

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Dick Bond at 9:09 a.m. on January 25, 1996 in Room 529-S of the Capitol.

All members were present.

Committee staff present: Dr. William Wolff, Legislative Research Department  
Fred Carman, Revisor of Statutes  
June Kossover, Committee Secretary

Conferees appearing before the committee: Roger Viola, Security Benefit Group of Companies  
Tom Wilder, Kansas Insurance Department  
Kathleen Sebelius, Kansas Commissioner of Insurance  
Linda Sebastian, Kansas State Nurses Association  
Nancy Kindling, League of Women Voters  
Loretta Pyles, KS Coalition Against Sexual & Domestic Violence  
Jerry Slaughter, Kansas Medical Society  
Juliene Maska, Office of the Attorney General

Others attending: See attached list

Roger Viola, Security Benefit Group of Companies, requested introduction of three bills: a bill relating to investments by life insurance companies in common stocks, a bill relating to investments by life insurance companies in foreign jurisdictions and currencies, and a bill relating to securities lending and related transactions by life insurance companies. (Attachment #1) Senator Hensley moved to introduce the bills as requested. Senator Steffes seconded the motion. The motion carried.

Tom Wilder, Kansas Insurance Department, requested introduction of legislation concerning securities lending, repurchase, reverse repurchase and dollar roll transactions by property and casualty insurance companies. (Attachment #2) Senator Hensley made a motion, seconded by Senator Emert, to introduce this legislation. The motion carried.

Chairman Bond advised the committee that a floor amendment will be offered to **SB 412**, which relates to investments by insurance companies in tax lien certificates. The committee had been mistakenly advised regarding the statutory limit on these investments and the floor amendment will be offered to limit to 10% of qualified assets the amount a company may invest in tax lien certificates.

The hearing was opened on **SB 444**, prohibiting discrimination against victims of domestic abuse by insurance companies. Kathleen Sebelius, Kansas Commissioner of Insurance, appeared before the committee to explain that this legislation is an attempt to amend the Unfair Practices Act to prohibit canceling or denying coverage because of evidence of domestic abuse. (Attachment #3) Commissioner Sebelius provided background and history of this legislation and stated that 25% of Kansas companies considered a history of domestic violence as an underwriting criteria. Ms. Sebelius also informed the committee that 14 other states have approved similar legislation and the issue is now being addressed on a national level. She also clarified that the bill does not contain guarantee issue language.

Senator Bond raised the issue of victims of domestic violence who voluntarily return time after time to an abusive environment. Commissioner Sebelius stated that these are crime victims and, although it is difficult to understand the psychological issues involved, domestic violence should not be the only criteria for refusing insurance coverage.

Senator Emert stated his opinion that the definition of abuse needs to be clarified and questioned how many complaints have been received on this issue. The Commissioner stated that although several inquiries have been received, no actual complaints have been filed.

Senator Praeger asked whether property and casualty insurance would be affected as well, and Commissioner Sebelius responded that the Unfair Practices Act affects all insurance.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on January 25, 1996.

Linda Sebastian, Kansas State Nurses Association, related her experience from a psychiatric perspective, stating that this bill would protect some of the most vulnerable members of society by prohibiting insurance companies from using a history of abuse as an underwriting tool. (Attachment #4)

Senator Lee observed that keeping battered women from receiving insurance is one more barrier to their receiving the help they need.

Nancy Kindling, League of Women Voters, also testified as a proponent of SB 444. (Attachment #5)

Loretta Pyles, KCSDV, testified that insurance companies should not have access to medical documentation and police reports to use as a criterion for denying insurance coverage. (Attachment #6)

Jerry Slaughter, Kansas Medical Society, appeared as a proponent of the bill but stated that, since the bill contains new terms, the changes should be examined carefully. Therefore, they have requested an analysis from a KMS sponsored health insurance company and will share the results with the committee. (Attachment #7)

Juliene Maska presented a letter from Attorney General Carla Stovall urging favorable consideration of this legislation. (Attachment #8)

Following further discussion of the language contained in the bill, the hearing on SB 444 was closed. The chair appointed a subcommittee consisting of Senator Praeger (Chair), Senator Corbin and Senator Hensley to work with the Insurance Department staff to strengthen the definitions of domestic abuse contained in the bill.

Senator Steffes made a motion, seconded by Senator Emert, to approve the minutes of the meeting of January 23 as submitted. The motion carried.

The committee adjourned at 10:00 a.m. The next meeting is scheduled for January 29, 1996 .

# SENATE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: 1/25/96

NAME	REPRESENTING
Nancy Kindling	League of Women Voters
CANDY Byrne	KMHC
Linda Sebastian	Kansas State Nurses Assoc.
Kelly Kuitala	KTLA
Stacy Lloyd	KTKA
Mary Cooper	Citizen
Julienne Marking	A.G. office
<del>Renica Jeff</del>	<del>N.O.W.</del>
<del>Donna Rife</del>	<del>KLSDV</del>
Rose Viola	SBB
Jim Woods	"
THE KRAMP	"
Kelly Peterson	Prudential
Kevin Davis	Am. Family
Lee Wright	Farmers Ins. Group
Richard Wilborn	Alliance Ins Co



The Security Benefit  
Group of Companies

Security Benefit Life Insurance Company  
Security Benefit Group, Inc.  
Security Distributors, Inc.  
Security Management Company

700 Harrison St.  
Topeka, Kansas 66636-0001  
(913) 295-3000

Roger K. Viola  
Senior Vice President,  
General Counsel and Secretary  
913-295-3137

January 25, 1996

To the Senate Committee on Financial Institutions and Insurance

Re: Introduction of Bills

Dear Chairman and Committee Members:

Security Benefit Life Insurance Company respectfully requests introduction of the following bills:

Investments by Life Insurance Companies in Common Stocks

This bill would amend K.S.A. 40-2b07, which authorizes Kansas life insurance companies to invest a limited portion of their portfolios in common stocks which satisfy certain requirements. One requirement is that the outstanding debt of the company issuing the common stock must be eligible for investment under K.S.A. 40-2b05, which essentially requires that the debt be rated investment grade. As a result, life insurance companies do not have the opportunity to invest in companies which have issued only privately-placed debt that is not rated, even though some of these companies may be very good investments.

The proposed bill would eliminate this problem by amending K.S.A. 40-2b07(g) to provide that eligibility of an issuing corporation's debt obligations is not required if the issuing corporation has (i) net assets of \$10,000,000 or more; (ii) net worth of \$1,000,000 or more; and (iii) an aggregate market value of \$500,000,000 or more. This bill is needed to enable Kansas life insurance companies to take advantage of good investment opportunities currently denied them under the Kansas investment laws.

Investments by Life Insurance Companies in Foreign Jurisdictions and Currencies

This bill would amend K.S.A. 40-2b04 to allow Kansas life insurance companies to invest limited portions of their portfolios in foreign investments and investments denominated in foreign currencies. This bill is substantially the same as the foreign investment provisions of the final draft of the Model Investment Law approved by the NAIC working group, except for changes requested by the Kansas Insurance Department, and language which relates exclusively to the Kansas investment laws.

Senate 7141  
1/25/96  
Attachment #1

The proposed bill would enable life insurance companies to increase the quality and yield of their investments by allowing them to take advantage of a wider range of investment opportunities. Access to foreign investments would provide Kansas life insurance companies with a substantially larger number of investment choices exhibiting greater yields and better diversification opportunities. Greater diversification reduces the overall risk of an investment portfolio.

Each foreign investment would need to satisfy the same qualifications and limitations imposed by current law on domestic investments of the same type, including rating requirements. In other words, each foreign investment would need to qualify under both K.S.A. 40-2b04, as amended, and at least one other section of the life insurance investment laws. Consequently, this bill would not allow a life insurance company to increase the amount of its lower-quality investments beyond the limits currently in effect.

This bill is needed to allow Kansas life insurance companies to compete more effectively with other financial institutions for the best investment opportunities in our global economy.

#### Securities Lending and Related Transactions by Life Insurance Companies

This bill would amend K.S.A. 40-2b21 to allow Kansas life insurance companies to engage in securities lending, repurchase, reverse repurchase, and dollar roll transactions. This bill is substantially the same language as found in the final draft of the Model Investment Law approved by the NAIC working group, except for changes requested by the Kansas Insurance Department, and language which relates exclusively to the Kansas investment laws.

Securities lending would enable Kansas life insurance companies to achieve a greater return on their investments at virtually no additional risk. In a typical securities lending transaction, a life insurance company would lend a bond from its portfolio to a securities dealer. The proposed bill would require the dealer to give the insurance company collateral in the form of cash, or securities nearly equivalent to cash, equal to at least 102% of the market value of the loaned securities. The insurance company would invest the collateral and expect to obtain a higher return on its investment than the fee it pays the dealer for the use of the collateral. On a date specified in the securities lending agreement, or upon demand from the insurance company, the dealer would deliver the same or an equivalent security to the insurance company, and the insurance company would return the collateral to the dealer.

Securities dealers are the primary borrowers of securities because they often find it is the least expensive way to acquire a security which they have sold short and need to deliver. Other reasons for borrowing are the implementation of sophisticated trading and arbitrage strategies which require borrowing securities, and a desire to acquire securities from a non-dealer to disguise a trading strategy from other dealers.

7/41  
1/25/96  
1-2

January 25, 1996

Page 3

A repurchase transaction is basically a short-term investment of funds. In a repurchase transaction, a life insurance company purchases securities from a business entity, which is obligated to buy back the identical securities from the insurance company at a specified price within a specified time period or upon demand. The proposed bill requires that the insurance company receive securities having a market value of at least 102% of the purchase price paid by the insurance company. When an insurance company has funds to invest on a short-term basis, it may find that a repurchase transaction offers the highest return, depending on conditions in the market for repurchase transactions compared to the returns offered by other short-term investments.

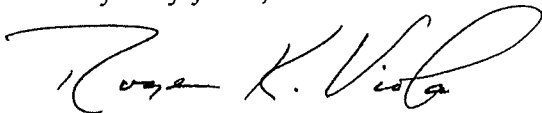
A reverse repurchase transaction is essentially a secured loan. The insurance company sells securities to a business entity and is obligated to buy back the identical securities from the business entity at a specified price within a specified time period or upon demand. An insurance company would engage in a reverse repurchase transaction if it had a short-term need for funds, did not consider it advantageous to sell securities at that time, and found a reverse repurchase transaction to be less expensive than other forms of borrowing.

A dollar roll is a special type of reverse repurchase transaction. The main difference between a dollar roll and other reverse repurchase transactions is that the securities which the insurance company buys back from the business entity do not need to be the identical securities, but only "substantially similar". This flexibility may allow the insurance company to obtain more favorable terms than in other types of reverse repurchase transactions.

This bill would enable Kansas life insurance companies to enhance the return on their investments by engaging in securities lending, and to enter into repurchase, reverse repurchase, and dollar roll transactions whenever market conditions, and the investment and liquidity objectives of the insurance company, would render such transactions advantageous to the company.

Thank you for your time and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Roger K. Viola". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

ROGER K. VIOLA

BILL No. \_\_\_\_\_

AN ACT relating to insurance; concerning securities lending, repurchase, reverse repurchase, and dollar roll transactions by property and casualty insurance companies; amending K.S.A. 40-2a21 and repealing the existing section.

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

Section 1. K.S.A. 40-2a21 is hereby amended to read as follows: 40-2a21. ~~Any insurance company, other than life, heretofore or hereafter organized under any law of this state may invest with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in repurchase agreements whereby the principal amount of the agreement represents qualified investments described in K.S.A. 40-2a01, 40-2a02, 40-2a03, 40-2a04 or 40-2a05. Further, the repurchase agreement must be in writing; must have a specific maturity date; must adequately identify each security to which the agreement applies and must state that in the event of default by the party agreeing to repurchase the securities described in the agreement at the terms contained in the agreement, title to the described securities must pass immediately to the insurance company without recourse. Repurchase agreements shall not qualify as an authorized investment under any other section of this act except to the extent permitted under K.S.A. 40-2a16.~~

(a) Definitions.

(1) "Acceptable collateral" means:

(A) With respect to securities lending transactions, cash, cash equivalents, letters of credit, direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or any agency of the United States, specifically including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and with respect to lending foreign securities, sovereign debt rated 1 by the SVO, all to the extent authorized by K.S.A. 40-2a01 et seq.;

(B) With respect to repurchase transactions, cash, cash equivalents, and direct obligations of, or securities that are fully guaranteed as to principal and interest by the government of the United States or any agency of the United States specifically including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, all to the extent authorized by K.S.A. 40-2a01 et seq.; and

Senate  
7/14/96 1/25/96  
Attachment #2

1 (C) With respect to reverse repurchase transactions, cash and cash equivalents to the  
2 extent authorized by K.S.A. 40-2a01 et seq.

3 (2) "Cash equivalents" means short-term, highly rated, and highly liquid investments or  
4 securities readily convertible to known amounts of cash without penalty and so near maturity  
5 that they present insignificant risk of change in value. For purposes of this definition:

6 (A) "Short-term" means investments with a remaining term to maturity of one hundred  
7 and eighty (180) days or less;

8 (B) "Highly rated" means an investment rated "P-1" by Moody's Investor's Service, Inc.  
9 or "A-1" by Standard and Poor's, or its equivalent rating by a nationally recognized statistical  
10 rating agency recognized by the SVO; and

11 (C) Cash equivalents include government money market mutual funds and money market  
12 mutual funds rated 1 by the SVO.

13 (3) "Dollar roll transaction" means two simultaneous transactions with different  
14 settlement dates no more than 96 days apart such that, in the transaction with the earlier  
15 settlement date an insurer sells to a business entity, and in the other transaction the insurer is  
16 obligated to purchase from the business entity, substantially similar securities of the following  
17 types:

18 (A) Mortgage-backed securities issued, assumed or guaranteed by the Government  
19 National Mortgage Association, the Federal National Mortgage Association or the Federal  
20 Home Loan Mortgage Corporation or their respective successors; and

21 (B) Asset-back securities referred to in Section 106 of Title 1 of the Secondary Mortgage  
22 market Enhancement Act of 1984 (15 U.S.C. Sec. 77r-1), as amended.

23 (4) "Equivalent securities" means:

24 (A) In a securities lending transaction, securities that are identical to the loaned  
25 securities including the amount thereof, except as to certificate number if held in physical form,  
26 provided that if any different security shall be exchanged for any loaned security by  
27 recapitalization, merger consolidation or other corporate action, such different security shall be  
28 deemed to be the loaned security.

29 (B) In a repurchase transaction, securities that are identical to the purchased securities  
30 including the amount of the purchased securities, except as to certificate number if held in  
31 physical form.

32 (C) In a reverse repurchase transaction, securities that are identical to the sold securities  
33 including the amount of the sold securities, except as to certificate number if held in physical  
34 form.

7/14  
4/25/96  
2-2



1 (5) "Letters of credit" means clean, irrevocable and unconditional letters of credit issued  
2 or confirmed by, and payable and presentable at, financial institutions on the list of financial  
3 institutions meeting the standards for issuing letters of credit pursuant to the Purposes and  
4 Procedures of the Securities Valuation Office or any successor publication. To constitute  
5 acceptable collateral for the purposes of this section, a letter of credit must have an expiration  
6 date beyond the term of the subject transaction.

7 (6) "Market value" means for the purpose of this section:  
8 (A) With respect to cash and letters of credit, the amounts thereof; and  
9 (B) With respect to any security as of any date, the price for the security on that date  
10 obtained from a generally recognized source, or the most recent quotation from such a source,  
11 plus accrued but unpaid income thereon to the extent not included in such price as of that date.

12 (7) "Qualified business entity" means a business entity which is, or is a subsidiary or  
13 affiliate of:

14 (A) An issuer of obligations or preferred stock which are rated 1 or 2 by the SVO or an  
15 issuer of obligations, preferred stock, or derivative instruments which are rated the equivalent of  
16 1 or 2 by the SVO or by a nationally recognized statistical rating organization recognized by the  
17 SVO; or

18 (B) A primary dealer in United States government securities, as recognized by the  
19 Federal Reserve Bank of New York.

20 (8) "Repurchase transaction" means a transaction in which an insurer purchases  
21 securities from a business entity which is obligated to repurchase the purchased securities or  
22 equivalent securities from the insurer at a specified price, and either within a specified period of  
23 time or upon demand.

24 (9) "Reverse repurchase transaction" means a transaction in which an insurer sells  
25 securities to a business entity and is obligated to repurchase the sold securities or equivalent  
26 securities from the business entity at a specified price and either within a specified period of time  
27 or upon demand.

28 (10) "Securities lending transaction" means a transaction in which securities are loaned  
29 by an insurer to a business entity which is obligated to return the loaned securities or equivalent  
30 securities to the insurer, within a specified period of time or upon demand.

31 (11) "Substantially similar securities" means securities that meet all the criteria for  
32 substantially similar securities specified in the NAIC Accounting Practices and Procedures  
33 Manuals, as amended, and in an amount that constitutes good delivery form as determined from  
34 time to time by the Public Securities Association.

1 (12) "SVO" means the Securities Valuation Office of the National Association of  
2 Insurance Commissioners or any successor office established by the National Association of  
3 Insurance Commissioners.

4 (b) Any property and casualty insurance company organized under any law of this state  
5 may enter into securities lending, repurchase, reverse repurchase and dollar roll transactions,  
6 subject to the following requirements:

7 (1) The insurer's board of directors shall adopt a written plan which specifies guidelines  
8 and objectives to be followed, such as :

9 (A) A description of how cash received will be invested or used for general corporate  
10 purposes of the insurer;

11 (B) Operational procedures to manage interest rate risk, counterparty default risk and  
12 the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction;  
13 and

14 (C) The extent to which an insurer may engage in these transactions.

15 (2) The insurer shall enter into a written agreement for all transactions authorized in this  
16 section other than dollar roll transactions. Such agreement shall adequately identify each  
17 security to which the agreement applies and shall require that each transaction terminate on a  
18 specified date no more than one year from its inception or upon earlier demand of the insurer. In  
19 a repurchase transaction, the agreement must also state that in the event of default by the party  
20 agreeing to repurchase the securities described in the agreement at the terms contained in the  
21 agreement, title to the described securities must pass immediately to the insurance company  
22 without recourse. Such agreement shall be with the counterparty business entity, provided that,  
23 for securities lending transactions the agreement may be with an agent acting on behalf of the  
24 insurer, if such agent is a qualified business entity, and if such agreement:

25 (A) Requires the agent to enter into separate agreements with each counterparty that are  
26 consistent with the requirements of this section; and

27 (B) Prohibits securities lending transactions under the agreement with the agent in its  
28 affiliates.

29 (3) Cash received in a transaction under this section shall be invested in accordance with  
30 K.S.A. 40-2a01 et seq., and amendments thereto, and in a manner that recognizes the liquidity  
31 needs of the transaction, or shall be used by the insurer for its general corporate purposes. For  
32 so long as the transaction remains outstanding, the insurer, its agent or custodian shall  
33 maintain, in the United States, as to acceptable collateral received in a transaction under this  
34

7/21  
125196  
2-4

1 section, either physically or through book entry systems, (A) possession of the acceptable  
2 collateral; or (B) a perfected security interest in the acceptable collateral.

3 (4) For purposes of calculating the limitations of K.S.A. 40-2a01 et seq., and  
4 amendments thereto, securities lending, repurchase, reverse repurchase, and dollar roll  
5 transactions shall not be considered investments in the counterparty, or in any issue of securities  
6 issued by the counterparty, or in the jurisdiction in which the counterparty is located. For  
7 purposes of calculations made to determine compliance with this subsection 4, no effect will be  
8 given to the insurer's future obligation to resell securities in the case of a repurchase  
9 transaction, or to repurchase securities in the case of a reverse repurchase transaction. An  
10 insurer may not enter into a transaction under this section if, as a result of and after giving  
11 effect to the transaction:

12 (A) The aggregate amount of all securities then loaned or sold to, or purchased from,  
13 any one business entity pursuant to this section would exceed five percent (5%) of its admitted  
14 assets. In calculating the amount sold to or purchased from a business entity pursuant to  
15 repurchase or reverse repurchase transactions, effect may be given to netting provisions under a  
16 master written agreement; or

17 (B) The aggregate amount of all securities then loaned or sold to, or purchased from, all  
18 business entities under this section, without the effect of netting referred to in subsection (A),  
19 would exceed forty percent (40%) of its admitted assets.

20 (5) In a securities lending transaction, the insurer shall receive acceptable collateral  
21 having a market value as of the transaction date at least equal to one hundred two (102) percent  
22 of the market value of the securities loaned by the insurer in such transaction as of that date. If  
23 at any time the market value of such acceptable collateral is less than the market value of the  
24 loaned securities, the business entity to which the securities are loaned shall be obligated to  
25 deliver additional acceptable collateral, the market value of which, together with the market  
26 value of all acceptable collateral then held in connection with the transaction, at least equals  
27 one hundred two (102) percent of the market value of the loaned securities.

28 (6) In a reverse repurchase transaction (other than a dollar roll transaction), the insurer  
29 shall receive acceptable collateral having a market value as of the transaction date at least  
30 equal to ninety-five (95%) of the market value of the securities transferred by the insurer in such  
31 transaction as of that date. If at any time the market value of such acceptable collateral is less  
32 than ninety-five percent (95%) of the market value of the securities so transferred, the business  
33 entity shall be obligated to deliver additional acceptable collateral, the market value of which,  
34 together with the market value of all acceptable collateral then held in connection with the

JH-1  
1/25/96  
2-5

1 transaction, at least equals ninety-five percent (95%) of the market value of the transferred  
2 securities.

3 (7) In a dollar roll transaction, the insurer shall receive cash in an amount at least equal  
4 to the market value of the securities transferred by the insurer in such transaction as of the  
5 transaction date.

6 (8) In a repurchase transaction, the insurer shall receive as acceptable collateral  
7 transferred securities having a market value at least equal to one hundred two percent (102%) of  
8 the purchase price paid by the insurer for such securities. If at any time the market value of such  
9 acceptable collateral is less than one hundred percent (100%) of the purchase price paid by the  
10 insurer, the business entity shall be obligated to provide additional acceptable collateral, the  
11 market value of which, together with the market value of all acceptable collateral then held in  
12 connection with the transaction, at least equals one hundred two percent (102%) of such  
13 purchase price. Securities acquired by an insurer in a repurchase transaction may not be sold in  
14 a reverse repurchase transaction, loaned in a securities lending transaction, or otherwise  
15 pledged.

16 (c) Unless otherwise specified, an investment limitation computed on the basis of an  
17 insurer's admitted assets or capital and surplus shall relate to the amount required to be shown  
18 on the insurer's last annual report as filed with the State Commissioner of Insurance or a more  
19 recent quarterly financial statement as filed with the Commissioner, on a form prescribed by the  
20 National Association of Insurance Commissioners, within 45 days following the end of the  
21 calendar quarter to which the interim statement pertains. For purposes of computing any  
22 limitation based upon admitted assets, the insurer shall deduct from the amount of its admitted  
23 assets the amount of the liability recorded on such statutory balance sheet for:

24 (1) The return of acceptable collateral received in a reverse repurchase or a securities  
25 lending transaction;

26 (2) Cash received in a dollar roll transaction; and

27 (3) The amount reported as borrowed money in the most recently filed financial  
28 statement to the extent not included in subsections 1 and 2 above.

29 Sec. 2. K.S.A. 40-2a21 is hereby repealed.

30 Sec. 3. This act shall take effect and be in force from and after its publication in the  
31 statute book.



**Kathleen Sebelius**  
Commissioner of Insurance  
**Kansas Insurance Department**

**MEMORANDUM**

To: Senate Financial Institutions  
and Insurance Committee

From: Kathleen Sebelius, Commissioner  
of Insurance

Re: S.B. 444 (Domestic Violence)

Date: January 24, 1996

According to statistics from the Kansas Attorney General, 22,000 Kansas women were the victims of domestic violence last year. Domestic abuse is a problem that pervades every community in this state. The Kansas Legislature has taken significant steps to strengthen the laws which protect victims of abuse. Law enforcement agencies and county and district attorneys throughout the state have worked to crack down on abusers. Victims are encouraged to report abuse and to testify, where needed, in criminal proceedings. Courts and community groups are also working to provide the necessary counseling services to both victims and abusers to stop the cycle of violence.

It is unfortunate that some insurance companies are using evidence of domestic violence to deny coverage for the victims of that abuse. Nationally, women have at times found it impossible to obtain insurance once it is known by the insurer that they previously were subjected to domestic violence. Recently, the Kansas Insurance Department conducted a survey of 128 life and health insurance companies that comprise 80% of the Kansas market. The survey results indicated that 24% of the companies which responded considered a history of domestic violence as an underwriting criteria. Over 60% of the life insurance companies surveyed used such information in deciding whether to issue or renew a policy.

*Senate 7/41  
1/25/96  
Attachment #3*

Often a health or life insurance company asks applicants for medical history as part of the application process. Companies also have the ability to get other information, such as police reports, which could indicate a history of domestic violence. It is simply bad public policy to on the one hand encourage victims to report their abuse and testify against their abusers, and on the other hand, tell victims they will not be able to obtain insurance if this fact is known. Kansas should not weaken the efforts to deal with domestic violence by allowing insurers to deny insurance coverage to someone just because they previously were a victim of abuse.

Senate Bill 444 prohibits an insurance company from using evidence of domestic abuse as an underwriting criteria. The bill is patterned after legislation already on the books in other states as well as model legislation being developed by the National Association of Insurance Commissioners. To date, fourteen states have approved domestic violence legislation which deals with this issue. In addition, two bills have been introduced in the US Congress. It is expected that the NAIC model law will be approved by the Association at its quarterly meeting in March. Legislation to deal with this issue has been supported by the American Council of Life Insurance, Aetna Insurance Company and the National Association of Attorneys General.

Since we do not have guaranteed issue of health insurance in Kansas, the proposal from the Kansas Insurance Department does not mandate coverage for victims of domestic abuse. If the applicant has a condition, such as a pre-existing medical condition, that would otherwise be cause for a denial of insurance coverage, the insurer does not have to provide insurance. The bill simply states that a history of domestic violence, in and of itself, is not a cause to deny or cancel insurance coverage.

I urge this committee to assist the victims of domestic violence in Kansas by allowing them to have access to insurance. Victims should not be punished because they report abuse, seek medical treatment for their injuries or otherwise seek to deal with their abusers. I ask you to favorably recommend this bill for passage.

41 41  
1/25/96  
3-2



700 SW Jackson, Suite 601  
Topeka, Kansas 66603-3731

913/233-8638 \* FAX 913/233-5222

the Voice of Nursing in Kansas

Betty Smith-Campbell, M.N., R.N., ARNP  
President

Terri Roberts, J.D., R.N.  
Executive Director

For More Information Contact:  
Terri Roberts J.D., R.N.  
Executive Director  
(913) 233-8638

January 25, 1996

**S.B. 444 VICTIMS OF DOMESTIC VIOLENCE AND INSURANCE**

Chairperson Bond and members of the Senate Financial Institutions and Insurance Committee: The Kansas State Nurses Association is supporting Senate Bill 444. We hope to provide you with further insight as to the need for this type of protection for victims of domestic abuse. My name is Linda Sebastian M.N., A.R.N.P. and I am a psychiatric clinical nurse specialist at Menningers.

Secretary of Health and Human Services Donna Shalala stated, "In this country, domestic violence is just about as common as giving birth."

According to the FBI, every 15 seconds a woman is beaten by her husband or boyfriend. Ninety-five percent (95%) of assaults against spouses are committed by men against women, according to the Department of Justice. At least 3.9 million women, or 7% of all American women (Commonwealth Fund Study, 1993) are assaulted by their husbands or boyfriends per year, but only one million women seek medical assistance for injuries caused by the battering. (US Dept of HHS) Only 8% of those abused reported the abuse to their healthcare provider (Commonwealth Fund study, 1993). 28 percent of women who come to an emergency department have injuries from domestic violence so severe that they must be hospitalized. Thirteen percent of those injured ultimately require surgery (Barrios & Grady, 1991). Twenty-five percent (25%) of women seeking emergency psychiatric help are battered (AMA). Abuse causes approximately 50% of all injuries that bring women to the ER, but only 4% of these injuries are recognized as abuse by the medical personnel.

In the majority of cases, a registered nurse conducts the initial care and assessment of a patient's medical needs as they enter the medical system. The nurse may be the first healthcare provider the patient develops a relationship with. Activation of various social service agencies and notification and involvement of the police depends on and occurs only after the RN's initial assessment of a patient's injuries. In conducting the assessment, the nurse not only relies on a physical examination of a patient, but on the patient's verbal report of the event that caused their injuries.

The mission of the Kansas State Nurses Association is to promote professional nursing, to provide a unified voice for nursing in Kansas and to advocate for the health and well-being of all people.

Constituent of The American Nurses Association

Senate 7141  
1/25/96  
Attachment #4

Kansas State Nurses Association  
S.B. 444  
January 25, 1996  
Page 2

While the Department of Health and Human Services and the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) has issued guidelines for medical personnel to use in identifying, treating, and referring victims of domestic abuse, none of that matters if the victim's insurance refuses to pay for the medical claim filed. What better reason for the abuse victim to refuse to tell their health care provider the real reason for their injury, than fear of payment of their insurance medical claim or cancellation of their medical insurance policy. This applies to psychiatric clinicians as well.

Most victims of domestic abuse feel locked into their situation; they are too fearful of leaving their abuser because of financial dependency, threats of death or harm to themselves or their children, or are just too psychologically beaten to sustain an escape. When the victim finally takes a risk, admits they or their children are being abused, and requests help, the last obstacle they need to cope with is a refusal by their insurance company to cover their medical claims.

In all 50 states, medical personnel are required by law to report evidence of child abuse. In 42 states they must report abuse of the elderly. However, none of that matters if the victim refuses to report how they received their injuries because of insurance reprisal. Vital assistance, both psychological and legal, cannot be activated, if the victim refuses to report because of their fear of their insurance company refusal to pay the claims. This is a real concern. A recent survey conducted by the Kansas Department of Insurance reports that over 24% of the insurance companies surveyed use domestic violence history in consideration of new or renewed policies. While there have been no reports in Kansas of victims having been denied insurance coverage because of domestic abuse, the conclusion that this does not occur in Kansas must be questioned, if the victim is too fearful of insurance denial in order to report their abuse to medical personnel.

This bill will protect some of the most vulnerable members of society, by prohibiting insurance companies from using a history of abuse when determining whether to issue, renew, or cancel an insurance policy, or pay a medical claim. Kansas needs to take an active stand on protecting all victims of abuse by passing this bill. SB 444 will allow healthcare providers to do the job they are trained to do; treat their patients physical and mental injuries as completely as possible.

Thank you.

Linda Sebastian M.N., A.R.N.P.  
6348 S.W. 23rd Street Topeka, Kansas

7/44  
1/25/96  
42





THE LEAGUE  
OF WOMEN VOTERS  
OF TOPEKA-SHAWNEE COUNTY,  
KANSAS

919 1/2 S Kansas Ave  
Topeka, KS 66612  
(913) 234-5152

January 25, 1996

TESTIMONY BEFORE THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE ON  
**SB 444**

Senator Bond, Senator Steffes, and members of the Committee

I am Nancy Kindling and am present today to speak on behalf of the League of Women Voters of Kansas in support of **SB 444**.

The League of Women Voters is a nonpartisan political organization which promotes political responsibility through informed and active participation of citizens in government and takes action on selected governmental issues. The League does not support or oppose any political party or any candidate.

The League has a policy supporting action to combat discrimination and to advocate for actions that will bring laws into compliance with that goal.

Currently many health insurance companies have a policy of limiting coverage for injuries sustained as a result of domestic violence. Why? Because they view this segment of society as high risk. Or, they consider this as a preexisting condition when applying for insurance.

At present, many life insurance companies (more than 50%) use domestic abuse as an underwriting criteria.

To discriminate against victims of abuse by denying coverage to this segment of society seems to sustain the archaic belief that the victim is somehow responsible for the abuse he/she receives. This attitude flies in the face of what we now know about human behavior. People don't ask to be abused. The insurance companies are again victimizing the victim.

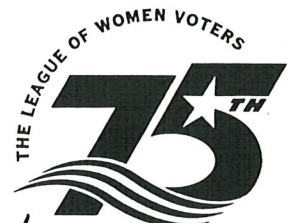
Many abused victims don't report violence against them because of shame or loyalty to the abuser. The insurance companies add one more reason to discourage reporting of abuse by denying coverage. As a nation we are trying to increase the public's awareness of the extent of domestic abuse in our society. We encourage reporting as a way to combat this form of violence.

Last year bills were introduced in both houses of Congress aimed at prohibiting insurance companies from denying coverage based solely on the basis of domestic abuse. Already, 14 states have begun addressing such discrimination by insurance companies; five have enacted legislation. I encourage you to add Kansas to the list of states who have enacted legislation against denial of coverage for those victims of domestic abuse. Please pass this bill favorably on to the full Senate for a vote.

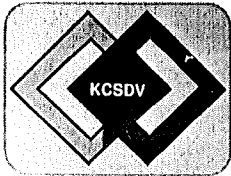
Respectfully submitted,

*Nancy Kindling*

Nancy M Kindling  
Lobbyist, League of Women Voters of Kansas



Senate H & I  
1/25/96 Attachment #5



**KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE**

820 S.E. Quincy, Suite 416, Topeka, Kansas 66612 • 913 232-9784 • FAX 913 232-9937

UNITED AGAINST VIOLENCE

**Member Programs**

- Atchison
- Dodge City
- El Dorado
- Emporia
- Garden City
- Great Bend
- Hays
- Horton
- Hutchinson
- Iola
- Junction City
- Kansas City
- Lawrence
- Leavenworth
- Liberal
- Manhattan
- McPherson
- Morrill
- Newton
- Overland Park
- Pittsburg
- Salina
- Topeka
- Ulysses
- Wichita
- Winfield

TESTIMONY BEFORE DICK BOND AND THE FINANCIAL  
 INSTITUTIONS AND INSURANCE COMMITTEE OF THE KANSAS  
 SENATE, JANUARY 25, 1996

Good morning, Senators. My name is Loretta Pyles, and I am Community Facilitator at Women's Transitional Care Services, Inc. in Lawrence. I am here today representing the Kansas Coalition Against Sexual and Domestic Violence (KCSDV). Thank you for allowing me this opportunity to testify on Senate Bill 444.

The Kansas Coalition Against Sexual and Domestic Violence, a statewide organization dedicated to the goal of ending domestic violence and sexual assault in Kansas, was founded 14 years ago in 1982. In the last 14 years, the Coalition has grown from a loosely organized grassroots organization of small women's shelters scattered across the state to a cohesive network of domestic violence programs working together for the benefit of battered persons. KCSDV is the battered woman's voice in public policy, keeping policy makers such as yourselves informed of the needs and priorities of this otherwise silent group of citizens.

- Executive Director  
Patricia A. Bledsoe
- Assoc. Director  
Janice M. Guthrie

There are currently 30 members in the network of

*Senate 7141  
1/25/96  
Attachment # 6*

domestic violence programs across Kansas. Through domestic violence programs, families in every county in Kansas have access to victim services. Although programs offer a myriad of services including court advocacy, personal crisis counseling, group therapy, transportation, educational counseling, and assistance with housing and job placement, safety is always the highest priority. KCSDV accredits programs by setting high standards for victim service and monitoring program compliance. We are proud to say that Kansas has a strong and viable system for providing safety to battered persons and their children.

In 1994 alone, KCSDV domestic violence programs sheltered 6,740 women, children, and men. In addition, the programs provided individual counseling to 17,249 and group counseling to 5,751 women, children and men. In sum, the KCSDV programs in 1994 served 12,135 women, 9,021 children, and 409 men, for a total of 21,565 clients.

Through KCSDV, these individuals are represented in several state and national organizations and committees including the Kansas Organization for Victim Assistance (KOVA), the Violence Against Women Act State Planning Committee of the Attorney General's Office, the Alternate Dispute Resolution Council Legislative Committee of the Kansas Supreme Court, the Crime Victim's Compensation Board, the National Network to

414 1/25/96  
6-2

End Domestic Violence, and the National Coalition Against Sexual Assault. Through these associations, battered persons are given a voice in both state and national victim-related issues.

Senate Bill 444 takes a strong position against status underwriting for victims of domestic violence. KCSDV supports this bill without reservation. We believe the most superior argument for enacting this bill reveals the inherent contradiction between strong public policy that affirms protection and assistance to the abused and the lack of legislation prohibiting insurance discrimination to the abused.

In order for a victim to leave a violent situation she needs independence and stability. This cannot be achieved without the assistance and support of the community, i.e. without the tools necessary for intervention and assistance. This includes having the ability to obtain medical documentation and police reports, as well as to access social services.

If by investigating and uncovering this paper trail of medical and legal documents, insurance companies are using domestic violence as an underwriting criterion, then we contradict ourselves when we say that women should not stand for abuse. Over the past twenty years, great efforts have been made in our communities to train physicians and law

H+1 1/25/96

enforcement officers to identify and document abuse. Clearly, no one wants to see victims stop seeking out the avenues that have been created to enable them to end the violence in their lives.

We know that 24% of insurance companies are using domestic violence as an underwriting criterion. But, just exactly how this practice is effecting victims, we cannot really know, as the victims themselves do not even know. This is because insurance companies are not required to disclose information relating to adverse underwriting decisions.

One may argue that victims of domestic violence are receiving special treatment. However, one should keep in mind that there is strong public policy favoring this class of citizens. Remember, we are concerned with victims of crime. There is no good reason why we should stand and watch them be further discriminated against.

Again, KCSDV urges you to enact Senate Bill 444. Thank you for your attention. We will be happy to answer any questions you may have about our position.

7141 1/25/96

6-4



## KANSAS MEDICAL SOCIETY

623 SW 10th Ave. • Topeka, Kansas 66612 • (913) 235-2383  
WATS 800-332-0156 FAX 913-235-5114

January 25, 1996

TO: Senate Committee on Financial Institutions and Insurance

FROM: Jerry Slaughter  
Executive Director

SUBJECT: SB 444; relating to prohibiting insurance underwriting discrimination against victims of domestic abuse

The Kansas Medical Society appreciates the opportunity to appear today in support of the principle contained in SB 444. This legislation would prohibit insurance companies from unfairly terminating or denying coverage, or increasing the cost of a policy of health insurance because a person has been the victim of abuse. The thought of an insurance company or health plan refusing to cover the innocent victim of domestic abuse because they have been abused is abhorrent and unacceptable. To allow such practices to exist is to punish the victim twice. This legislation sends a clear message that domestic abuse is a serious matter, and that innocent victims of abuse should not be further victimized by a system which is insensitive to their special needs.

We have asked our staff at Heartland Health, Inc., the new KMS sponsored health insurance company, to review this bill to clarify a couple of points for us. Because there are several new terms in the legislation, we wanted to take a good look at the changes, and be in a position to offer suggestions to strengthen and improve the concept, if possible. We hope to have their analysis in the next few days, which we will share with the committee.

We are grateful for the opportunity to offer these comments, and would be happy to respond to any questions.

Senate 7141  
1/25/96  
Attachment # 7



State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL  
ATTORNEY GENERAL

January 25, 1996

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
FAX: 296-6296

Senator Richard Bond, Chair  
Senate Financial Institutions and  
Insurance Committee  
State Capitol  
Topeka, KS 66612

Dear Senator Bond and Members of the Committee:

I urge the Committee's support of SB 444. Victims of domestic violence should not be discriminated for the violence they are forced to endure. In Kansas thousands of victims seek assistance from violence. They suffer severe injuries and trauma. When victims of domestic violence seek assistance, whether from hospitals, medical providers, courts, shelter programs, or mental health facilities, they must be assured that they can be covered by insurance. Domestic violence is not a crime that can be controlled by the victim and they should not be denied services because they cannot make the violence stop.

The survey compiled by Insurance Commissioner Sebelius reveals that some insurance companies do consider domestic violence when issuing or renewing insurance. Victims of domestic violence and their children must be able to seek help from medical providers and other professionals. If victims must fear the loss of insurance, it may keep victims from obtaining the assistance necessary for their safety. Senate Bill 444 is a beginning in addressing this important and complex issue.

Thank you for your consideration for this very important bill.

Sincerely,

Carla J. Stovall  
Attorney General

Senate 7141  
1/25/96  
Attachment # 8