Weber
Topeka

Liaison to the Governor

Robert Epps

Executive Director

Joan Strickler

KAPS assists developmentally disabled children and adults in gaining access to the rights and services to which they are entitled. As provided for by the Developmental Disabilities Act (P.L. 94-103 as amended by P.L. 95-602), each state designates an independent agency with authority to pursue legal, administrative and other appropriate remedies to insure the rights of persons with developmental disabilities. There are 54 such agencies in our states and territories. KAPS is a private, non-profit corporation created specifically to serve this role in Kansas.

As the Committee considers HB 2018, which would add protection from discrimination for the mentally ill and mentally impaired under the Kansas Act Against Discrimination, it is important to consider the effect of and the intent of the deinstitutionalization and preventive institutionalization movement that has been evolving in Kansas for many years. Families and communities are no longer being encouraged to place retarded or emotionally disabled children and adults in institutional settings. Instead, more normalized settings within the community are being sought and developed.

The commitment of Kansas toward making it possible for mentally retarded and mentally ill persons to remain in their home communities is well stated in the long-range plans on mental retardation and for mental health.

Attn. #9
1-29-85

The Kansas Long-Range Mental Retardation Plan states as part of its basic philosophy and purpose "...that all persons, including those who happen to be mentally retarded, have the same basic need--the need to be appreciated and respected as human beings of personal worth and dignity. Further, that mentally retarded persons have both the right and capacity to be assisted in their development -- physically, emotionally, intellectually, spiritually and socially, preferably in or near their home community."

The Kansas Long-Range Mental Health Plan states as its basic philosophy, "To seek to prevent unnecessary and inappropriate institutionalization of persons judged to be mentally ill. This principle reflects the belief that not all persons judged to be mentally ill require institutional treatment, and that treatment should occur in the setting that will maximize individuals functioning within their own community.

...mentally ill persons have a right to an existence which, to the greatest extent possible, is characteristic of the lifestyle that would be considered normal for non-mentally ill persons of similar age. This principle is based on the notion that mentally ill persons should be able to live and function in settings that enhance their self-concept, to develop behaviors acceptable to the mainstream of society, and to become increasingly self-sufficient."

The philosophy expressed in these Long-Range plans is consistent with a tradition in Kansas that has emphasized that a goal for our children and adults with mental and physical handicaps is to assist them to grow and develop toward the greatest possible level of personal, social, and economic independence.

There are, however, barriers that face some of the people with disabilities in Kansas who are striving to meet these goals of independence. In addition to the mental or physical disability, the handicapped person must often face an added challenge - a social judgement. The social judgement, or label, imposed by other people, can become a barrier to personal, social and economic independence. It is this issue of unfair treatment

based upon a person's handicapping condition, that has led many states to enact laws to protect physically and mentally disabled persons against discrimination.

Disabled Persons and the Law*, published in 1982, focuses on state legislative issues affecting persons with disabilities. According to a survey of state statutes prohibiting discrimination against persons with disabilities, most of the states having such statutes chose to cover both mental and physical disabilities under provisions of the law.

There are people in Kansas today who have mentally or physically disabling conditions that do not, alone, create substantial impediments to their ability to work, live independently, utilize public accommodations, or, in general, live productive and independent lives. The impediment to such independence can come, however, from social judgements that discriminate against the person and which present unfair barriers for that person. Kansans with mental and physical disabilities can be and are now being subjected to purposeful discrimination. We ask that the Kansas Act Against Discrimination be broadened to include persons with mental as well as physical handicaps and expanded to include the areas of housing and real estate.

With all of this in mind, we hope that you will act favorably on HB 2018.

Respectfully submitted,

Ron Pavelka

Ron Pavelka
Caseworker

* Bruce Dennis Sales, D. Mathew Powell, Richard Van Duizand and Associates, Disabled Persons and the Law, State Legislative Issues (Plenum Press, 1982)

*Suggested Amendment by:-
Civil Rights Commission*

*Attn. #1
1-29-1985*

"Handicap" means the physical or mental condition of a person, whether congenital or acquired by accident, injury or disease, whether such condition is actual or perceived, which is considered by an employer or by an owner, operator, lessee, manager, agent or employee of a place of public accommodations in arriving at an unfavorable decision relative to the person's employment or enjoyment of public accommodations, but is unrelated to such person's present ability to engage in the particular job or occupation or to enjoy the public accommodations.

Nothing herein shall be construed to require an employer or an owner, operator, lessee, manager, agent or employee of a place of public accommodations to hire, employ or accommodate any person with a communicable disease in a contagious stage when such hiring, employment or accommodation would constitute a health hazzard to fellow employees or the public in general.

*Attn. #10.
1-29-85*