

Approved _____

Date 3-26-85
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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin L. Littlejohn at _____
Chairperson

1:30 A.M./p.m. on March 25, 1985 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Research
Norman Furse, Revisor
Sue Hill, Secretary to Committee

Conferees appearing before the committee:

Robert Harder, Secretary of Department of Social Rehabilitation Services
Sylvia Hougland, Secretary of Department on Aging
Mort Ewing, Vice Chairman of American Association of Retired Persons
Basil Covey, Kansas Retired Teacher's Association
Hattie Norman, private citizen
Lynelle King, Kansas Nurses Association

Visitor's register, (see Attachment No. 1.)

Chairman called meeting to order, stating there is a full agenda this week, urging members to be prompt, and those testifying on bills to be as brief as possible so that we may adequately cover the agenda at hand.

Briefings on bills began on, HCR 5013, HCR 5015, HR 6046, SB 131, SB 162, SB 238
and-- SB 295, SB 309, SB 326

Briefing on HCR 5013:

This legislation related to fetal alcohol syndrome and fetal alcohol effects, and would provide that the Secy. of H. & E. develop a program to request voluntary posting of materials in clubs, liquor stores, and establishments selling alcoholic beverages, encourage physicians to make available educational materials related to alcohol awareness available in their offices. He stated there is a proposal to amend language slightly in this bill, and (Attachment No. 2), was distributed to committee for later use. (Please refer to attachment for details).

Briefing on HCR 5015:

Revisor Norman Furse explained that this legislation would direct the Secy. on Aging, Secy. of SRS, and Secy. of H. & E. to jointly develop a plan on community long term care services for elderly citizens of Kansas. It would mandate a report on recommendations of this plan be given to the Governor and Legislature prior to January 13, 1986.

Briefing on HR 6046:

Ms. Correll explained this would require red warning labels, size of container be limited to 1 ounce, and continued monitoring for ingestion data be done by the Over-the-Counter-Review Committee of the United States Food and Drug Administration (USFDA) and the United States Consumer Product Safety Commission, (USCPSC).

Briefing on SB 131:

Ms. Correll explained this legislation relates to Social welfare, i.e., cash or medical assistance recipients. Page 5, line 182 concerning general assistance indicates amendatory language in regard to welfare fraud. She explained in detail the penalties that would be applied to those committing fraud.

Briefing on SB 162:

Revisor, Norman Furse explained the eliminating of an annual review in food services and licensing procedures. The bill has been amended by the Senate to allow for

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 a.m./p.m. on March 25, 1985

Briefing on SB 162 continued:

civil penalties. This is a lengthy amendment he advised. There is language deleted on lines 39, 48 and 49, of "environment", changing it to "health", so that the language will read, "director of the division of health."

Briefings on SB 238:

Ms. Correll explained this is a totally new act, creating new statutes under which the Secretary of H. & E. would be required to set up rules and regulations setting criteria for certification of facilities providing services, care and residential accommodations for the trauma injured. There will be not more than two facilities, one rural, and one urban. She explained section by section the functions this legislation will set forth. Mr. Furse had committee note that a suggested better reference may be used such as Post Acute Care of Trauma Injured, and there would be a couple of places in the bill where this language change would be necessary.

Briefings on SB 295:

Mr. Furse explained this legislation relates to Hemophilia State Assistance Program. Provision for the Secy. of H. & E., could authorize claims for services even though the claim was not processed before the end of the fiscal year, and further this would limit the time of filing a claim to not more than 6 months after the time services were rendered.

Briefings on SB 297:

Ms. Correll explained that in 1983 the Legislature abolished the fee fund. SB 297 will authorize the Secy. of H. & E. to remit three-fifths of the fees from licensing of food service establishments located in a municipality that contracts with H. & E. to do food services inspections to the contracting municipality. There will be language stricken that is no longer needed, lines 29 through 34.

Briefings on SB 309:

Mr. Furse explained this legislation will allow the board of county commissioners of any county that makes a tax levy for public health pursuant to K.S.A. 65-204, to transfer any money remaining in the county health fund at the end of the county fiscal year to the capital outlay fund.

Briefing on SB 326:

Mr. Furse explained SB 326 amends ten statutes currently including references to the Certificate of Need (CON) that will expire July 1, 1985.

Hearings began on SB 89:

Chair recognized Dr. Robert Harder, Secy. SRS, and he distributed hand-out, (see Attachment No. 3-A, and S-B), see for details. His testimony in detail shown in Attachment 3-A, states that currently there is no state law requiring SRS to investigate reports of abuse, neglect, or exploitation of adults residing outside of adult care homes or other medical settings. Without clear authority, SRS social workers are extremely vulnerable when investigating abuse reports outside facilities, and the passing of SB 89 will provide legal sanction for SRS workers. He urged for support of this bill. He called attention to amendment, (shown in 3-B), that would delete language in lines 126 through part of line 129, in regard to relevant records, then further noted line 152, Section 9 as amended by the Senate, adding language in lines 152 through 154. He answered questions from members.

Sylvia Hougland, Secretary of Department on Aging gave hand-out, (see Attachment No 4), for details. She spoke in support of SB 89, saying the intent of the bill is to balance the interests and responsibility of government to protect vulnerable people who are victims of abuse, neglect, and exploitation. Ms. Hougland's comments were very brief, in the interest of time, but she referred to printed testimony for a comprehensive outlining of abuser, the abused, and what protective services are, and do. She urged for favorable passage of SB 89, then answered questions from committee.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 a.m./p.m. on March 25, 1985.

Hearings continued on SB 89:

Mr. Morton F. Ewing, Vice Chairman of AARP, American Association of Retired Persons gave hand-out of printed testimony, (see Attachment No. 5), for details. Mr. Ewing stated the proposed legislation in SB 89 will speak to the problem of reporting of abuse of the elderly that takes place outside of institutions, and he urged for favorable passage of this bill. His hand-out indicated statistics on non-institutional elderly abuse.

Mr. Basil Covey, Kansas Retired Teachers Association spoke in strong support of SB 89, and gave printed testimony to committee, (see Attachment No.6). He stated the elderly deserve the best care possible so they may enjoy remaining years of life in a safe and comfortable environment with their dignity intact, and he urged for favorable passage.

Mrs. Hattie Norman spoke to SB 89 as a consumer, and gave printed testimony to members, (see Attachment No. 7), for details. SB 89 would provide needed legislation for setting out procedures to be followed in investigations and the conditions under which protective services could be provided. She urged committee for favorable passage.

Lynelle King, Kansas Nurses Association spoke in support of SB 89, as the nurses would at times be in the position of reporting, and also that of providing care for those who may have been abused. She answered questions from committee.

Hearings closed on SB 89.

Rep. Buehler moved the minutes of March 21, 1985 be approved as written, seconded by Rep. Green, motion carried.

Meeting adjourned at 3:05 p.m.

GUEST REGISTER

DATE 3/25/85

HOUSE

PUBLIC HEALTH AND WELFARE

NAME	ORGANIZATION	ADDRESS
Barbara Montgomery	SRS.	2700 W 6th Topeka
Margaret L. Dehhardt	SHL	410 Blue Grass Dr. Ponca Springs
Iva Amdt	AOAP	7501 Glenwood O.P. Kas
Morton F. Ewing	AAFP	1806 Tracy Lane, Hutchinson
Basil Covey	KRTA	Topeka
Depp Howard	DISCUS	Jeff City, Mo

Attn #1.
3-25-5

Attn: # 2
3-25-5

0049 health service has issued an advisory stating that pregnant
0050 women and women considering pregnancy should not consume
0051 alcohol: Now, therefore,

0052 *Be it resolved by the House of Representatives of the State of*
0053 *Kansas, the Senate concurring therein:* That the secretary of
0054 health and environment is hereby directed to develop a program
0055 to:

0056 (a) Request voluntary posting of fetal alcohol awareness ma-
0057 terials in clubs, liquor stores and other establishments selling
0058 alcoholic beverages;

0059 (b) Encourage physicians to make available in their offices
0060 fetal alcohol awareness materials;

0061 (c) Encourage hospitals and maternity centers to keep inci-
0062 dence data on suspected fetal alcohol syndrome and fetal alcohol
0063 effects cases;

0064 (d) Insure that state and local staff include fetal alcohol
0065 syndrome and fetal alcohol effects education in all program
0066 components, especially family planning clinics and local health
0067 departments;

0068 (e) Encourage professional continuing education on effective
0069 alcohol interviewing including sessions designed specifically for
0070 physicians, nurses, educators, counselors, social workers and
0071 other health personnel; and

0072 *Be it further resolved:* That the secretary of state is hereby
0073 directed to transmit a copy of this resolution to the secretary of
0074 health and environment, the secretary of social and rehabilita-
0075 tion services, the state department of education, the department
0076 of revenue and the state planning council on developmental
0077 disabilities services; and

0078 *Be it further resolved:* That the secretary of health and envi-
0079 ronment is hereby directed to transmit a copy of this resolution to
0080 professional organizations of nursing, medicine, osteopathy, so-
0081 cial work, counseling and psychology.

and other health care providers

(e) Encourage all providers of child health education and prenatal classes to provide to participants information on the effects of alcohol on pregnancy;

(f)

add ->

Attn # 302
3-25-5

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Statement Regarding S.B. 89

I. Title

An act concerning the secretary of social and rehabilitation services; directing the investigation by the secretary of reports of abuse, neglect or exploitation of adults; providing for protective services. This proposed legislation does not amend any other statute.

II. Purpose

This proposed legislation directs the Department of SRS to receive and investigate reports of abuse, neglect or exploitation of adults residing outside of a medical setting.

III. Background

Currently there is no state law requiring SRS to investigate reports of abuse, neglect or exploitation of adults residing outside of adult care homes or other medical settings.

SRS is presently receiving and investigating reports based upon the powers and duties of the Secretary of SRS (K.S.A. 39-708) to perform the duties and services necessary to carry out the purposes of this act and promote social welfare in the state of Kansas, not inconsistent with the State law. Social welfare services include giving assistance, the prevention of public dependency and promoting the rehabilitation of dependent persons or those who are approaching public dependency.

In fiscal years 1983 and 1984, SRS received a combined total of 1,695 reports of abuse, neglect or exploitation of adults residing outside of a medical setting. 825 (48%) of the reports were confirmed. In 457 (27%) of the total cases reported, family members were the perpetrators.

Without clear legal authority, Social and Rehabilitation Services social workers are extremely vulnerable when investigating abuse, neglect, and exploitation reports outside of a nursing home or other medical settings.

The passing of this legislation will provide legal sanction for SRS social workers to investigate reports of abuse, neglect, and exploitation of the aged and disabled adults living in the community.

IV. SRS Recommendation

SRS supports this legislation because it will provide legislative sanction to investigate reports of adults residing outside of a medical setting.

Robert C. Harder
Office of the Secretary
Social and Rehabilitation Services
296-3271
March 25, 1985

Attn # 302
3-25-5

State of Kansas
Department of Social and Rehabilitation Services
Adult Services

ADULT ABUSE/NEGLECT/EXPLOITATION REPORTING AND INVESTIGATION
FISCAL YEAR 1984 (July, 1983 through June, 1984)

Medical

REPORTS RECEIVED	June, 1984.		Year to Date		PERPETRATORS	June, 1984		Year to Date	
	#	%	#	%		#	%	#	%
Total	46		445		Abuse:	23		234	
Age Range	18 - 96		18 - 103		Self	1	4	4	2
Average Age	69		65		Spouse	1	4	4	2
Male	11	24	148	33	Family/Relatives	2	9	9	4
Female	35	76	297	67	Guardian/Conservator	--	--	--	--
50 years and older	34	74	298	67	Other/Staff	19	83	217	93
					Neglect:	20		207	
INVESTIGATIVE FINDINGS					Self	3	15	23	11
Total Reports	46		445		Family/Relatives	2	10	8	4
Confirmed	24	52	186	42	Guardian/Conservator	--	--	5	2
Potential Risk	5	11	38	9	Other/Staff	15	75	171	83
Unconfirmed	17	37	221	50	Exploitation:	4		43	
ABUSE *					Self	--	--	1	2
Total Reports	23		234		Family/Relatives	1	25	13	30
Investigative Findings	13	57	104	44	Guardian/Conservator	1	25	7	16
Confirmed	13	57	104	44	Other/Staff	2	50	22	51
Pot.Risk	2	9	18	8	REPORTERS				
Spouse Abuse Reports	1		4		Self	--	--	14	3
Investigative Findings	1	100	3	75	Family	9	20	95	21
Confirmed	1	100	3	75	Neighbor/Friend	4	9	48	11
Pot.Risk	--	--	--	--	Guardian/Conservator	--	--	--	--
NEGLECT *					Community Agencies	--	--	4	1
Total Reports	20		207		SRS Staff	5	11	20	4
Investigative Findings	10	50	77	37	Medical Personnel (N.H.-M.D.-Health Dept. Hospital Staff)	24	52	210	47
Confirmed	10	50	77	37	Police	--	--	1	1
Pot.Risk	2	10	19	9	Lawyer/Court Services	--	--	--	--
EXPLOITATION *					Anonymous	--	--	24	5
Total Reports	4		43		Other	4	9	29	7
Investigative Findings	--	--	17	40					
Confirmed	--	--	17	40					
Pot.Risk	1	25	4	9					

* Some cases are reported in more than one category (abuse, neglect, exploitation)

State of Kansas
Department of Social and Rehabilitation Services
Adult Services

ADULT ABUSE/NEGLECT/EXPLOITATION REPORTING AND INVESTIGATION
FISCAL YEAR 1984 (July, 1983 through June, 1984)

Non-Medical

REPORTS RECEIVED		June, 1984		Year to Date					
		#	%	#	%	June, 1984		Year to Date	
		#	%	#	%	#	%	#	%
Total		80		921		PERPETRATORS			
Age Range		18 - 102		15 - 102		Abuse: 29		254	
Average Age		58		59		Self		6 21 54 21	
		#	%	#	%	Spouse		5 17 64 25	
Male		23 29		306 33		Family/Relatives		8 28 88 35	
Female		57 71		615 67		Guardian/Conservator		-- -- 4 2	
60 years and older		42 53		534 58		Other		10 34 44 17	
						Neglect: 45		621	
VESTIGATIVE FINDINGS						Self		35 78 481 77	
Total Reports		80		921		Family/Relatives		7 16 98 16	
Confirmed		37 46		408 44		Guardian/Conservator		-- -- 6 1	
Potential Risk		25 31		294 32		Other		3 7 36 6	
Unconfirmed		18 23		219 24		Exploitation: 13		136	
						Self		2 15 29 21	
ABUSE *						Family/Relatives		5 38 57 42	
Total Reports		29		249		Guardian/Conservator		-- -- 6 4	
Investigative Findings		Confirmed 13 45		98 39		Other		6 46 44 32	
		Pot.Risk 7 24		59 24		REPORTERS			
Spouse Abuse Reports		5		64		Self		9 11 64 7	
Investigative Findings		Confirmed 1 20		35 55		Family		16 20 139 15	
		Pot.Risk 2 40		14 22		Neighbor/Friend		15 19 217 24	
						Guardian/Conservator		-- -- -- --	
NEGLECT *						Community Agencies		10 13 137 15	
Total Reports		45		621		SRS Staff		6 8 66 7	
Investigative Findings		Confirmed 22 49		273 44		Medical Personnel (N.H.-M.D.-Health Dept. Hospital Staff)		8 10 97 11	
		Pot.Risk 14 31		207 33		Police		2 3 38 4	
EXPLOITATION *						Lawyer/Court Services		-- -- 17 2	
Total Reports		13		136		Anonymous		6 8 47 5	
Investigative Findings		Confirmed 5 38		51 38		Other		8 10 99 11	
		Pot.Risk 4 31		47 35					

* Some cases are reported in more than one category (abuse, neglect, exploitation)

STATE OF KANSAS
 Department of Social and Rehabilitation Services
 Adult Services

ADULT ABUSE/NEGLECT/EXPLOITATION REPORTING AND INVESTIGATION
 FISCAL YEAR 1983 (July, 1982 through June, 1983)

MEDICAL

REPORTS RECEIVED		June, 1983		Year to Date		PERPETRATORS		June, 1983		Year to Date	
		#	%	#	%			#	%	#	%
Total		31		359		Abuse:		16		188	
Age Range		18-102		17-105		Self		0	0	2	1
Average Age		70		62		Spouse		1	6	4	2
		#	%	#	%	Family/Relatives		0	0	4	2
Male		10	32	118	33	Guardian/Conservator		0	0	0	0
Female		21	68	241	67	Other/ Staff		15	94	178	95
60 years and older		24	77	232	65	Neglect:		15		164	
						Self		1	7	13	8
INVESTIGATIVE FINDINGS						Family/Relatives		1	7	8	5
Total Reports		31		359		Guardian/Conservator		0	0	0	0
Confirmed		6	19	138	38	Other/Staff		13	87	143	87
Potential Risk		8	26	56	16	Exploitation:		0		25	
Unconfirmed		17	55	165	46	Self		0	0	2	8
						Family/Relatives		0	0	10	40
ABUSE *						Guardian/Conservator		0	0	4	16
Total Reports		16		188		Other/Staff		0	0	9	36
Investigative Findings	Confirmed	2	13	77	41	REPORTERS					
	Pot.Risk	8	50	32	17	Self		2	6	16	4
Spouse Abuse Reports		1		4		Family		6	19	62	18
Investigative Findings	Confirmed	0	0	1	25	Neighbor/Friend		2	6	29	8
	Pot.Risk	0	0	0	0	Guardian/Conservator		0	0	0	0
						Community Agencies		0	0	2	1
NEGLECT *						SRS Staff		1	3	27	8
Total Reports		15		164		Medical Personnel (N.H.-M.D.-Health Dept. Hospital Staff)		19	61	174	48
Investigative Findings	Confirmed	4	27	58	35	Police		0	0	1	0
	Pot.Risk	0	0	25	15	Lawyer/Court Services		0	0	0	0
						Anonymous		1	3	38	11
EXPLOITATION *						Other		0	0	10	3
Total Reports		0		25							
Investigative Findings	Confirmed	0	0	8	32						
	Pot.Risk	0	0	3	12						

* Some cases are reported in more than one category (abuse, neglect, exploitation)

State of Kansas
 Department of Social and Rehabilitation Services
 Adult Services

ADULT ABUSE/NEGLECT/EXPLOITATION REPORTING AND INVESTIGATION
 FISCAL YEAR 1983 (July, 1982 through June, 1983)

NON-MEDICAL

REPORTS RECEIVED	June 1983		Year to Date		PERPETRATORS	June, 1983		Year to Date		
	#	%	#	%		#	%	#	%	
Total	90		774		Abuse:	23		184		
Age Range	19-96		17-105		Self	2	9	41	22	
Average Age	59		58		Spouse	1	4	41	22	
Male	33	37	243	31	Family/Relatives	9	39	70	38	
Female	57	63	531	69	Guardian/Conservator	0	0	0	0	
60 years and older	50	56	431	57	Other	11	48	32	17	
					Neglect:	60		537		
Investigative Findings					Self	44	73	423	79	
Total Reports	90		774		Family/Relatives	13	22	89	17	
Confirmed	40	44	337	44	Guardian/Conservator	0	0	2	0	
Potential Risk	26	29	239	31	Other	3	5	23	4	
Unconfirmed	24	27	198	26	Exploitation:	11		114		
					Self	3	27	25	22	
ABUSE *					Family/Relatives	6	54	55	48	
Total Reports	23		184		Guardian/Conservator	0	0	2	2	
Investigative Findings	Confirmed	10	43	58	32	Other	2	18	32	28
	Pot.Risk	7	30	43	23	REPORTERS				
Spouse Abuse Reports	1		41		Self	3	3	45	6	
Investigative Findings	Confirmed	0	0	20	49	Family	16	18	128	17
	Pot.Risk	1	100	12	29	Neighbor/Friend	16	18	160	21
						Guardian/Conservator	1	1	2	0
NEGLECT *						Community Agencies	8	9	74	10
Total Reports	60		537			SRS Staff	5	6	96	12
Investigative Findings	Confirmed	28	47	246	46	Medical Personnel (N.H.-M.D.-Health Dept. Hospital Staff)	23	26	126	16
	Pot.Risk	18	30	174	32	Police	3	3	38	5
EXPLOITATION *						Lawyer/Court Services	2	2	13	2
Total Reports	11		114			Anonymous	3	3	31	4
Investigative Findings	Confirmed	3	27	34	30	Other	10	11	61	8
	Pot.Risk	4	36	38	33					

* Some cases are reported in more than one category (abuse, neglect, exploitation)

Department of Social and Rehabilitation Services
Division of Children, Youth, and Adults

ADULT ABUSE/NEGLECT/EXPLOITATION REPORTING AND INVESTIGATION
FISCAL YEAR 1982 (July, 1981 through June, 1982)

MEDICAL FACILITIES

REPORTS RECEIVED		June, 1982		Year to Date		PERPETRATORS		June, 1982		Year to Date	
		#	%	#	%	#	%	#	%	#	%
Total		24		384		Abuse:		13		200	
Age Range		18-91		17-98		Self		1	8	6	3
Average Age		43		55		Spouse		-	-	-	-
		#	%	#	%	Family/Relatives		2	15	7	4
Male		13	54	133	35	Guardian/Conservator		-	-	-	-
Female		11	46	251	65	Other/Staff		10	77	187	93
60 years and older		9	38	209	54	Neglect:		11		171	
INVESTIGATIVE FINDINGS						Self		1	9	10	6
Total Reports		24		384		Family/Relatives		1	9	4	2
Confirmed		5	21	126	33	Guardian/Conservator		-	-	-	-
Potential Risk		7	29	63	16	Other/Staff		9	82	157	92
Unconfirmed		12	50	195	51	Exploitation:		0		38	
ABUSE *						Self		-	-	-	-
Total Reports		13		200		Family/Relatives		-	-	14	37
Investigative Findings	Confirmed	3	23	78	39	Guardian/Conservator		-	-	2	5
	Pot.Risk	4	31	37	19	Other / Staff		-	-	22	58
Spouse Abuse Reports		0		0		REPORTERS					
Investigative Findings	Confirmed	-	-	-	-	Self		-	-	9	2
	Pot.Risk	-	-	-	-	Family		3	13	93	24
						Neighbor/Friend		2	.8	22	6
						Guardian/Conservator		-	-	1	-
NEGLECT *						Community Agencies		4	17	10	3
Total Reports		11		171		SRS Staff		1	4	11	3
Investigative Findings	Confirmed	2	18	45	26	Medical Personnel (N.H.-M.D.-Health Dept. Hospital Staff)		12	50	192	50
	Pot.Risk	3	27	21	12	Police		-	-	4	1
EXPLOITATION *						Lawyer/Court Services		-	-	4	1
Total Reports		0		38		Anonymous		2	8	17	4
Investigative Findings	Confirmed	-	-	14	37	Other		-	-	21	5
	Pot.Risk	-	-	15	39						

* Some cases are reported in more than one category (abuse, neglect, exploitation)

Department of Social and Rehabilitation Services
Division of Children, Youth, and Adults

ADULT ABUSE/NEGLECT/EXPLOITATION REPORTING AND INVESTIGATION
FISCAL YEAR 1982 (July, 1981 through June, 1982)

NON-MEDICAL FACILITIES

REPORTS RECEIVED		June, 1982		Year to Date					
		#	%	#	%	June, 1982		Year to Date	
		#	%	#	%	#	%	#	%
Total		82		863		PERPETRATORS			
Age Range		18-93		16-106		Abuse:		17	
Average Age		61		55		Self		5	29
						Spouse		6	35
Male		32	39	308	36	Family/Relatives		6	35
Female		50	61	555	64	Guardian/Conservator		-	-
60 years and older		57	70	485	56	Other		-	-
						Neglect:		62	
ESTIGATIVE FINDINGS						Self		49	79
Total Reports		82		863		Family/Relatives		10	16
Confirmed		31	38	414	48	Guardian/Conservator		-	-
Potential Risk		35	43	274	32	Other		3	5
Unconfirmed		16	19	175	20	Exploitation:		13	
						Self		1	8
ABUSE *						Family/Relatives		5	38
Total Reports		17		225		Guardian/Conservator		-	-
Investigative Findings		3	18	84	37	Other		7	54
Confirmed		3	18	84	37				
Pot.Risk		5	29	43	19	REPORTERS			
Spouse Abuse Reports		6		64		Self		6	7
Investigative Findings		5	83	46	72	Family		12	15
Confirmed		5	83	46	72	Neighbor/Friend		18	22
Pot.Risk		1	17	10	16	Guardian/Conservator		-	-
						Community Agencies		3	4
NEGLECT *						SRS Staff		8	10
Total Reports		62		581		Medical Personnel (N.H.-M.D.-Health Dept. Hospital Staff)		16	20
Investigative Findings		25	40	273	47	Police		2	2
Confirmed		25	40	273	47	Lawyer/Court Services		3	4
Pot.Risk		27	44	201	35	Anonymous		1	1
						Other		13	16
EXPLOITATION *									
Total Reports		13		131					
Investigative Findings		1	8	43	33				
Confirmed		1	8	43	33				
Pot.Risk		8	62	43	33				

* Some cases are reported in more than one category (abuse, neglect, exploitation)

Attn # 3-B
3-25-5

SENATE BILL No. 89

By Committee on Public Health and Welfare

1-25

0017 AN ACT concerning the secretary of social and rehabilitation
0018 services; directing the investigation by the secretary of reports
0019 of abuse, neglect or exploitation of adults; providing for pro-
0020 tective services.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. As used in this act:

0023 (a) "Abuse" means treatment under which an adult is de-
0024 prived, or allowed to be deprived, of food, clothing, shelter or
0025 medical treatment essential to well-being, or is permitted to live
0026 in an environment which is detrimental to such person's health,
0027 when such deprivation or environment causes the adult's physi-
0028 cal health to be significantly impaired.

0029 (b) "Neglect" means to omit, forbear or fail to exercise a
0030 degree of care and caution that a prudent person would deem
0031 essential to insure the well-being of an adult and by such
0032 omission, forbearance or failure, significantly impair or jeopar-
0033 dize the physical health of the individual.

0034 (c) "Exploitation" means an unjust or improper use of an-
0035 other person for one's own profit or advantage.

0036 (d) "Caretaker" means a person or institution which has
0037 assumed the responsibility for the care of an adult voluntarily, by
0038 contract or by order of a court of competent jurisdiction.

0039 (e) "Secretary" means the secretary of social and rehabilita-
0040 tion services.

0041 (f) "In need of protective services" means that an adult is
0042 unable to provide for or obtain services which are necessary to
0043 maintain physical health.

0044 (g) "Protective services" means services provided by the
0045 state or other governmental agency or by private organizations or

0046 individuals which are necessary to prevent abuse, neglect or
0047 exploitation. Such protective services shall include, but shall not
0048 be limited to, evaluation of the need for services, assistance in
0049 obtaining appropriate living arrangements, assistance in obtain-
0050 ing financial benefits to which the adult is entitled, and assist-
0051 ance in securing medical and legal services.

0052 (h) "Report" means a report of abuse, neglect or exploitation
0053 under this act.

0054 No person shall be considered to be abused, neglected, ex-
0055 ploited or in need of protective services for the sole reason that
0056 such person relies upon spiritual means through prayer alone for
0057 treatment in accordance with the tenets and practices of a rec-
0058 ognized church or religious denomination in lieu of medical
0059 treatment.

0060 Sec. 2. (a) The secretary upon receiving a report that an adult
0061 is being, or has been, abused, neglected, exploited or is in need
0062 of protective services shall, within 48 hours of receiving such
0063 report, initiate an investigation, including a personal visit with
0064 the adult. Within two weeks of receiving a report, the secretary
0065 shall initiate a thorough investigation and evaluation to deter-
0066 mine whether the adult has been or is being abused, neglected
0067 or exploited and whether protective services are required. The
0068 evaluation shall include consultation with those individuals
0069 having knowledge of the facts of the particular case. Upon
0070 completion of the evaluation of the case, written findings shall
0071 be prepared which shall include a finding of whether there is or
0072 has been abuse, neglect or exploitation and whether protective
0073 services are needed.

0074 (b) The secretary shall forward any validated report of abuse,
0075 neglect or exploitation committed by a licensed provider of
0076 services to the appropriate licensing authority.

0077 (c) The secretary of social and rehabilitation services shall
0078 maintain a statewide register of the reports received, the find-
0079 ings, evaluations and the actions recommended. The register
0080 shall be available for inspection by personnel of the department
0081 of social and rehabilitation services.

0082 (d) Neither the report nor the written findings or any infor-

0083 mation mentioned in the register shall be deemed a public
0084 record or be subject to the provisions of the open records act. The
0085 name of the person making the original report or any person
0086 mentioned in such report shall not be disclosed unless the
0087 person making the original report specifically requests or agrees
0088 in writing to such disclosure or unless an administrative or
0089 judicial proceeding results therefrom.

0090 Sec. 3. (a) No person who makes any report pursuant to this
0091 act, or who testifies in any administrative or judicial proceeding
0092 arising from such report, shall be subject to any civil liability on
0093 account of such report or testimony, unless such person acted in
0094 bad faith or with malicious purpose.

0095 (b) No employer shall terminate the employment of, prevent
0096 or impair the practice or occupation of or impose any other
0097 sanction on any employee solely for the reason that such em-
0098 ployee made or caused to be made a report, or cooperated with
0099 an investigation, under this act. A court, in addition to other
0100 damages and remedies, may assess reasonable attorney fees
0101 against an employer who has been found to have violated the
0102 provisions of this subsection.

0103 Sec. 4. (a) If the secretary finds that an ~~eligible~~ adult is in
0104 need of protective services, the secretary shall provide the nec-
0105 essary protective services if the adult consents. If the adult fails
0106 to consent and the secretary has reason to believe that the adult
0107 lacks capacity to consent, the secretary shall determine whether
0108 a petition for appointment of a guardian or conservator, or both,
0109 should be filed. The secretary may petition the district court for
0110 appointment of a guardian or conservator, or both, for an adult
0111 pursuant to the provisions of the act for obtaining a guardian or
0112 conservator, or both.

0113 (b) If the caretaker of an adult who has consented to the
0114 receipt of reasonable and necessary protective services refuses to
0115 allow the provision of such services to the adult, the secretary
0116 may seek an injunction enjoining the caretaker from interfering
0117 with the provision of protective services to the adult. The peti-
0118 tion in such action shall allege specific facts sufficient to show
0119 that the adult is in need of protective services and consents to

0120 their provision and that the caretaker refuses to allow the provi-
0121 sion of such services. If the judge finds that the adult is in need of
0122 protective services and has been prevented by the caretaker from
0123 receiving such services, the judge shall issue an order enjoining
0124 the caretaker from interfering with the provision of protective
0125 services to the adult.

0126 ~~Sec. 5. The secretary of social and rehabilitation services~~
0127 ~~and any governmental agency or private organization or individ-~~
0128 ~~ual providing protective services under this act shall have access~~
0129 ~~to all relevant records.~~ The authority of the secretary under this
0130 act shall include, but is not limited to, the right to initiate or
0131 otherwise take those actions necessary to assure the health,
0132 safety and welfare of an adult, subject to any specific require-
0133 ments for individual consent of the adult.

0134 Sec. 6. If an adult does not consent to the receipt of reason-
0135 able and necessary protective services, or if such individual
0136 withdraws the consent, such services shall not be provided or
0137 continued, except as provided in other sections of this act.

0138 Sec. 7. Subsequent to the authorization for the provision of
0139 protective services, the secretary shall initiate a review of each
0140 case within 45 days to determine whether continuation of, or
0141 modification in, the protective services provided is warranted. A
0142 decision to continue the provision of such services shall be made
0143 in concert with other involved state and local groups, agencies
0144 and departments and shall comply with the consent provisions of
0145 this act. Reevaluations of the need for protective services shall
0146 be made not less than every six months thereafter.

0147 Sec. 8. Any actions taken under this act shall be consistent
0148 with providing protective services and accommodations in a
0149 manner no more restrictive of an individual's personal liberty
0150 and no more intrusive than necessary to achieve acceptable care
0151 and treatment objectives.

0152 *Sec. 9. The provisions of this act shall not apply to an adult*
0153 *who is a resident as the term "resident" is defined in K.S.A.*
0154 *39-1401 and amendments thereto.*

0155 Sec. 9 10. This act shall take effect and be in force from and
0156 after its publication in the Kansas register.

TESTIMONY FOR SB-89
KANSAS DEPARTMENT ON AGING

Attn. #1
3-25-85

Bill Brief:

Defines and mandates the provision of protective services by SRS to adults not in institutions.

Bill Provisions:

- Defines abuse, neglect, and exploitation.
- Defines the extent of the protective services that can be given, the limits and procedures for investigations, and the time frame for evaluation.
- Provides that no protective services can be provided unless the person consents. If the person withdraws consent, no protective services can be given.
- Non-consenting adults, who lack capacity to consent, can be provided protective services only when the court is petitioned for a guardian.
- Provides for petitioning of the court when the caretaker refuses service but the adult gives consent.
- Provides that protective services be given in a manner least restrictive to an individual's liberty.
- Provides for a register.

Testimony:

The Kansas Department on Aging has consistently supported a protective services and abuse bill. Since 1980, Kansas law has required the reporting of abuse, neglect and exploitation of nursing home residents; but no law exists to provide protection for non-institutional elderly and adults who are in far greater threat of abuse and neglect. Our concern has been that that specific group not in institutions be protected. This bill is similar to last year's in many ways which passed this committee. The bill was drafted to ensure the following:

1. Adequate protection for the non-institutional adult.
2. Provides that the civil liberties of the adult and the caretaker are protected.
3. Provides strict limitations on provision of service when there is no consent.
4. Explains what to do when there is no consent and use of the court in non-consent.
5. Provides service in the least restrictive environment.

All senior organizations (Silver Haired Legislature, Kansas Coalition on Aging, and American Association of Retired Persons) support this bill.

In developing SB-89 the intent, which I believe has been achieved, was to balance the interests and responsibility of government to protect vulnerable and dependent people who are victims of abuse and neglect, with society's interest in protecting the

Attn. #4
3-25-85

civil liberties of individuals and families and to guard the rights of self-determination and alternate lifestyles.

SB-89 is a good, strong bill worked out among many people that clearly balances the need for protection with the civil liberties and protection of individual rights and self-determination.

KDOA

SH:bms

3-25-85

Testimony:

Elderly abuse, like child and spouse abuse, is very much a part of the issue of domestic violence. The abused elderly person is dependent on the caregiver for his or her maintenance. There are similar parallels between battered children, and the elderly abused person who is residing outside of an institution with a caretaker. Both depend on the caretaker for basic survival needs; both reside in a family setting that is assumed to give love and caring protection; and both can be a source of stress to the family caretaker. In addition, the elderly abused person often is physically frail, physically ill or mentally impaired.

The number of abused in non-institutional settings is likely to increase in Kansas as it has done in nearby states. There are several factors contributing to what we see as an increase, in elderly abuse by caretakers, usually family members.

1. Increase in elderly over 80 with increased caretaking needs.
2. Preference to remain at home and in the community.
3. Change in family roles and structures with caretakers often having other roles and work.

While just 6.8% of all elderly are in nursing homes, an additional 17% are adjudged to have great or severe limitations in caring for themselves needing substantial assistance from families and friends.

Adult children and family members are providers of a significant amount of care to an increasingly larger, older, and frailer elderly population. There is a further possibility that the older person will be very old and quite frail, increasing the potential for abuse.

I certainly don't want to imply that all families abuse their elders, but the increased caretaking responsibilities and number of elderly that are frail and dependent will increase the potential for that abuse.

Profile of the Abused:

1. The abused person is most likely to be a woman over age 75.
2. The victim, in 75% of the cases reported, lived with the abuser; and in 84% of the cases, the abusing person was a relative of the victim (84%).
3. In most cases (75%) the elderly victim had a mental or physical disability which prevented him or her from taking care of basic daily needs - e.g. eating, toileting, bathing, dressing, taking medication. In most cases there was more than one disability.
4. Often the elderly victim had no or few contacts outside the family and is completely dependent on the caregiver. The incidence of abuse tended to be recurring events and not single occurrences.

Profile of the Abuser:

1. The abuser experienced some form of stress, e.g., of substance addiction (either alcohol or drugs), long term medical complaint, or long term financial difficulty.
2. Generally, the abuser tended to say that the victim was a source of stress because the elder required a high level of physical or emotional care or was financially dependent on the abuser.
3. In family order, the abuser is a son, another family member; e.g., grandchildren or nieces, and then daughters.

What we have then is an elderly victim, over 75, usually a woman, dependent on someone else, usually a family member, for life supporting maintenance.

Under the broad and general health and welfare provisions of SRS, protective services are provided to non-institutional elderly on a limited basis. Of the 1,133 abuse cases, 774 were non-institutional and 359 were institutional. Of the 774 non-institutional cases, 75% were confirmed and were potential risks; 25% were unconfirmed. Of the confirmed, 31% were by family or relatives, 10% were by others, and 59% were self-abuse or neglect.

But, like child abuse statutes prior to the passage of strong Kansas laws, the full magnitude of the problem is unknown.

Missouri passed a strengthened law in 1981. Prior to the passage of the law, there were 983 reported cases of non-institutional abuse. In 1983, there were 8,123 cases. 75% were substantiated, 13% were suspected. During State FY 84, Missouri is presently providing assistance in 800 cases per month.

One essential function of government is to insure the safety and welfare of the most dependent in society. Protective service is usually a temporary intervention much less severe than guardianship or other current protections. Kansas is the only state of the 25 states that we have reviewed that has an abuse statute that excludes those not in institutions. Current law has no specification as to the limits, procedures, or protections for the victim, caretakers, or for the workers. Kansas statute only provides protection in nursing homes.

SB-769 was specifically drafted last year to insure and guard against infringement of civil liberties. SB-89 provides the following balance of providing protection and insuring civil liberties.

1. Provides that the civil liberties of the individual and caretaker are protected.
2. Provides strict limitations against provision of service when there is no consent.
3. Insures that the abused or neglected person can be protected.
4. Provides future abuse, to the greatest degree possible, be prevented.
5. Provides government has limitations to its service but is to prevent
future abuse.

It also defines specifically;

1. What protective services are; and
2. The manner in which they are to be provided.

As significantly, it places certain limitations on provisions of protective services (Section 4).

1. If an adult has the capacity to consent, and does not consent, no protective services can be provided.

This provision was included to insure that government does not infringe on the rights of individuals or their families to have their own life styles.

2. Non-consenting adults may only be provided services within strict limitations and through use of the courts. If the Secretary does not believe the adult has the capacity to consent, the Secretary must file a petition with the court for a guardian for the purpose of obtaining such consent.
3. It prohibits further abuse by a caretaker, again within strict limitations. If the adult consents, and the caretaker refuses to allow, or interferes with that consent, the court may be petitioned; but only if a judge after being presented with facts finds that the caretaker has prevented the services, can he issue an order. This clause is vital to protect against further abuse.
4. Protective services are limited to assuring the health, safety and welfare of the adult within specific limitations and does not include mental or emotional illness.
5. A review must be done within 45 days and re-evaluation shall not be made less than every six months.

Finally, the bill specifically states that any action taken in providing protective services "must be no more restrictive of an individual's personal liberty and no more intrusive than necessary to achieve acceptable care."

In developing SB-89 the intent, which I believe has been achieved, was to balance the interests and responsibility of government to protect vulnerable and dependent people who are victims of abuse and neglect, with society's interest in protecting the civil liberties of individuals and families and to guard the rights of self-determination and alternate lifestyles.

I strongly believe that people have the right to live as they choose, but that we also have a responsibility to protect those that cannot protect themselves from present and future abuse.

SB-89 is a good, strong bill worked out among many people that clearly balances the need for protection with the civil liberties and protection of individual rights and self-determination.

STATISTICS OF
NON-INSTITUTIONAL
ELDERLY ABUSE

January, 1985

One dimension of domestic violence that has only recently gained national recognition is that of elderly abuse. Increased life expectancy and the trend toward home and community based services means that adult children and other family members will be the providers of a significant amount of care to an increasingly larger and older population. The potential for increased abuse exists.

Yet in Kansas there is no specific statute prohibiting elderly abuse in non-institutional settings. The general health and welfare provision (K.S.A. 39-708c(w)) offers only limited protective service. Kansas law provides for protective services for residents in nursing homes. But it makes no provision for other elder abuse even though more reported abuse occurs in non-institutional settings.

Profile of Abused:

- 1) Most likely to be a woman over age 75.
- 2) In 75% of the cases, the victim lived with the abuser.
- 3) In 75% of the cases, the victim had a mental or physical disability which prevented him or her taking care of basic daily needs.
- 4) Victims often had few or no other contacts outside the family and were completely dependent on the caretaker.

Profile of Abuser:

- 1) In 84% of the cases, the abuser was related to the victim.
- 2) 38% of abusers are sons and daughters of the victim.
- 3) Abusers indicated the victim was a source of stress due to high level of care needed or additional financial burden.
- 4) Abuser had experienced other forms of stress: e.g., substance addiction (alcohol or drugs), long term medical complaint; long term financial difficulty.

National Statistics:

- 1) Nationally between 500,000 and 1 million elderly are abused each year.
- 2) Yet only 1 out of 6 cases are reported.
- 3) 80% of elderly care is provided by family and relatives.
- 4) Highest percentage of neglect cases are self-neglect followed by spouse inability to provide care.
- 5) Psychological, physical, and medical abuse is the second highest category of reported cases.

Kansas Statistics:

- 1) 6.8% of elderly are in nursing homes at any one time but another 17% need assistance in caring for themselves.
- 2) In Kansas, SRS received 921 reports of abuse, neglect or exploitation during FY84 with 534 involving victims over age 60.
- 3) 408 reports were confirmed with another 294 potential risk situations.
- 4) 67% of FY84 cases were neglect, 77% due to self-neglect; 17% due to neglect by relatives.
- 5) 28% of FY84 cases were abuse, 25% due to spousal abuse; 35% due to family abuse.



*Attn. # 5
3-25-5*

1984-1985
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TESTIMONY TO

KANSAS HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

ON

SENATE BILL 89

ON

ADULT ABUSE

MARCH 25, 1985

Morton F. Ewing

*Attn. # 5
3-25-5*

Adult abuse is a big problem both in an institution and outside of an institution. There is a law in Kansas that mandates reporting of abuse by certain ones who work with the elderly in institutions.

There is no law in Kansas that requires the reporting of Adult Abuse outside of institutions. This is a big problem, (see Statistics on Non-Institutional Elderly Abuse), and is increasing because more people are living longer and there is a movement to keep people out of institutions as long as possible.

This problem exists with a frequency and rate only slightly less than Child Abuse, and is not confined to any population group. Most cases are not reported. While the main emphasis should be on trying to correct the situation that is causing the abuse there will be times when more drastic action needs to be taken.

We think that the following provisions should be in the law:

1. Mandatory reporting by people who work with the elderly.
2. A penalty for not reporting when the alleged abuse is noticed.
3. An investigation into the reported case by the designated agency within a reasonable time, (not over 72 hours).
4. Immunity from prosecution to those who are required to report the case for reporting the case.

I am sure that when the time comes that we have to be dependent on someone else for our everyday care that we want to have the machinery in place to assure that we will have the proper care and safeguards to protect us against abuse. At the present time there are those who need this assurance and protection. Thank You.

STATISTICS OF
NON-INSTITUTIONAL
ELDERLY ABUSE

January, 1985

One dimension of domestic violence that has only recently gained national recognition is that of elderly abuse. Increased life expectancy and the trend toward home and community based services means that adult children and other family members will be the providers of a significant amount of care to an increasingly larger and older population. The potential for increased abuse exists.

Yet in Kansas there is no specific statute prohibiting elderly abuse in non-institutional settings. The general health and welfare provision (K.S.A. 39-708c(w)) offers only limited protective service. Kansas law provides for protective services for residents in nursing homes. But it makes no provision for other elder abuse even though more reported abuse occurs in non-institutional settings.

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Kansas Retired Teachers Association

attn. #6
3-25-5



1984-1985

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March 26, 1985

Members of the House Public Health and Welfare Committee:

My name is Basil Covey and I represent the Kansas Retired Teachers Association.

We support SB89 which authorizes or directs the secretary of social and rehabilitation services to make an investigation of abuse, neglect or exploitation of adults.

In a personal note--My wife and I volunteer our services for group singing at some of the facilities. We hear of some abuses of residents but we have never witnessed such action. We both have had parents in rest homes and know that residents can be deprived of their dignity and personal property. The former by ridicule and sarcasm and the latter by theft.

The elderly deserve the best care possible so that they may enjoy their remaining years of life in a safe and comfortable environment with their dignity intact.

We urge you to give SB89 a favorable vote.

Sincerely,

Basil Covey
Basil Covey
KRTA

attn. #6
3-25-5

attm. #
#7
3-25-85

TESTIMONY ON SB89
BEFORE THE HOUSE PUBLIC HEALTH & WELFARE COMMITTEE
MARCH 25, 1985
BY HATTIE NORMAN

Since 1980 Kansas law has required the reporting of abuse, neglect, and exploitation of adult care home residents. But there is no law which requires reporting of similar abuse inflicted on people outside these institutions. With more and more older Kansans living with relatives or remaining in their own homes it is essential that there be some law to protect this vulnerable population.

Senate Bill 89 would provide such protection. It gives specific responsibility to SRS to investigate reports of abuse, neglect, or exploitation. It sets out procedures to be followed in investigations and the conditions under which protective services could be provided. Enactment of Senate Bill 89 would ensure that adults living in the community receive the same protection as those people residing in institutions.

Increased life expectancy and the increase in home and community-based services mean that more families will be caring for their elderly relatives. The stress involved due to high levels of care needed and added financial expense create the potential for some form of abuse. I urge you to act favorably on Senate Bill 89 so that another segment of the older population is protected from abuse.

Atch. 7
3/25/85