

Approved: March 11, 1999
Date

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:15 a.m. on February 25, 1999 in Room 313-S of the Capitol.

All members were present:

Committee staff present: Mary Galligan, Legislative Research Department
Russell Mills, Legislative Research Department
Theresa Kiernan, Revisors of Statutes
Judy Glasgow, Committee Secretary

Conferees appearing before the committee:

David Calvert, Attorney
Anthony Fadale, Kansas ADA Coordinator
Bob Burk, Assistant District Attorney for Shawnee County
Don Moler, League of Kansas Municipalities
Trudy Aron, American Institute of Architects
Becca Vaughn, Disability Rights Action Coalition for Housing
Robin Tropper, Kansas Disability Rights Action Coalition for Housing
Randy Speaker, Dept. of Commerce & Housing, Director of Housing
Dennis Jackson, Topeka
Jennifer Schwartz, Lawrence

Chairman Oleen opened the hearing on

SB 299 conducting court proceedings in accessible courtrooms without changing venue

David Calvert, Attorney from Wichita and chair of the Kansas Supreme Court Commission on Opening the Courts, spoke as a proponent for **SB 299**. The commission was established by Chief Justice Holmes following the passage of the American for Disabilities Act in 1991. (Attachment 1) **SB 299** is recommended by this commission. The Supreme Court has not formally endorsed the bill. One purpose of the commission is to assist county governments in complying with the Americans with Disabilities Act. **SB 299** provides for a change of the place of trial or hearing, without changing venue. This occurs only where the courtroom does not comply with some portions of ADA Accessibility Guidelines and that nonconformity would prohibit participation of any person material to the proceeding. In the case of a jury trial, the jury would be selected from the original county where the case arose. He urged the committee's adoption of **SB 299**.

Senator Oleen inquired whether there was a problem where this is not occurring. Mr. Calvert stated that the procedure now is that only non-jury trials can be moved. This bill would allow for the movement of jury trials without changing venue as well as non jury trials.

Chairman Oleen noted that written testimony was submitted by Sherry C. Diel, Deputy Director, Kansas Advocacy and Protective Services, Inc.(KAPS) as a proponent for **SB 299**. This bill provides a fiscally conservative approach to providing physical access to judicial proceeding for persons with disabilities. KAPS requests the committees favorable consideration of **SB 299**. (Attachment 2).

Chairman Oleen noted that written testimony supporting **SB 299** had been received from Martha K. Gabehart, Executive Director, Department of Human Resources, Commission on Disability Concerns. (Attachment 3).

Chairman Oleen closed the hearing on **SB 299**.

CONTINUATION SHEET

The hearing was opened on **SB 313 private remedy for violations of the Americans with disabilities act**

Chairman Oleen called on Jim Calvert, a proponent on **SB 313**. Mr. Calvert stated that this bill was also the recommendation of the Commission on Opening the Courts established by the Supreme Court. (Attachment 4). The purpose of this bill is to provide for private suits in state court. Currently, if a city, county, or public entity violates the ADA, they may be sued in federal court in Wichita, Topeka or Wichita. **SB 313** adds a private remedy to Kansas law and provides that governmental and public entities may be sued in the home counties. The bill provides for recovery of actual damages or a civil penalty of \$10,000 whichever is greater. Mr. Calvert proposed an amendment which would expedite the implementation of this bill. He urged the committee to favorably consider this bill.

Chairman Oleen recognized Anthony Fadale, Kansas ADA Coordinator, a proponent for **SB 299, SB 304 and SB 313**. Mr. Fadale spoke to the committee on **SB 313**, stating that he had some concerns about **SB 313**. There was no objection to the complaint and the mediation process, but he did have some concerns about the \$10,000 civil penalty which is based on a violation. The Kansas ADA were like to see this section of the bill reworked. Mr. Fadale stated that the department did have some concern on **SB 304** since Kansas ADA did oversee some leased property and other contractual arrangements. The question of who would be signing the waivers because under leased property the department has the authority to sign the waivers and have the bill clarified that **SB 304** does not extend to private homes but only state public facilities.

Chairman Oleen recognized Bob Burk, Shawnee County District Attorney's Office. Mr. Burk appeared before the committee as a proponent to **SB 313** with some concerns about the \$10,000 civil penalty. Shawnee County has a complaint department for people in Shawnee County to file a complaint with the District Attorney, it is investigated to see if it is in violation of Kansas law and/or the ADA. Personnel then meet with the business or property owner or both to work out a solution that will not be an undue burden for remedy. In Shawnee County there are approximately 200 complaints with over 100 or more resolved, with no one having to go to court. Mr. Burk stated that he would like to see each City and County be required to have a coordinator on staff before looking to the civil penalty.

Chairman Oleen called Mr. Don Moler, General Counsel for League of Kansas Municipalities, as an opponent for **SB 313**. Mr. Moler stated that the League of Municipalities and the Kansas Association of Counties have representatives on the Supreme Court's Commission on Opening the Courts and are committed to working with interested groups on accessibility issues. (Attachment 5) He stated that the establishment of the complaint process, deadlines for action, and a mandatory mediation requirement are appropriate measures to attempt to resolve disputes without expensive and time consuming litigation. Mr. Moler stated that the League and the Kansas Association of Counties do not oppose the complaint and mediation procedure established in **SB 313**. As long as extraordinary private remedies remain a focus of this legislation, he requested that the committee not favorably recommend the bill for passage.

Trudy Aron, Executive Director of the American Institute of Architects in Kansas (AIA Kansas), was recognized by Chairman Oleen as an opponent to **SB 313**. Trudy Aron stated that when the ADA was passed by Congress, it was specifically set up to provide injunctive relief. (Attachment 6) AIA Kansas is currently urging Congress to provide clarification in the section of ADA dealing with architectural accessibility. There are existing remedies under ADA and she believed that the provisions of **SB 313** will only exacerbate the problems. She urged the committee to oppose **SB 313**.

Chairman Oleen noted that written testimony supporting **SB 313** had been provided by Sherry Diel, Deputy Director, Kansas Advocacy and Protective Services, Inc. (KAPS) (Attachment 7). Martha K. Gabehart, Executive Director, Department of Human Resources, Commission on Disability Concerns (Attachment 8).

The hearing on **SB 313** was closed by Chairman Oleen.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 313-S
Statehouse at 11:15 a.m. on February 25, 1999

Chairman Oleen opened the hearing on **SB 304 establishing handicapped accessibility for new and remodeled buildings**

Chairman Oleen recognized Becca Vaughn, Coordinator for Disability Rights Action Coalition for Housing, a proponent to **SB 304**. Becca Vaughn stated that **SB 304** is called the "visitability" bill and would require that all housing built or rehabilitated with public funds in the State of Kansas, either State or Federal sources, incorporate basic accessibility features. (Attachment 9) She recommended the committee consider amending the wording of the bill to be inclusive of entitlement communities. This bill was not intended to address single family privately owned homes that receive FHA loans or Farmers Administration Loans. This bill addresses organizations and entities that receive federal or state money to rehab or build new single family duplex or triplex housing. She asked for the committees support of **SB 304**.

Chairman Oleen called Robin Tropper, Coordinator, Kansas Disability rights Action Coalition for Housing as a proponent to **SB 304**. She stated that this bill was introduced because of a severe shortage of affordable accessible housing in Kansas, in both rural and urban areas. (Attachment 10). It is imperative that public dollars for housing be spent only in a manner consistent with nondiscriminatory vision. New and rehabilitated architecture subsidized by taxpayers must grant everyone equal residential choices. She urged the committee to support of **SB 304**.

Chairman Oleen called Randy Speaker, Director of Housing, The Kansas Department of Commerce and Housing (KDOC&H) as a proponent for **SB 304**. Mr. Speaker stated that KDOC&H is a proponent to **SB 304** but there are several areas which need to be clarified. (Attachment 11) KDOC&H is concerned that the language of **SB 304** has consequences beyond those that were intended and would be ready to assist in creating a bill which would maximize resources and opportunities for persons with disabilities. Mr. Speaker asked to committee to consider whether the Department of Commerce and Housing is the appropriate agency for issuing waivers. It might be advisable to consider vesting this responsibility with an agency that has the necessary expertise to address the architectural issues.

Chairman Oleen called Dennis Jackson a proponent for **SB 304**. Mr. Jackson stated that he is a long time disability rights advocate and a person with a disability. (Attachment 12). By requiring basic accessibility in all housing units built or rehabilitated with any public money people can remain in the home of our choice. He asked for the committee to support this bill.

Jennifer Schwartz was recognized by Chairman Oleen as a proponent for **SB 304**. Ms. Schwartz stated that she is a parent of a child who experiences cerebral palsy. This bill will not immediately impact current building development, but it will open up opportunities in complexes that are newly constructed or renovated. Passage of this bill would bring everyone a step closer to being a fully integrated and accessible community, not just for people with disabilities, but for all people. (Attachment 13). She urged the committee to recommend passage of **SB 304**.

Chairman Oleen recognized Shirley Wishom, Stardusters as a proponent for **SB 304**. Ms. Wishom stated that Stardusters is a community housing development organization that develops, constructs and manages affordable housing in Topeka. (Attachment 14). Stardusters has built five units which incorporate "visitability" meaning wheel chair accessibility throughout the homes. Visitability housing benefits all, and if public funds are to be used no person regardless of race creed or physical handicap should be excluded from access.

Chairman Oleen called the committee's attention to written testimony provided to members supporting **SB 304**. Mr. Buzz Estell, Topeka, Kansas (Attachment 15). Tessa Goupil, Topeka, Kansas (Attachment 16). Mike Oxford, Executive Director Topeka Independent Living Resource Center, Topeka, Kansas (Attachment 17). Lou Ann Kibbe, Western Kansas ADAPT, Hays, Kansas (Attachment 18). Bob Mikesic, Advocacy Coordinator, Lawrence Independent Living Resource Center (Attachment 19). Roger Harsh, McLouth Kansas (Attachment 20). Eleanor Smith, Director, Concrete Change, SE Atlanta,

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS, Room 313-S
Statehouse at 11:15 a.m. on February 25, 1999

Georgia (Attachment 21). Troy A. Horton, Center for Independent Living for Southwest Kansas, Garden City, Kansas (Attachment 22). Greg Jones, Director of Advocacy, (Attachment 23). Earl E. Benson, Architect, Wichita, Kansas (Attachment 24). Michelle Campbell, Independent Connection/OCCK, Inc. (Attachment 25). Brenda Eldridge, Topeka, Kansas (Attachment 26). Richard L. Knight, Goodland, Kansas (Attachment 27). Jody C. Anderson, Lawrence, Kansas (Attachment 28) Families Together, Inc., Wichita, Topeka, Garden City, and Kansas City. (Attachment 29) Heather De Mian, Disability Rights Advocate for The Whole Person, Inc, Kansas City Center for Independent Living, Johnson and Wyandotte Counties (Attachment 30). Gina McDonald, President Kansas Association of Centers for Independent Living, Salina, Kansas (Attachment 31). Shannon Jones, Statewide Independent Living Council of Kansas, Topeka, Kansas (Attachment 32). Martha K. Gabehart, Executive Director, Department of Human Resources, Topeka, Kansas (Attachment 33). Mary Ellen O'Brien Wright, Assistive Technology for Kansans, (Attachment 34). Brian Atwell, LINK, Inc., Hays, Kansas (Attachment 35). Thomas L. Robinson, president Western Kansas Association on Concerns of the Disabled, Hays, Kansas (Attachment 36). Jeff Simon, Independent Living Counselor, Russell, Kansas (Attachment 37). Blake Knoll, Liberal, Kansas, (Attachment 38). Trudy Aron, Executive Director, American Institute of Architects, with concerns. (Attachment 39).

Chairman Oleen closed the hearing on **SB 304**.

The meeting adjourned at 12:15 p.m. The next meeting for this committee will be held February 25, 1999 at the rail following adjournment of the Senate..

**Testimony Concerning SB 299
Before The
Senate Committee on Federal and State Affairs**

**David P. Calvert
Chair, Kansas Supreme Court Commission on
Opening the Courts
February 25, 1999**

My name is David Calvert. I am an attorney and am Chair of the Kansas Supreme Court Commission on Opening the Courts. This Commission was established by Chief Justice Holmes following the passage of the Americans with Disabilities Act, and the purpose of the Commission is to do all it can to ensure that the justice system is in compliance with the provisions of the Americans with Disabilities Act. The Commission consists of persons from many organizations affected by the ADA, for example: The Kansas Commission on Disability Concerns, the Kansas Department of Aging, the Kansas Association of Counties, the League of Kansas Municipalities, the Kansas Association for the Deaf, and the attorney general's office, and persons with disabilities including hearing and sight impairments, cognitive disabilities, and physical mobility disabilities such as those seen in persons in wheelchairs and the elderly.

Senate Bill 299 is recommended by this Commission. The Kansas Supreme Court has taken no position on this Bill and I do not speak for the Court in my support of 299, but I do speak for the Commission.

One purpose of the commission is to assist county governments in complying with the Americans with Disabilities Act as it relates to their courthouses. Although substantial progress has been made by Kansas counties, much work still needs to be done. A recent survey conducted by the Commission disclosed that only 21 of 83 counties responding had no access-denying or potentially access-denying violations of the ADA. Seventy-five percent of those courthouses had obstructions that could potentially deny access to persons with various disabilities.

The overriding philosophy of this bill is the Commission's belief that everyone has the right to have his or her case tried in a courtroom and that right should not be denied because of the inaccessibility of a courtroom.

Kansas law currently dictates in which county a case will be tried, depending upon a number of different factors that are really not relevant here. What is significant is the number of courthouses that are not accessible. However, we have generally found that where a courthouse is not accessible that one in a nearby county -- usually an adjacent county -- is accessible.

Senate Bill 299 provides for a change of the place of trial or hearing, without changing venue. This occurs only where the courtroom does not comply with some portions of the existing sections and the proposed Section 11 the ADA Accessibility Guidelines (ADAAG, attached as Exhibit A), and that nonconformity would prohibit participation of any person material to the proceeding.

**Sen. Federal & State Affairs Comm.
Date: 2-25-99
Attachment: # 1-1**

Where the participation of a person material to the proceeding would be prohibited or limited, the judge must change the place of trial. That would include attorneys, parties, and witnesses.

Where the attendance of a person would be prohibited or limited, on proper application the judge may change the place of trial but is not required to do so. This subsection is addressed to spectators and is discretionary.

On behalf of the Commission I urge your support of Senate Bill 299.

Proposed Section 11 of the Americans with Disabilities Act
Accessibility Guidelines (ADAAG) by the
United States Architectural and Transportation
Barriers Compliance Board
(Access Board)

These guidelines have not yet been adopted.

11. JUDICIAL, LEGISLATIVE AND REGULATORY FACILITIES.

11.1 General. In addition to the requirements in section 4 and 11.1, judicial facilities shall comply with 11.2 and legislative and regulatory facilities shall comply with 11.3.

11.1.1 Entrances. Where provided, at least one restricted entrance and one secured entrance to the facility shall be accessible in addition to the entrances required to be accessible by 4.1.3(8). Restricted entrances are those entrances used only by judges, public officials, facility personnel or other authorized parties on a controlled basis. Secured entrances are those entrances to judicial facilities used only by detainees and detention officers.

EXCEPTION: At secured entrances, doors and doorways operated only by security personnel shall be exempt from 4.13.9, 4.13.10, 4.13.11 and 4.13.12.

11.1.2 Security Systems. An accessible route complying with 4.3 shall be provided through fixed security barriers at required accessible entrances. Where security barriers incorporate equipment such as metal detectors, fluoroscopes, or other similar devices which cannot be made accessible, an accessible route shall be provided adjacent to such security screening devices to facilitate an equivalent circulation path.

11.1.3 Two-Way Communication Systems. Where a two-way communication system is provided to gain admittance to a facility or to restricted areas within the facility, the system shall provide both visual and audible signals and shall comply with 4.27.

11.2 Judicial Facilities.

11.2.1 Courtrooms.

(1) Where provided, the following elements and spaces shall be on an accessible route complying with 4.3. Areas that are raised or depressed and accessed by ramps or platform lifts with entry ramps shall provide unobstructed turning space complying with 4.2.3.

EXCEPTION: Vertical access to raised judges' benches or courtroom stations need not be installed provided that the requisite areas, maneuvering spaces, and, if appropriate, electrical service are installed at the time of initial construction to allow future installation of a means of vertical access complying with 4.8, 4.10, or 4.11 without requiring substantial reconstruction of the space.

(a) Spectator, Press, and Other Areas with Fixed Seats. Where spectator, press or other areas with fixed seats are provided, each type of seating area shall comply with 4.1.3(19)(a).

(b) Jury Boxes and Witness Stands. Each jury box and witness stand shall have within its defined area clear floor space complying with 4.2.4.

EXCEPTION: In alterations, accessible wheelchair spaces are not required to be located within the defined area of raised jury boxes or witness stands and may be located outside these spaces where ramp or lift access poses a hazard by restricting or projecting into a means of egress required by the appropriate administrative authority.

(c) Judges' Benches and Courtroom Stations. Judges' benches, clerks' stations, bailiffs' stations, deputy clerks' stations, court reporters' stations and litigants' and counsel stations shall comply with 4.32.

(2) Permanently installed assistive listening systems complying with 4.33 shall be provided in each courtroom. The minimum number of receivers shall be four percent of the room occupant load, as determined by applicable State or local codes, but not less than two receivers. An informational sign indicating the availability of an assistive listening system and complying with 4.30.1, 4.30.2, 4.30.3, 4.30.5, and 4.30.7(4) shall be posted in a prominent place.

11.2.2 Jury Assembly Areas and Jury Deliberation Areas. Where provided in areas used for jury assembly or deliberation, the following elements or spaces shall be on an accessible route complying with 4.3 and shall comply with the following provisions:

(1) Refreshment Areas. Refreshment areas, kitchenettes and fixed or built-in refreshment dispensers shall comply with the technical provisions of 9.2.2(7).

(2) Drinking Fountains. Where provided in rooms covered under 11.2.2, there shall be a drinking fountain in each room complying with 4.15.



KANSAS ADVOCACY & PROTECTIVE SERVICES, INC.

3745 S.W. Wanamaker Rd.

Topeka, Kansas 66610

(785) 273-9661

(785) 273-9414 Fax

3218 Kimball Ave.

Manhattan, Kansas 66503

(785) 776-1541

(785) 776-5783 Fax

800) 432-8276 TDD/Voice

James Germer, Executive Director

Sherry Diel, Deputy Director

Tim Voth, Attorney

Kari Ramos, Advocate

Scott Letts, Deputy Director

Lori A. Davis, Attorney

Michelle Rola', CFO

Michelle Heydon, Advocate

Memo To: Chairperson Oleen and Members of the Senate Federal and State Affairs Committee

From: Sherry C. Diel, Deputy Director

RE: SB-299--Act Relating to Venue for Inaccessible Courtrooms

Date: February 25, 1999

What is Kansas Advocacy and Protective Services, Inc.?

Kansas Advocacy and Protective Services, Inc. ("KAPS") is a federally funded non-profit corporation. Our agency serves as the designated Protection and Agency for persons with disabilities in the state of Kansas. Each state and territory in the United States has a similar type of organization. Our role is to advocate for legal rights and services for persons with disabilities. Pursuant to federal law, KAPS has authority to pursue resolution of disputes through use of legal, administrative and other appropriate remedies. Because our funding is limited, KAPS utilizes priorities, developed as a result of public input, to advocate for systemic changes in the public and private sector to benefit Kansans with disabilities.

KAPS Supports the Amendments Proposed by SB-299.

One of our important civil rights that Americans hold dear is to have our disputes that cannot be resolved amicably be tried before an independent decision maker. Unfortunately, many of our state courts are located in old buildings which are not accessible. If the courtroom is inaccessible, and no other means of providing program access are reasonably available, parties to the proceeding, attorneys with physical disabilities and material witnesses may be barred, through no fault of their own, from participating in the judicial process in that county. Moreover, interested persons, such as a family member with a physical disability, may not be allowed to view the proceedings because they cannot reach the courtroom.

SB-299, drafted by a task force whose duty was to make recommendations to the Office of Judicial Administration on ways of opening up the courtroom to persons with disabilities, provides a reasonable solution to offer parties, witnesses, attorneys and interested persons access to judicial proceedings. In many older buildings, it may not be possible to bring the courtroom into compliance with ADAAG. This bill provides a **fiscally conservative approach** to providing physical access to judicial proceedings for persons with disabilities.

Sen. Federal & State Affairs Comm.

Date: 2-25-99

Attachment: # 2-1

Federal & State Affairs
February 25, 1999
Page 2

Its another way of saying, "if you cannot get to the courtroom, the courtroom will come to you".

No change in venue will be necessary to move the trial to an accessible courtroom in another county. Although we will have to work through scheduling issues which may arise for counties with accessible courtrooms, the small inconvenience will be greatly outweighed by benefits bestowed on persons with physical disabilities who will otherwise be prevented from participating in the judicial process. Kansas must continue its movement toward removal of barriers for persons with disabilities, and this bill provides a inexpensive and just approach to doing so.

KAPS respectfully requests the Committee recommend SB-299 favorably for passage. Should you have any questions, please do not hesitate to contact me at (785) 273-9661.

DEPARTMENT OF HUMAN RESOURCES



Bill Graves, Governor

Wayne L. Franklin, Secretary

COMMISSION ON DISABILITY CONCERNS

1430 S.W. Topeka Boulevard, Topeka, Kansas 66612-1877

Voice: (785) 296-1722 • TTY: (785) 296-5044 • Fax: (785) 296-0466

Toll Free: (Outside Topeka) 1-800-295-5232

Testimony on SB 299
Senate Federal and State Affairs
Given by
Martha K. Gabehart, Executive Director
February 25, 1999

Thank you for the opportunity to testify in support of SB 299. The Kansas Commission on Disability Concerns (KCDC) is an advisory commission that provides information and education to the legislature and governor on issues of importance to Kansans with disabilities. The mission statement of KCDC is: The Kansas Commission on Disability Concerns believes that all people with disabilities are entitled to be equal citizens and equal partners in Kansas society. The purpose of the Kansas Commission on Disability Concerns is to involve all segments of the Kansas community through legislative advocacy, education and resource networking to ensure full and equal citizenship for all Kansans with disabilities.

SB 299 provides for a judge to hold court in an accessible courtroom for an action in which a person would not be able to participate because of the lack of access without changing venue. KCDC staff person, Randy Fisher, has participated on the Supreme Court's Opening the Courts Committee in determining how to make the judicial process more accessible to people with disabilities. The issue in SB 299 was brought up as a problem that needed to be corrected to allow people with disabilities to participate in court actions with as much equality and dignity as people without disabilities. This bill appears to be the most effective way to correct the problem. In keeping with KCDC's mission statement, the need of people with disabilities to be treated equally and to allow them to participate in all aspects of the judicial system, KCDC encourages you to support passage of SB 299.

4

**Testimony Concerning SB 313
Before The
Senate Committee on Federal and State Affairs**

**David P. Calvert
Chair, Kansas Supreme Court Commission on
Opening the Courts
February 25, 1999**

Good morning. My name is David Calvert. I am an attorney and chair the Kansas Supreme Court Commission on Opening the Courts. This Commission was established by Chief Justice Holmes following the passage of the Americans with Disabilities Act, and the purpose of the Commission is to do all it can to ensure that the justice system is in compliance with the provisions of the Americans with Disabilities Act. The Commission consists of persons from many organizations affected by the ADA, for example: The Kansas Commission on Disability Concerns; the Kansas Department of Aging; the Kansas Association of Counties; the Kansas Commission for the Deaf and Hearing Impaired; the Kansas judiciary; the League of Kansas Municipalities, and the attorney general's office, to name a few.

Senate Bill 313 is a recommendation of this Commission. This bill expresses the view of the Commission, as a whole, but is not necessarily endorsed by the individual members of the Commission in their official capacities.

The Kansas Supreme Court has taken no position on this Bill, and I do not speak for the Court in my support of 313.

On July 26, 1990, President George Bush signed the Americans with Disabilities Act. This antidiscrimination act covered over 40 million Americans with disabilities, and prohibits discrimination based on disability. The Act set certain deadlines for compliance by government and public entities, both new and existing. By January 26, 1992, all governmental entities were required to have developed a transition plan that would get that entity in compliance with the ADA by July 26, 1995. Public entities -- generally retail businesses -- were to be in compliance by January 26, 1992. Any governmental entity that is not in compliance with the ADA is now 3 ½ years past the compliance date. A public entity not in compliance is over seven years past the compliance date.

Compliance with the Americans with Disabilities Act is either through the U. S. Department of Justice or by private suit. The ADA provides that an individual may file suit against a governmental or public entity.

Kansas adopted accessibility guidelines in 1968 and applied them to public buildings in 1978. Government buildings built after 1968 and public buildings built after January 1, 1979, in accordance with the Kansas accessibility guidelines will generally comply with the ADA. In 1992, Kansas adopted the ADA accessibility standards as the Kansas accessibility standards.

Sen. Federal & State Affairs Comm.
Date: 2-25-99
Attachment: # 4-1

There was an amendment in 1994 which the District Court of Ellis County said clarified the role of municipalities by specifically providing that municipalities must enforce the Kansas accessibility standards as to existing public facilities built with private funds. In January of this year the Kansas Supreme Court held otherwise and ruled that municipalities did not have the obligation to enforce those standards as to existing facilities. In so holding, the Supreme Court pointed out that individuals could sue a public entity that was not in compliance with the ADA by using the ADA and filing suit in federal court. The purpose of this bill is to provide for private suits in state court.

Currently, if a city, county, or public entity violates the ADA, they may be sued in federal court in Wichita, Topeka, or Kansas City.

Senate Bill 313 adds a private remedy to Kansas law and provides that governmental and public entities may be sued in their home counties. In this respect, this is a win/win proposition for all concerned. For the person with a disability who has a valid complaint, it establishes a procedure which will allow the complaint to be resolved at the local level using state law. For the entity against whom the complaint is made, whether it is a governmental or public entity, there is likewise a procedure that will allow the complaint to be resolved at the local level. Although no entity asks to be sued, if there is an ADA violation and the entity is going to be sued, it is to that entity's advantage to be sued (1) in state court in its own county and (2) under a procedure that requires mediation and settlement conferences.

This bill does what the ADA does by providing for injunctive relief, attorney fees and expenses, and provides mediation and settlement conferences that the ADA does not include.

As to governmental entities, this bill establishes an administrative procedure that must take place before suit is filed. First, a written complaint is filed with the governmental entity's ADA coordinator or the attorney general. That person then investigates and attempts to resolve the complaint. If that is not successful, the matter is taken to a mediator knowledgeable about the ADA. Only if the complaint is not resolved by mediation may a person file suit. These protections for municipalities do not exist under the ADA. If suit is filed, the complainant may recover actual damages or a civil penalty¹ of \$10,000, whichever is greater.

As to public entities built with private funds, the bill first provides that suit can be filed only for substantial violations. The complainant may ask for an injunction and actual damages or a civil penalty, and if the complainant prevails the court shall award fees and

¹ Civil penalties are provided for in about 100 Kansas statutes and range from \$5 to \$500,000. Private individuals may recover civil penalties in such instances as violations of the Consumer Credit Code (K.S.A. 16a-1-107), Unlawful Search (K.S.A. 22-2523), Failure to Pay Compensation (K.S.A. 44-512a), Consumer Protection Act (K.S.A. 50-634), and even enhanced civil penalties for Consumer Protection Act violations where the victim is elderly or disabled (K.S.A. 50-677).

expenses.² Before trial, however, the bill requires that a settlement conference be held, and this is a departure from the ADA.

On a personal note I have a recommendation that was not considered by our Commission:

I would suggest that an additional amendment would expedite the implementation of this bill. K.S.A. 58-1310a(a) provides that the attorney general may adopt rules and regulations necessary to implement the provisions of certain parts of the accessibility law. I would recommend that subsection (a) of K.S.A. 58-1310a be amended by adding a reference to this bill:

K.S.A. 58-1310a(a) is amended to read: “(a) The attorney general of the state of Kansas may adopt any rules and regulations necessary to implement the provisions of K.S.A. 58-1304, ~~and~~ 58-1308, *and Senate Bill 313.*”

Senate Bill 313 gives Kansans with disabilities access to the Kansas courts using Kansas law; access to a system which will equitably and effectively enforce these antidiscrimination laws. I urge you to adopt it.

David P. Calvert
532 North Market
Wichita, Kansas 67214-3514

² It is important to note that the law prohibits the filing of frivolous suits and provides for sanctions (K.S.A. 60-211). Kansas law also requires that a demand which gives an opportunity to respond be made before filing suit. *Nelson v. Miller*, 227 Kan. 271, 285.



LEAGUE OF KANSAS MUNICIPALITIES

LEGAL DEPARTMENT □ 300 S.W. EIGHTH □ TOPEKA, KANSAS 66603

PHONE: (785) 354-9565 □ FAX: (785) 354-4186

To: Senate Federal and State Affairs Committee
From: Don Moler, General Counsel/Deputy Executive Director
Date: February 25, 1999
Re: Senate Bill 313

Thank you for allowing me to appear today on behalf of the League of Kansas Municipalities and our 529 member cities. Because we believe it is a dramatic departure from current law and will have a negative impact on the cities of Kansas, we appear today in opposition to Senate Bill 313.

Both the League and the Kansas Association of Counties have representatives on the Supreme Court's Commission on Opening the Courts, the Commission that developed the legislation we are discussing today. We are committed to working with interested groups on accessibility issues and we will continue to participate in the development of workable public policy in the area.

During the discussion of this particular recommendation, the Commission on Opening the Courts determined that the existing Kansas statutes failed to establish a process by which an individual alleging a violation of K.S.A. 58-1301 *et seq.* could attempt to resolve the claim without resorting to litigation. It was the consensus of the Commission that this inadequacy in the existing law should be remedied. For this reason, we support the provisions contained in Section 1(a)(1) & (2) of Senate Bill 313. We believe that the establishment of the complaint process, deadlines for action, and a mandatory mediation requirement are appropriate measures to attempt to resolve disputes without expensive and time consuming litigation.

However, it is important to note that there was by no means a consensus among the commission members that imposing a private remedy against public agencies was an appropriate means of achieving the accessibility goals that we can all agree upon. K.S.A. 58-1308 and K.S.A. 58-1309, which I have attached to my testimony, establish remedies for violations of the Kansas accessibility standards. These statutes authorize the issuance of injunctions for violations and further provide for civil penalties if any injunction or court order is violated. Therefore, current statutory language provides both a legal and a financial incentive for governmental entities to comply with the accessibility provisions.

Senate Bill 313 turns the concept of a public remedy for a public harm on its head. The provisions of this bill establish private remedies, including attorneys fees, costs, penalties, and even emotional distress damages. Thus, instead of using the traditional means of demanding compliance from public agencies through public means, this bill is

Sen. Federal & State Affairs Comm.

Date: 2-25-99

Attachment: # 5-1

an invitation for litigation against the state government, the counties, and the cities of Kansas. Kansas taxpayers should not have to bear this burden when there are more appropriate remedies available.

The ultimate goal of the accessibility standards is to provide persons with disabilities access to public buildings and public programs. The private remedies established by Senate Bill 313 do nothing to further this goal. These provisions would simply force the state and local governments to expend tax dollars to defend the lawsuits which will inevitably come from this legislation.

I will reiterate that the League and the Kansas Association of Counties do not oppose the complaint and mediation procedure established in Senate Bill 313. However, as long as the extraordinary private remedies remain a focus of this legislation, we must respectfully request that you do not recommend this bill favorably for passage.

58-1305.

History: L. 1968, ch. 216, § 5; L. 1978, ch. 213, § 8; L. 1986, ch. 208, § 3; L. 1992, ch. 208, § 7; Repealed, L. 1994, ch. 195, § 14; July 1.

58-1306. Same; display of international symbol. The international symbol of access to individuals with a disability shall be permanently displayed at the entrance of all facilities that are in compliance with the standards established pursuant to this act. Entrances of multi-family dwellings as defined in the K.S.A. 44-1001 *et seq.*, and amendments thereto, and the fair housing act of 1968, as amended, 42 U.S.C. 3601 *et seq.*, also shall display the international symbol of access to individuals with a disability.

History: L. 1978, ch. 213, § 3; L. 1986, ch. 208, § 4; L. 1992, ch. 208, § 8; L. 1994, ch. 195, § 6; July 1.

58-1307. Same; historic facilities; duties of state historic preservation officer; review of state action. (a) Any governmental entity undertaking an addition to or alteration of a qualified historic facility, as defined in section 504(c) of the Americans disabilities act of 1990 as required by Title II, shall follow 28 CFR Part 35.150(b)(2) and 35.150(d).

(b) Any person undertaking an addition to or alteration of a qualified historic facility, as defined in section 504(c) of the Americans with disabilities act of 1990 as required by Title III, shall follow 28 CFR Part 36.405.

(c) Any consultation for alternative methods of access with the state historic preservation officer required by 28 CFR Part 35.150(b)(2) or 35.150(d) or 28 CFR Part 36.405 shall include descriptions of alternative methods of providing access, one copy of the facility plans, with dimensions, for the applicable areas of the addition or alteration, and photographs of the existing conditions.

(d) In addition to subsection (c), the state historic preservation officer shall solicit additional information from the requestor and perform an on-site inspection of the qualified historic facility.

(e) The state historic preservation officer shall initiate consultation and evaluation of properly submitted requests within 30 days from the date the request was received.

(f) Any action by a state officer or agency pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. Any action

pursuant to this section by any other person or entity is subject to review by the district court of the county where the facility is located.

History: L. 1978, ch. 213, § 5; L. 1986, ch. 208, § 5; L. 1986, ch. 318, § 79; L. 1992, ch. 208, § 9; L. 1994, ch. 195, § 7; July 1.

58-1308. Same; injunction to restrain violation of standards. The attorney general, the city, county or district attorney or any person, agency or governmental entity responsible for the enforcement of this act may apply to the district court for a temporary or permanent injunction restraining any individual, corporation or partnership from violating the standards established by this act. Such court shall have jurisdiction upon hearing and for cause shown to grant such injunction. Such court may require the alteration of any facility by mandatory injunction to ensure compliance with the provisions of this act.

History: L. 1978, ch. 213, § 7; L. 1986, ch. 208, § 6; L. 1991, ch. 147, § 19; L. 1994, ch. 195, § 8; July 1.

58-1309. Same; violation of injunction; civil penalty. (a) An aggrieved individual with a disability shall not be a required party in actions brought by the attorney general or a city, county or district attorney pursuant to this section.

(b) Any willful violation of the terms of any injunction or court order issued pursuant to this act shall render the violator liable for the payment of a civil penalty in such amount as the court shall determine to be necessary and proper.

(c) In administering and pursuing actions under this act, the attorney general and the city, county attorney or district attorney are authorized to sue for and collect reasonable expenses and investigation fees as determined by the court. Civil penalties sued for and recovered by the attorney general shall be paid into the general fund of the state. Civil penalties sued for and recovered by the city, county attorney or district attorney shall be paid into the general fund of the city or county where the proceedings were instigated.

(d) Any person, agency or governmental entity responsible for the enforcement of this act may refer evidence concerning violation of the standards established pursuant to this act to the attorney general or the proper city, county or district attorney, who may institute, with or without such a reference, proceedings under this section.

History: L. 1978, ch. 213, § 6; L. 1992, ch. 208, § 10; L. 1994, ch. 195, § 9; July 1.

AIA Kansas

A Chapter of The American Institute of Architects

February 25, 1999



TO: Senator Oleen and Members of the Senate Federal and State Affairs Committee

FROM: Trudy Aron, Executive Director

RE: Opposition to SB 313

Good Morning, Madam Chair, and members of the Committee, I am Trudy Aron, Executive Director, of the American Institute of Architects in Kansas (AIA Kansas.) Thank you for allowing me to testify in opposition to SB 313.

AIA Kansas is a statewide association of architects and intern architects. Most of our 700 members work in over 100 private practice architectural firms designing a variety of project types for both public and private clients including justice facilities, schools, hospitals and other health facilities, industrial buildings, offices, recreational facilities, housing, and much more. The rest of our members work in industry, government and education where many manage the facilities of their employers and hire private practice firms to design new buildings and to renovate or remodel existing buildings.

When the Americans with Disabilities Act (ADA) was passed by congress, it was specifically set up to provide injunctive relief. I am proud to say that the American Institute of Architects was a major player in the adoption of the Act. Our members assist clients everyday in making decisions that affect the accessibility of nearly all building types.

As you know, ADA is a civil rights law and is complaint driven. It is not a building code. The US Access Board issues architectural guidelines and while building codes have adopted many of these guidelines, neither provides safe harbors for design professionals. In addition, many architects work with disability groups, independent living centers and others, to provide insight and assistance to meet the goals of ADA. Again, consulting with the disabled community does not provide a safe harbor for our members or their clients.

Most of the problems encountered do not come from the design of new buildings; it is the renovation of existing facilities that provide the difficulties. To make an existing building totally accessible is often an onerous and nearly impossible task. It often requires substantial changes in the original building, less usable space and can add substantial cost to the entire project. Regardless of the problems encountered, our members are meeting the challenge. The lack of clarity and certainty in ADA makes their solutions open to interpretation. We are urging Congress to provide clarification in the section of ADA dealing with architectural accessibility.

There are existing remedies under ADA. We believe the provisions of SB 313 will only exacerbate the problems. It will clog our courts, provide damages to a few, increase insurance rates, and will not solve the real problem of making our public buildings accessible to everyone.

We urge you to oppose the changes in SB 313. Thank you.

700 SW Jackson, Suite 209
 Topeka, Kansas 66603-3757
 Telephone: 785-357-5308
 800-444-9853
 Facsimile: 785-357-6450

Sen. Federal & State Affairs Comm.
 Date: 2-25-99
 Attachment: # 6-1



KANSAS ADVOCACY & PROTECTIVE SERVICES, INC.

3745 S.W. Wanamaker Rd.

Topeka, Kansas 66610

(785) 273-9661

(785) 273-9414 Fax

3218 Kimball Ave.

Manhattan, Kansas 66503

(785) 776-1541

(785) 776-5783 Fax

800) 432-8276 TDD/Voice

James Germer, Executive Director

Sherry Diel, Deputy Director

Tim Voth, Attorney

Kari Ramos, Advocate

Scott Letts, Deputy Director

Lori A. Davis, Attorney

Michelle Rola', CFO

Michelle Heydon, Advocate

Memo To: Chairperson Oleen and Members of the Senate Federal and State Affairs Committee

From: Sherry C. Diel, Deputy Director

RE: SB-313--Act Relating to Accessibility Standards for Public Buildings

Date: February 25, 1999

What is Kansas Advocacy and Protective Services, Inc.?

Kansas Advocacy and Protective Services, Inc. ("KAPS") is a federally funded non-profit corporation. Our agency serves as the designated Protection and Agency for persons with disabilities in the state of Kansas. Each state and territory in the United States has a similar type of organization. Our role is to advocate for legal rights and services for persons with disabilities. Pursuant to federal law, KAPS has authority to pursue resolution of disputes through use of legal, administrative and other appropriate remedies. Because our funding is limited, KAPS utilizes priorities, developed as a result of public input, to advocate for systemic changes in the public and private sector to benefit Kansans with disabilities.

KAPS Supports SB-313.

KAPS supports SB-313 because it clarifies responsibility for resolution of disputes regarding violations of accessibility standards for public buildings. The Act directs the aggrieved party to the appropriate local or state governmental entity to attempt to resolve the alleged violation before expensive litigation ensues. The Act also directs that complaints be filed with the Kansas Attorney General's Office, if the governmental entity has failed to appoint a coordinator for Americans With Disabilities Act ("ADA") complaints.

Furthermore, SB-313 mandates mediation if the alleged violation by the governmental entity is not resolved amicably through informal negotiations. The mediator must be knowledgeable about the ADA in order to be appointed to hear the matter. In KAPS' experience, mediation has proved to be less costly than litigation with the potential for very positive outcomes.

If, and only if, the dispute cannot satisfactorily be resolved by the mediator, is the aggrieved individual authorized to pursue a private remedy against the governmental entity. Attorney fees and costs are awarded if the aggrieved party prevails in the action for

Sen. Federal & State Affairs Comm.

Date: 2-25-99

Attachment: # 7-1

Federal & State Affairs
February 25, 1999
Page 2

injunctive relief or compensatory damages; therefore, an incentive exists for the parties to resolve disputes prior to, or early in the litigation, if the aggrieved individual's claim is supported by the facts and law.

KAPS respectfully requests the Committee recommend SB-313 favorably for passage. Should you have any questions, you may reach me at (785) 273-9661.

DEPARTMENT OF HUMAN RESOURCES



Bill Graves, Governor

Wayne L. Franklin, Secretary

COMMISSION ON DISABILITY CONCERNS

1430 S.W. Topeka Boulevard, Topeka, Kansas 66612-1877

Voice: (785) 296-1722 • TTY: (785) 296-5044 • Fax: (785) 296-0466

Toll Free: (Outside Topeka) 1-800-295-5232

Testimony on SB 313
Senate Federal and State Affairs

Given by

Martha K. Gabehart, Executive Director

February 25, 1999

Thank you for the opportunity to testify in support of SB 313. The Kansas Commission on Disability Concerns (KCDC) is an advisory commission that provides information and education to the legislature and governor on issues of importance to Kansans with disabilities. The mission statement of KCDC is: The Kansas Commission on Disability Concerns believes that all people with disabilities are entitled to be equal citizens and equal partners in Kansas society. The purpose of the Kansas Commission on Disability Concerns is to involve all segments of the Kansas community through legislative advocacy, education and resource networking to ensure full and equal citizenship for all Kansans with disabilities.

SB 313 sets out more specific enforcement and penalties for K.S.A. 58-1301 et seq. (Kansas Accessibility Specifications (KAS)) with regard to governmental buildings and privately owned public buildings. Currently KAS outlines enforcement responsibility, but no penalties are available except an injunction. SB 313 gives an individual the ability to file a complaint against a municipality or bring action against a private owner of a building open to the public for violation of K.S.A. 58-1301 et seq. in the building or renovation of that building. The current law's enforcement mechanism has proven to be ineffective. Most building inspectors are not requiring compliance when approving building permits as required, buildings not in compliance are not required to make the modifications and, of those people we have spoken to about their efforts to get injunctions, no injunctions have been filed.

KCDC supports legislation, which will improve the ability of Kansans with disabilities to live independently in their communities. This bill will put more teeth into the current law and empower people with disabilities to enforce K.S.A. 58-1301 et seq.

KDCD encourages you to support passage of SB 313 favorably out of committee.



February 25, 1999

Testimony in Support of SB304 submitted orally by Becca Vaughn.

To Members of the Committee on Federal and State Affairs;

The State of Kansas has a history of leadership and future visionary concepts which benefit the people who reside within its boundaries. It is with this spirit that the "Visit-ability" concept and legislative initiative, Senate Bill 304, are before you today.

SB 304 would require that all housing built or rehabilitated with public funds in the State of Kansas, be it derived from the State or Federal sources, incorporate basic accessibility features.

- 1) One accessible (no step) entrance to each dwelling unit;
- 2) All interior doorways wide enough for wheelchair passage, including the doors to bathrooms;
- 3) Accessible route through the main floor of each unit;
- 4) Wall reinforcement for future grab bar installation;
- 5) All light switches, electrical outlets and other controls in accessible locations.

It is the intent of this legislation that all members of local communities across the state would have equal opportunity and access to housing choices. The provisions of SB 304 would apply to dwellings **not** already covered by existing federal laws, such as The Fair Housing Act, that mandate basic access in all new privately owned multi-family housing of four or more units, and Section 504 of the Rehabilitation Act of 1973, which requires minimum 5% of the units have full accessibility in all federally funded multi-family units. It is not the intent of this initiative to apply to a individual/private owned residence.

There are literally hundreds if not thousands of units of single family, duplex and triplex housing being built and renovated by organizations utilizing public funds across our state. These affordable housing units most often exclude people with disabilities, due to the replacement of physical barriers, such as stairs and narrow doorways. This bill will assure that scarce public resources are utilized fully and that those funds are not used to isolate or exclude one class of people.

I would urge this committee to make the following amendments to the current bill and recommend full support for Senate Bill 304.

- Line 9 - Delete **handicapped**, add the word **basic** after **establishing**.
- Line 15 - Add, **or federal** after the word **state**;
- Line 22 - Delete, **dis-**
- Line 23 - Delete, **persed by the state**;

Thank you for your support of SB 304.

Sincerely,

Becca Vaughn
DRACH Coordinator

Disability Rights Action Coalition for Housing
501 SW Jackson, Ste.100-B
Topeka, KS. 66603
785-233-4572-v/tty 785-233-5072-fax
bvaughn@networksplus.net

the national grassroots voice of people with disabilities and

Sen. Federal & State Affairs Comm.
Date: 2-25-99
Attachment: # 9-1

Kansas Disability Rights Action Coalition for Housing

**2401 E. 13th Street
Hays, KS 67601**

**(785) 625-6942 (V/TTY)
(785) 625-6137 (fax)**

Testimony to Committee on Federal and State Affairs,
Senator Lana Oleen, Chairperson,
on SB 304 by
Robin Tropper, Coordinator, Kansas DRACH
February 25, 1999

Thank you Chairperson Oleen and Committee members for hearing my testimony today as a proponent of Senate Bill 304. I'm Robin Tropper, Coordinator of the Kansas Disability Rights Action Coalition for Housing (KDRACH). KDRACH is a state-wide grassroots, cross-disability group of individuals and organizations working to ensure that the civil rights of people with disabilities are fully honored in all housing in Kansas, including State-funded and administered programs. Our work mirrors that of national DRACH, and is based on the independent living philosophy, promoting individual choice, individual control and full integration in our communities. (Please see the attached information sheet that further describes KDRACH's goals.)

The overriding reason KDRACH had this bill introduced is the severe shortage of affordable accessible housing in our state – in our rural and urban areas alike. Too few dwellings in our communities provide basic structural access allowing *all* people to enter them, much less fully use them. Consequently, persons with mobility impairments and their families experience extreme difficulty in finding suitable places to live and they often become isolated in those homes because friends and relatives are likely to live in houses without basic access. SB 304 would counteract such isolation and segregation, and would expand and equalize housing choices.

We feel that basic access improves the lives of the entire community at-large; the benefits reach beyond addressing the needs of people with mobility impairments. For instance, we are all enriched by socializing together in our own homes and in other people's homes with diverse groups of people; we all derive pleasure from inclusion of all our friends and relatives in family visits. In addition, basic access provides everyone with greater maneuverability and safety in performing everyday chores and activities, such as pushing baby strollers and bicycles or moving furniture, groceries and other awkward or heavy items into and within dwellings.

Senate Bill 304 would only affect a subset of the housing stock in Kansas. Yet this bill is an opportunity for the State to support a vision that future generations of housing in Kansas will be increasingly visitable and usable by everyone. It is imperative that public dollars for housing be spent only in a manner consistent with this nondiscriminatory vision. New and rehabilitated architecture subsidized by taxpayers must grant everyone equal residential choices and allow all of us to invite all people into our homes. Access is a civil right!

I urge you to support Senate Bill 304. Thank you very much. If you have any questions, I would be glad to address them.

Sen. Federal & State Affairs Comm.
Date: 2-25-99
Attachment: # 10-1

Kansas Disability Rights *Action* Coalition for Housing

**2401 E. 13th Street
Hays, KS 67601**

**(785) 625-6942 (V/TTY)
(785) 625-6137 (fax)**

People in Kansas, with disabilities and our chosen advocates, working to ensure that the civil, human, and fair housing rights of individuals with disabilities are recognized and fully honored in the provision of housing.

Every person with a disability has a right to decent, accessible, and affordable housing of his or her choosing, and to enjoy such housing as an integrated member of the community, free from discrimination. Mirroring the work of the national Disability Rights Action Coalition for Housing, **KDRACH** is a state-wide grassroots, cross-disability group of individuals and organizations working to ensure that the rights of people with disabilities are fully honored in all housing within Kansas, including State-funded and administered programs. We work to ensure that the independent living and consumer/survivor models – based on consumer control, consumer choice, integration in our communities, and freedom from “special terms and conditions” – are followed in the provision of housing.

The primary goal of **KDRACH** is to remove the barriers to fair housing, on the local and state levels, that have limited people with disabilities' opportunities for real housing. Through education and training, direct action, and exercising our legal rights, the coalition is working to:

Eliminate attitudinal barriers, such as myths and stereotypes about people with disabilities that may be rooted in ignorance, that perpetuate housing discrimination;

Counter discriminatory housing practices and policies, by promoting better enforcement and implementation of fair housing laws;

Eliminate segregatory housing policies, practices, and programs to ensure that people with disabilities live fully integrated in their communities;

Remove any “special terms and conditions,” such as mandatory participation in services, that are too often linked to housing;

Expand resources available to individuals for making home accessibility modifications;

Encourage the building of “visitable” new and rehabilitated housing units; and

Increase tenant-based rental assistance and homeownership opportunities available to people with disabilities.

KDRACH is working towards achieving true involvement by people with disabilities in all phases of the development of local/state housing policy and legislation.

11

TESTIMONY
Before the
SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The Kansas Department of Commerce & Housing
Division of Housing
Randy L. Speaker, Director of Housing
February 25, 1999

Madam Chair and members of the Committee, I am pleased to be here today to provide you with an overview of the impact of Senate Bill No. 304. After my brief presentation, I would welcome any question or comments you might have.

I. Introduction

The Kansas Department of Commerce and Housing (KDOC&H) constantly seeks ways to insure our housing programs are available to all Kansans who need our assistance. Most of our programs are subject to both Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act

II. Division of Housing

Accessibility for new and remodeled buildings is not a new concept to the Kansas Department of Commerce and Housing. We fully support accessibility in all of our programs where financially feasible. Specifically, the Division of Housing currently has policies which address accessibility in both single family and multifamily housing. These policies apply to new construction as well as rehabilitation. They were originally developed to comply with federal requirements. However, several have been expanded and better defined to enhance the understanding of developers, contractors, nonprofits and service providers. The following is a summary of how we address accessibility in our housing programs:

- A. **Housing Tax Credit Program** - In this rental housing program, we require that all ground level apartments be approachable and adaptable for persons with disabilities. This includes barrier free approaches and the proper design of doors

Sen. Federal & State Affairs Comm.
Date: 2-25-99
Attachment: # 11-1

and other interior access points. We mandate that blocking be installed in the appropriate walls as well as require electrical wiring address accessibility. While we do not require that adaptive devices be installed at the construction stage, we do require that the owner store devices on-site so they can be installed to the specifications which best fit a new renter who has a disability. If the developer is building new, single family homes, we require they too be approachable and adaptable when economically feasible.

- B. **First Time Homebuyer Program** - This program provides second mortgage financing so eligible first-time homeowners can receive assistance with their downpayments and closing costs. We have expanded the subsidy limits in cases where program participants need accessibility modifications to their new homes. With third party verification of the participant's accessibility needs, an additional \$5,000 can be made available.
- C. **Homeowner Rehabilitation Program** - Persons or families who have incomes below 80% of median income can receive funds to rehabilitate their home. One of the eligible activities is accessibility modifications for elderly or disabled persons.
- D. **Community Housing Development Organizations (CHDO)** - This is a program where locally based nonprofit organizations can apply to the Department of Commerce and Housing for funds to pursue local housing needs. Accessibility modifications are eligible activities. Also, we require that where any single family homes are constructed under this program, they too must meet the same approachability and adaptability criteria we set out in the Housing Tax Credit program.
- E. **Homeowner Emergency Rehabilitation Opportunity (HERO)** - In order to respond to emergency situations, this program was devised from a combination of Weatherization and the Homeowner Rehabilitation programs. Consequently it

allows us to target persons with disabilities for weatherization, rehabilitation and accessibility modifications. However, by federal regulation, we cannot use weatherization funds for any of the accessibility modifications.

- F. **Emergency Shelter Grant Program** - This program is funded through HUD. KDOCH is the conduit to service providers of homeless programs. ADA renovations are eligible uses for these funds.

- G. **Community Development Block Grant Program** - ADA compliance is required in the Community Improvement and Housing Rehabilitation programs of CDBG. Most housing applications under this program are limited to locally designated target areas. However, in the case of ADA issues, grant recipients may assist disabled homeowners outside of the targeted area.

That is a very brief overview of our programs and our accessibility requirements. In the development of our policies, we consider several factors. Our goal is to provide policies which address the needs of the consumer to the greatest extent possible without affecting the financial feasibility of the housing. The reason for our rounded approach is that we find it is difficult to identify a single definition of accessible which meets the needs of everyone.

III. Impact

As written, the bill appears to apply to all housing programs where new and rehabilitated homes receive any type of financial assistance. In FY 1998, we estimate this would apply to as many as 1600 homes.

IV. Areas of Ambiguity

There are three key areas in Senate Bill No. 304 which warrant serious consideration. First, I would like to make the distinction between a design issue and an adaptation. In the development process, many potential accessibility issues can be addressed with the proper design. This can also help to minimize the cost, which is a critical factor for individuals

receiving housing assistance. Because not all disabilities are identical, the person is better served if the basic design anticipates approachability and adaptability. For instance, why require a ramp if the current homeowner does not need it. Instead the design could incorporate features to minimize the cost of installing a ramp in the future.

Second, when regulations take the form of across-the-board requirements, costs rise. Developers and capital markets avoid the projects. Confusion arises as to who has jurisdiction to enforce the mandates and resources are not as focused. A more efficient approach allows specific needs to be addressed without hampering the flexibility a program needs to be responsive

Third, the bill uses "environmental impossibility" as the criteria for waivers. This undermines the goal of any kind of publicly supported housing initiative, that is, it needs to be affordable for the low and moderate income. Financial feasibility is the basis for the production of housing, not environmental feasibility. If money were no object, I doubt that any environmental barriers would exist. But in reality, financial feasibility will determine practicality.

IV. Conclusion

In conclusion, it appears that the bill has several areas which need to be clarified. The Kansas Department of Commerce and Housing is very supportive of accessibility, and we have designed our programs to recognize its importance. But we are very concerned that the language of this bill has consequences beyond those that were intended. We stand ready to assist the committee in creating a bill which will maximize resources and opportunities for persons with disabilities.

As a final note, I would ask the Committee to consider whether the Department of Commerce and Housing is the appropriate agency for issuing waivers. While we are heavily involved in both housing and accessibility issues, it might be advisable to consider vesting this responsibility with an agency that has the necessary expertise to address the architectural issues.

2-25-99

Testimony in support of SB304

Dennis Jackson

My name is Dennis Jackson, I am a long time disability rights advocate and a person with a disability. I am here today in support of SB304, which would require all new or rehabilitated housing, using any public money, be built or rehabilitated with basic access or as we in the disability community say, "visitability".

"Visitability", means just that, to be able to visit. Visitability allows all people to get in the door, use the bathroom and visit friends, family and lovers. For years, we have been using public money to build new or rehabilitate housing that discriminates against people with mobility issues. That disability may be from an accident, aging or permanent disability. Why have we allowed for too many years, this practice of exclusion and displacement. We are all getting older as we speak. For many people in Kansas that means we will be unable to remain living in our homes. Cause let's face it, with age comes some level of disability.

By requiring basic accessibility in all housing units build or rehabilitated with any public money we not have to face the problem of losing our homes in the future. We will not have to worry about displacing our family, friends or ourselves. We can remain in the home of our choice with dignity and security. SB 304 would also create accessible rental housing that the future generations can stay living in.

Thank you for your attention and I urge the committee to pass SB304.

Sen. Federal & State Affairs Comm.
Date: 2-25-99
Attachment: # 12-1

13

**Kansas Senate Federal and State Affairs Committee
Testimony-Senate Bill 304
February 25, 1999**

My daughter and I made a most exciting decision this last year...we decided that a power wheelchair might be a good answer for my seven-year-old who experiences cerebral palsy. The power chair would enable Jessica to determine for herself where and when to go, allowing her to strive for the greatest level of independence possible. The new wheelchair came and Jessica began her driving lessons. This chair has presented us with some interesting challenges. We are finding that most single family homes are not accessible. The lack of accessibility has considerably limited the places we can visit.

Jessica and I support SB 304, which requires basic accessibility features and visitability in all new and rehabilitated housing that receive any funding assistance from the State of Kansas or the federal government. This bill will improve the quality of life for our family and many others in countless ways. Jessica's grandmother lives in subsidized housing. At this point, when Jessica visits her grandmother's house she can not exercise the new found independence the power chair provides her due to steps into the home. Although this bill may not immediately impact this housing development, it will open up opportunities in those complexes that are newly constructed or renovated.

Being a seven-year-old, first grader, Jessica wants to play with family and friends. If she goes to a friend's house, she is often unable to get in the front door! We don't even go to her aunt and uncle's home because she must give up the independence she has acquired through the use of her power chair. We must use a manual wheelchair. With a manual chair she can not go to her cousins' rooms at will. It is so frustrating to observe the limitations your child experiences as a result of architectural barriers, which do not allow her to engage in activities with other children her age.

Jessica is in her first year of Brownie Girl Scouts. When the cookie order forms came, she was ecstatic about selling cookies. Her goal was to sell to everyone in the neighborhood. She was quite disappointed that she had to skip many houses because of steps at the front door. How aggravating to want to do your best only to be forced to take a back seat because of barriers to access.

In conclusion, I urge this committee to recommend passage of SB 304 so there will come a time when Jessica, and future generations, can not only have friends over to visit but also play at their house. Passage of this bill will bring us a step closer to a fully integrated and accessible community, not just for people with disabilities, but for all people.

Thank you for your time.

Jennifer Schwartz
3004 W 30th Court
Lawrence, KS 66047
(785) 832-8353

Sen. Federal & State Affairs Comm.
Date: 2-25-99
Attachment: # 13-1



Stardusters Crime Prevention, Inc.

917 1/2 SE 12th St., Topeka, KS 66607

(913) 233-5834 - Fax: (913) 354-1115

25 February 1999

Federal & State Affairs Committee
State Capitol
Topeka, KS

SUPPORT OF SENATE BILL 304 - STATE VISITABILITY BILL

Senators, Stardusters is a Community Housing Development Organization, that develops, constructs and manages affordable housing in Topeka.

Stardusters has been a recipient of federal affordable housing dollars and are the first CHDO in Topeka and possibly in the State to incorporate the Visitability concept into our housing units. We are providing testimony in support of the above bill.

Stardusters has built five units which incorporate "visitability" meaning wheel chair accessibility throughout the homes. After hearing testimony from representatives of Topeka Independent Living Stardusters Board of Directors decided if public funds are being used all of the units produced should accommodate everyone including the mobility impaired.

The board never saw this as an additional cost, but as a part of the cost to construct or rehab any home. Because no such law exist, these cost are often considered additional and whereby funding decisions of those governments allocating the resources vote against these accommodations. The only real cost we have found is in constructing the ADA entrance ramp, which we have only been able to do by securing an extra \$3,735 for this cost. However, to prove entrance ramps can be attractive, extremely useful and are appropriate we proudly showcase the home we have built that does include an entrance ramp.

Visitability housing benefits us all, and if public funds are to be used no person regardless of race creed or physical handicap should be excluded from access. Without this law, housing providers will continue to argue cost and deny those with physical limitations, Fair Housing Choices, which is there constitutional right.

There should be absolutely nothing to prevent this bill from passage, for when you tax you tax everyone, and when those tax dollars come back to our communities to provide needed affordable housing, all eligible citizens should be able to benefit.

Shirley Wishom
Finance Administrator

Sen. Federal & State Affairs Comm.

Date: 2-25-99

Attachment: # 14-1



STARDUSTER HOMES OF THE FUTURE

Affordable Quality Housing



Stardusters Community Housing Development Organization

PRICE: RENT / RENT TO OWN

- ◆ **Age of homes: New Const.**
- ◆ **Square feet: 1,050**
- ◆ **Yard size: approx. 75ft by 130ft lots vary.**
- ◆ **Bedrooms: Three**
- ◆ **Baths: Two + Rough In, in basement**
- ◆ **Levels: Ranch + full basement**

Apply at
Stardusters offices:
917 1/2 SE 12th
Topeka, KS 66607

Extras: Energy Efficient Rating 83+; ADA Certified Entrance Ramps; 3 ft.



wide doors & hallways for wheelchair mobility; Egress Windows for basement utilization; garage door opener; central air; Security Lights & doors; customized & Personalized Yard Mail boxes; all new appliances, i.e. gas range, refrigerator with icemaker, garbage disposal & dishwasher.

(785)-233-5834
Jimmy L. Bullocks, Sr.
President & CEO

Equal Housing Opportunity

Funded in Part by Kansas Department of Commerce & Housing, (HUD); City of Topeka, & Stardusters, Inc.



February 25, 1999

Testimony in Support of SB 304

Dear Committee Members,

I am here today to urge your support for SB 304. As a person with a disability who qualifies for affordable housing assistance, it is very hard to locate any houses because I can't get into most of them.


I have tried to find a single family house, which will be affordable and accessible. It can't be done. If you are looking for something affordable, say through some type of agency who creates low income housing, most of the houses don't even have a ramp so someone in a wheelchair can get inside to look at the house, much less a useable bathroom.

By requiring basic access in housing built or renovated with any federal or state public funds, this state will start removing age old barriers that have segregated us for too long. There is alot of discrimination against people with disabilities and apartments are being built in violation of accessibility laws everyday.

It is the right thing to not use our tax money to build housing that keeps any person from equal opportunity or enjoyment.

Thank you for your support of this bill.

Sincerely,



Buzz Estell
Pine Ridge Apartments
2610 SE Gilmore Ct.
Topeka, KS. 66607

16

Testimony in Favor of SB 304
February 25, 1999

Tessa Goupil
1917 SE Ohio Ave
Topeka, KS 66607

My name is Tessa Goupil, I live here in Topeka, and I'd like to tell you a little bit about my experience as a home owner.

When my husband and I were looking for a house, we ran into a lot of accessibility problems. What we did was, together we would go over the print outs that our Realtor had given us and decide what we wanted to look at. At that time my husband was still able to use crutches, so he would drive all over town looking at these housing possibilities. If he found one that looked really good, then our Realtor would carry me into the house so I could see too. Fortunately for us, I weigh under 100 lbs, and our Realtor was as determined as we were. Otherwise, I would have had to invest in a place I'd never seen before.

We finally found a house that we liked, but of course it had no accessible features, just like all the places we had looked at. My husband had one weekend to build a porch with a ramp so that I wouldn't be trapped in my own home, with no way to get out. Even with the ramp in place, it was over a year before I could use my own bathroom without having to be carried down the hall, already undressed, in plain sight of whoever was in the living room, just because the door wasn't wide enough.

If there had already been a law in place like "visit-ability", then my home buying experience might not have been such an ordeal. Please support SB 304.



Offices located in
the Historic Crawford Building

Topeka Independent Living Resource Center

785-233-4572 V/TDD ● Fax 785-233-1561 ● Toll Free 1-800-443-2207
501 SW Jackson Street ● Suite 100 ● Topeka, KS 66603-3300

February 26, 1999

Testimony in Support of Senate Bill 304
presented to
Senate Committee
on
Federal and State Affairs
by
Mike Oxford
Executive Director

This is a sensible piece of legislation that needs to become law. As Kansas continues its commitment to offering choices to individuals between institutions and home and community services and as more and more people exercise this choice, the need for more accessible housing will continue to grow. Senate Bill 304 aligns housing policy with long term services policy.

Currently, there is a severe paucity of accessible, affordable housing around the state. Now is the time to remedy this problem. Basic accessibility in housing is not just a disability issue. This issue affects senior citizens, people with young children as well as friends and family of people with disabilities. If this bill is passed now, then over the next decades, our State will become more inclusive and friendly to all citizens. This is particularly important given the demographics of aging of the population of Kansas.

Finally, the costs of building new, publicly funded housing with basic access features are negligible. It is much more efficient and cost effective to design and build access features in from the ground up, than to try to retrofit later. Basic access never hinders anyone from getting into and around the home. Lack of accessibility does.

Please pass Senate Bill 304. If we start now, senior and disabled citizens and families with young children will have better lives in the years to come.

Thank you for considering this important change in our States' housing laws.

Advocacy and services provided by and for people with

Sen. Federal & State Affairs Comm.

Date: 2-25-99

Attachment: # 17-1

ADAPT



Western Kansas ADAPT

507 W 21st - Hays, KS 67601
(785) 625-6942 Fax (785) 625-6137

FREE OUR PEOPLE

**Testimony to
Committee on Federal and State Affairs
Senator Lana Oleen, Chairperson
On SB 304**

**By
Lou Ann Kibbee
Western Kansas ADAPT
February 25, 1999**

Thank you Chairperson Oleen and Committee members for allowing me to testify today as a supporter of SB304. My name is Lou Ann Kibbee. I have been a person with a disability for 22 years and am the local organizer for the Western Kansas chapter of ADAPT. Today, I am representing Kansas ADAPT.

ADAPT is a national grassroots disability rights organization advocating for a national community based attendant services program. Deinstitutionalization of people with disabilities is a movement happening nationwide. With an increased number of people with disabilities leaving institutions and integrating into society, access to communities, including housing, is a must. People with disabilities must have accessible housing to live in, but also have the ability to visit family, friends, and neighbors. The idea behind the concept of deinstitutionalization is to integrate people with disabilities into communities. In order to complete this concept, there are certain degrees of accessibility needed. Housing visitability would increase access for people with disabilities by requiring certain design requirements for new and rehabilitated single-family, duplex, and triplex dwelling units receiving any form of financial assistance through the State.

The fact that public funds are being used to newly construct or rehabilitate housing with no accessibility requirements is very disheartening to myself as a taxpayer and as a person with a disability. The desperate shortage of accessible affordable housing in Kansas and especially rural areas that I see people experience everyday is an issue that must be addressed. SB304 is a great place to start the change, and there is no reason not to start now!

Thank you very much for your time. If you have questions, I would be glad to answer them. I may be contacted at 785-625-6942 or 2401 E. 13th Hays, KS 67601
linksa@odsys.net

Sen. Federal & State Affairs Comm.
Date: 2-25-99
Attachment: # 18-1



**Testimony to the Senate Committee on Federal and State Affairs
in Support of Senate Bill 304
Bob Mikesic, Advocacy Coordinator**

Thank you for the opportunity to speak today in favor of Senate Bill 304. This bill is the natural evolution of the equal opportunity and access to housing principles that are part of the Fair Housing Amendments Act of 1988 (FHAA), Section 504 of the Rehabilitation Act of 1973, and the Kansas Act Against Discrimination (KAAD).

Each of these laws requires some units in multifamily housing units to be accessible. Section 504 requires 5% of units built with federal financial assistance to be accessible for people with mobility-related disabilities and 2% to be accessible for persons with sensory disabilities. The Fair Housing Amendments Act of 1988 and Kansas Act Against Discrimination require ground floor units to be accessible in all multifamily dwellings (4 or more units per dwelling) newly constructed for first occupied after March 13, 1991. The FHAA and KAAD also give a tenant with a disability the right to make reasonable accessibility modifications, at the tenant's expense, in their rented apartment or house. None of these laws require accessibility in single family houses, duplexes or triplexes.

Even with these existing requirements for accessibility in multifamily housing, the vast majority of single family housing in Lawrence and across Kansas is not accessible. I personally have been waiting for 30 years for this opportunity to ask for basic accessibility in newly constructed or renovated single family housing. There have been countless numbers of times I and many other people have not been able to visit family members or friends in their homes because of the longstanding practice of constructing housing with steps at the entrance and narrow bathroom doorways.

I ask that you take this opportunity to pass Senate Bill 304 into law so future generations will not be denied opportunities to visit friends, neighbors and relatives in their homes. Besides where we work, housing is the most used indoor environment where our lives take place. People's housing is where we visit each other most often, not the coffee shop or corner restaurant.

By requiring the most basic accessibility in housing constructed or rehabilitated by state or federal financial assistance, Senate Bill 304 would be introducing universal design into a significant amount of single family housing in Kansas. Universal design is simply the design of housing that is usable by all people, without the need for specialized design. It benefits people of all ages, sizes, and abilities and can be accomplished at little or no extra cost.

The composition of our population is changing. People are living longer. There are a growing number of people with disabilities in all age groups. It would seem logical that housing built to accommodate people in Kansas must, by necessity, change also.

Design mistakes of the past are everywhere, for example, the traditional narrow bathroom doorway; building all entrances with steps. These design flaws can be prevented from continuing into the future. I bet everyone in this room has had a family member, friend or relative who could not enter a house safely and with dignity (without having to be carried up steps) without a no-step entrance.

Senate Bill 304 would begin to create a new generation of single family housing, duplexes and triplexes that provide basic accessibility for everyone. Please enact this bill into law to help meet current and future housing needs in Kansas. Because of its convenience and usability, this type of universal design will become a common and profitable way of building housing in the future. Let's start now because it's needed now and it benefits everyone.

Thank you.

KANSAS SENATE FEDERAL & STATE AFFAIRS COMMITTEE
SENATE BILL 304

Like many people I never really thought about accessibility issues. I never thought what it was like not to be able to go where I wanted. To visit friends or family was never a concern.

But the world changed for me as it has done for so many others. It became narrow and limited. Narrow avenues, sidewalks, doorways and narrow mindedness block us.

We are not asking for the moon but we are asking for fairness and openness so everyone can have what we all desire to have. Freedom. Freedom to move about unhindered in our communities. For you to support SB 304 will give that freedom to so many fellow citizens living in your own community and throughout Kansas. To require that basic accessibility features in all new and rehabilitated single-family, duplex and triplex housing units that receive any financial assistance from the State of Kansas is only fair and just.

If tax payers are limited in access where tax money has been spent, then the State itself could be discriminating against it's own citizens.

Montana might be known as the big sky country. Make Kansas known as the big heart country. Give us our freedom as you have yours. It is the right and just thing to do.

Roger Harsh
23915 235th St.
McLouth, Ks. 66054

CONCRETE CHANGE

1371 Metropolitan Ave. SE Atlanta, GA. 30316

phone: (404)378-7455

e-mail: eleanors@mindspring.com

website: <http://concretechange.home.mindspring.com>

February 25, 1999

TO: Members of the Kansas Legislature
FROM: Eleanor Smith, Director Concrete Change
RE: Senate Bill 304

I am writing to express my support for Senate Bill No. 304, which would establish a basic level of disability access in single-family homes, duplexes and triplexes.

Certainly at a time when the U.S. population is living longer than our ancestors had lived, and when younger people who develop disabilities are living far longer than similarly disabled people did a generation ago, it makes sense to create environments in which people can move about as freely as possible.

In crafting your bill to cover those homes which receive special financial benefits from public moneys, you have addressed the fact that such homes in particular should serve the public good rather than creating new barriers for a significant segment of the population.

As a person who worked in the housing field for over ten years, I can attest that the costs of incorporating the minimal level of access called for in your bill will be well within a standard that would keep such homes affordable.

I might add for six years Atlanta has had a city ordinance similar to the state bill proposed in Kansas, which has led to hundreds of homes with basic access with very feasible cost and high sales appeal.

Similar legislation now exists in a number of other cities, and the state of Florida has provided us an excellent example by passing a law in 1989 mandating wide bathroom doors in all new, private single-family homes. Information we have received from the Florida home builders indicates that compliance with that law has been practical.

I congratulate the Kansas legislators who are supporting this forward-looking bill.

Sincerely,

Eleanor Smith



1. Sen. Federal & State Affairs Comm.
Date: 2-25-99
Attachment: # 21-1

**Testimony to
Committee on Federal and State Affairs,
Senator Lana Oleen, Chairperson,
on SB 304
by
Troy A. Horton
Center for Independent Living for Southwest Kansas
February 25, 1999**

Thank you Chairperson Oleen and Committee members for allowing me to testify today as a supporter of SB 304. My name is Troy Horton. I am the Executive Director of the Center for Independent Living for Southwest Kansas. I am so excited to be giving testimony today, because of all the positive outcomes SB 304 will bring. I am a person with a mobility impairment and have used a wheelchair for 14 years. The stories I could tell you about how I have got into peoples houses and also used their bathrooms. I start laughing just thinking about it. I am now 28 years old and do not take those risks like I once did. I live in a apartment which I made accessible for myself and would like to move into a house. Houses that meet the requirements as in SB 304 do not exist near me. My other option is to make the necessary changes myself, but the added cost to make it accessible on top of the cost of the house makes me decided to just stay where I live now. We know it is more cost effective to build a new accessible home over the cost of remodeling one.

As the director of a Independent Living Center I have contact with a lot of people with disabilities. Most of these people would like to own a house. Accessible houses are not available for people to buy. So they are faced with the cost of remodeling a house which individuals can not afford. They are forced to look for assistance through state funded programs. Some people meet the qualifications of such programs to assist part-way making their home accessible but the funding is a one time amount locking them in to live there because there is no funding if they want to move again in the future. So the state is funding the remodeling of houses for people with mobility impairments through various programs and organizations.

I believe SB 304 will save the state money, allow more choices where people with disabilities can live, and create affordable accessible houses.

Thank you very much for your time. If you have questions, I would be glad to answer them. I may be contacted at 111 Grant Ave.; Garden City, Kansas 67846; or 316-276-1900.

Southeast Kansas Robin Tropper

800-569-5926

P.O. Box 1035 18

Fax to ?

Phone: (316) 421-5502 Fax: (31

Resource Center, Inc.

Inc.

ons, KS 67357-1035

21-0983 Toll Free: 1-800-688-5616

February 25, 1999

Columbus Office

5174 S.W. Hwy. 69
Columbus, KS 66725
(316) 674-3138

Written Testimony to Committee on State and Federal Affairs

Prepared by Greg Jones Director of Advocacy

Madam Chairperson and Committee Members. Thank you for this opportunity to visit with you.

Coffeyville Office

714 Union
P.O. Box 497
Coffeyville, KS 67337
(316) 251-5400

Senate Bill 304 is good legislation. Good for you. Good for Me. Good for the disabled Community. Good for the elderly. Senate Bill 304 is good for all people of Kansas.

This piece of legislation basically states that all newly or rehabilitated constructed housing units that receive any type of State funds, Tax credits, loan guarantees etc. will be made minimally accessible.

Pittsburg Office

104 W. 6th
P.O. Box 217
Pittsburg, KS 66762
(316) 231-6780


In a nut shell this legislation ensures that if you become disabled your range of housing options increases. Or that if you reside in a dwelling such as this that your disabled friends or elderly Grandmother now using a wheelchair can have the opportunity to come visit or have dinner.

Chanute Office

1028 S. Santa Fe
Chanute, KS 66720
(316) 431-0757

Madam Chairperson and Committee Members Kansas is leading the nation in disability rights. Statewide advocates are assisting cities and business remove the barriers that in the past have prevented the disabled from participating fully in Kansas society. This piece of Legislation will be one more step toward complete fulfillment of the disabled community's dream of complete inclusion. Today Kansans with disabilities are moving from institutions to the community of their choice. Often times however housing options are limited, sometimes segregated, due to the availability of even minimally accessible housing.

This legislation, Visitability, is progress. People with disabilities are moving into the work force. They are becoming tax givers not tax takers. They must have a place to live, they must have housing options that prevent them from being isolated in those "special" housing options.


Assistive Technology
for Kansans
1-800-526-3648

Please support Senate Bill 304. Thank you.



Sen. Federal & State Affairs Comm.

Date: 2-25-99

Attachment: # 23-1

24
earl e. benson ARCHITECT

1003 north patricia lane
wichita, kansas 67208

(316) 682-6480
fax (316) 682-4807

FEBRUARY 19, 1999

ATTENTION: KANSAS STATE SENATORS AND MEMBERS
OF FEDERAL AND STATE AFFAIRS COMMITTEE.

REFERENCE: SENATE BILL 304 - "VISIT-ABILITY" OF
HOUSING FOR ALL PEOPLE WITH DISABILITIES
IN THE STATE OF KANSAS.

I COMMEND THE KANSAS LEGISLATURE AND
KANSAS ATTORNEY GENERAL FOR THEIR EFFORTS TO
ADOPT THE FAIR HOUSING ACT AMENDMENT OF 1988
AND ADA (AMERICANS WITH DISABILITIES ACT, JULY 26,
1991/RULES AND REGULATIONS - HOUSE BILL NO. 3028,
K.S.A. 1993 (1994 SESSION)...

NOW WHERE IS THE STATE OF KANSAS AND
WHEN ARE KANSAS LEGISLATORS GOING TO ADOPT
"FAIR HOUSING VISITABILITY" FOR ALL DISABILITIES
PERSONS OF ACCESSIBILITY TO HOUSING, APPROACHING
THE YEARS OF 21ST CENTURY??

AS AN ARCHITECT AND ADA CONSULTANT WITH
EXPERIENCE OF DESIGNING SKILLED NURSING HOMES,
MENTAL/PHYSICAL DEVELOPEMENT COMPLEX, ASSISTED
LIVING FACILITIES AND ADA COMPLIANCE SURVEYS OF
EXISTING SCHOOLS, CITY HALLS, COUNTY COURTHOUSE AND
MEDICAL FACILITIES, MY OBSERVATIONS OF ABOVE
GIVES ME THE OPINION, THAT "VISIT-ABILITY" IS NEEDED
FOR ESTABLISHING BASIC DESIGN REQUIREMENTS
ACCESSIBILITY FOR NEW AND REMODELED HOUSING...

THE COST OF INCREASE OF INCORPORATING THE
BASIC ACCESSIBILITY FEATURES IN NEW HOUSING, I
ESTIMATE \$750.00 TO \$1,500+ PER HOUSING....

GRANTED TO REMODEL EXISTING HOUSING UNIT,
THE ESTIMATE COSTS MAY BE HIGHER, DEPENDING WHAT
ALTERATIONS WORK IS DONE TO ACCOMMODATE THE
DISABILITY PERSON.

Sen. Federal & State Affairs Comm.
Date: 2-25-99
Attachment: # 24-1

FEBRUARY 19, 1999
KANSAS STATE SENATORS AND MEMBERS
OF FEDERAL AND STATE AFFAIRS COMMITTEE.

I RECOMMEND THE KANSAS SENATORS AND
FEDERAL AND STATE AFFAIRS COMMITTEE MEMBERS
IN CONSIDERING SB 304, TO CONTACT THE
KANSAS ATTORNEY GENERAL WHAT LOCAL AND
STATE AUTHORITIES MAY ENFORCE THE FAIR
HOUSING "VISIBILITY" FEATURES, TIME LIMITS TO
IMPLEMENT THE CHANGES OR CORRECTIONS AND IF
NOT DONE, WHAT AMOUNT OF FINES TO THE
DEVELOPER OR BUILDER ...

HOPEFULLY, THE STATE OF KANSAS WILL
ENTER 21ST CENTURY, FAIR HOUSING "VISIBILITY"
FOR ALL PEOPLE WITH MOBILITY DISABILITIES,
OF ANY AGE, OF ANY NATURE AND SEVERITY.

REMEMBER THIS!! ANYONE OF YOU SENATORS
AND FEDERAL AND STATE AFFAIRS COMMITTEE
MEMBERS OR YOUR IMMEDIATE FAMILY MEMBER,
TO-MORROW, NEXT WEEK OR NEXT FEW MONTHS, MAY
FALL DOWN, IN AUTO ACCIDENT, ETC. TO CAUSE
INJURIES MAY TEMPORARILY OR PERMANENTLY WILL
NEED CRUTCHES OR A WHEEL CHAIR FOR MOBILITY
IN YOUR OWN HOUSE OR APARTMENT ...

RESPECTFULLY,

Carl E. Blum,

ARCHITECT - ADA CONSULTANT

**Testimony to
Committee on Federal State Affairs,
Senator Lana Oleen, Chairperson,
On SB 304
By**

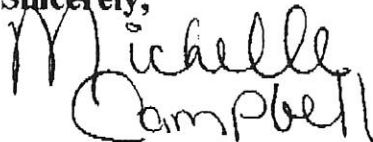
**Michelle Campbell
February 25, 1999**

Thank you Chairperson Oleen and Committee members for allowing me to testify today as a supporter of SB 304. My name is Michelle Campbell.

Even though I am a person with a disability, I like to be able to socialize with my co-workers and friends. More often than not I have had to decline an invitation to go to someone's apartment because they lived some where that is not accessible to me. If I could get in, most likely I am not able to use their bathroom. I then would have a make a decision, do I drink or eat nothing causing me to not enjoy everything that everyone else at the event is enjoying. This making me feel very out of place and not fitting in at the party. The second choice I have is to eat, drink, and be merry. If I decide to choose the second choice, then choices three and four soon need to be made. Three, do I leave the party early not fully socialized, or choice number four, do I stay and take the chance and have the most unthinkable thing to an adult happen, to have an accident. This I am sad to say does happens, adults with disabilities want and need to socialize and so at times they will unwillingly sacrifice their dignity. People who have disabilities are like every non-disabled person; they don't want to sacrifice their dignity either. If SB 304 is passed then everyone disabled or non-disabled can be apart of their community.

Thank you very much for your time. I may be contacted at Independent Connection/OCCK, Inc. (785) 827-9383.

Sincerely,



Michelle Campbell

February 22nd, 1999

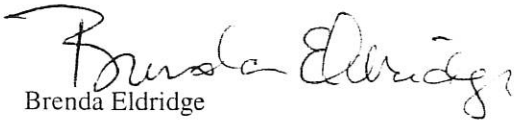
Federal & State Affairs Committee Members
State House 136 N.
Topeka, KS 66612

Dear Committee Members;

I am writing in support of Senate Bill 304 regarding the issue of accessible housing. With an increase in accessible housing options all benefit. Barrier free housing makes sense. The lifespan is better suited to such an arrangement structurally.

If we build homes that are barrier free from the start, mothers with strollers, groceries, etc. will benefit, the elderly will benefit from a decrease in structural issues such as stairs and falls, as well as young children as to accidents. Those with disability will benefit in increased inclusion in their community in being able to have friends over and visit others in such barrier free places, and become integral members of their communities at large. As our population ages, with demographics pointing to the baby boomers entering retirement age, this is a perfect solution as regards long term care and remaining active and independent within one's community, and I might add, with less cost to all involved, increased independence and integrity. Isolation is a barrier that is not made of brick and mortar, please pass this bill and increase accessible housing options for everyone.

Respectfully Submitted;


Brenda Eldridge

Sen. Federal & State Affairs Comm.
Date: 2-25-99
Attachment: # 26-1

Testimony to:
Committee on Federal and State Affairs
Senator Lana Oleen, Chairperson
Senate Bill 304

Richard L. Knight
516 E. 6th, #106
Goodland, KS 67735

Thank you Chairperson Oleen and committee members for considering this statement of testimony regarding SB 304, the Housing Visitability Bill. I have multiple sclerosis and have used a wheelchair for almost 14 years. For the last 8 years I have lived in Goodland, Kansas and during that time have only been in one other person's private residence, a person who also used a wheelchair. Please, think about it, not being able to visit your extended family members, your friends or your business and professional associates, in their homes.

While this bill speaks only to dwelling units receiving financial assistance through the state of Kansas, it's a start, it speaks to basic human rights, a simple privilege most folks take for granted and unless they or someone close to them has a disability, it never crosses their mind.

I live in a HUD subsidized apartment complex, not because I want to but because it is accessible. Can you imagine having to accept the reality of not being able to live wherever you chose, limited only by your finances and your personal preference? Many people with disabilities are stuck at home and are often referred to as "shut-in" but that's not necessarily by their own choice and it's not fair. Oh yes I know life is not always fair but some things we have some control over and I respectfully ask that you exercise that control here.

Thank you very much for your time and consideration of this matter. If you have any questions please feel free to call me (785) 899-5727.

Richard L. Knight



Sen. Federal & State Affairs Comm.
Date: 2-25-99
Attachment: # 27-1

788 Highway 40
Lawrence, Kansas 66049
February 23, 1999

Senator Lana Oleen
State Capitol Room 136N
Topeka, Kansas 66612

Dear Senator Oleen:

It is unusual for me to write to express my concern about a bill at the state or national level but Senate Bill 304 has my enthusiastic support for both personal and more societal reasons.

On the personal level, I have a son who was born with spina bifida and uses a wheelchair. He is a National Merit Commended Scholar and currently a freshman at Baker University. I know, from this personal experience, how difficult life is when you need an accessible entrance and an accessible bathroom. I know that the more houses we create with this basic accessibility the more options for housing and visiting my son will have. It is important to me that we make these changes to our physical environment.

This bill, however, becomes even more important on the societal level. The biggest barriers to total inclusion of people with physical disabilities are not architectural but attitudinal. I know that you've all seen the signs in the history books – those cruel statements of hatred, fear, and discrimination that say "Whites Only" or "Colored Entrance in the Rear." The bottom line fact is that my son and all the other folks who use wheelchairs don't have **ANY entrance into most homes in this country!**

It is neither difficult nor expensive to create basic accessibility. We built a 2500 square foot home with accessible entrances and bathrooms, wide hallways and doors. When our home was built 12 years ago the builder determined that these "special" features had added \$150 to the cost of our home. Cost is not the issue. The issue is our view of the world.

Years ago on Sesame Street Big Bird and Itzhak Perlman were discussing their views of the world. Big Bird realized that playing the violin, while easy for Perlman was difficult for him. A few moments later Big Bird also realized that the steps to the stage, that he had managed so easily, were difficult for Perlman. "I never thought about the steps," said the wise old bird. Most of us don't think about the steps. This attitude, this lack of awareness, leads to the creation of barriers that exclude people who use wheelchairs.

You have the opportunity to help people think about the steps. We would all be horrified to see the "Colored Entrance in the Rear" sign today. Someday perhaps we will be as horrified to see a home without an accessible entrance.

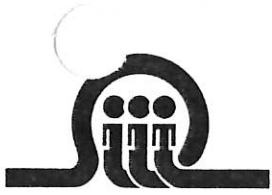
Please support Senate Bill 304. It is a move toward accessibility. We have a commitment to include everyone in our society. We can't do that as long as there is no door for them to open.

Sincerely,



Jody C. Anderson

Sen. Federal & State Affairs Comm
Date: 2-25-99
Attachment: # 28-1



Families Together, Inc.

Parent Training & Information Centers for Kansas

Home Page:
<http://www.kansas.net/~family>

Testimony to the Senate Committee on Federal and State Affairs

Senate Bill 304

February 25, 1999

From: Families Together, Inc.

Families Together, Inc. is a statewide organization that serves families that include a son or daughter with a disability. We have four centers in Kansas; our administrative center in Wichita, and centers in Topeka, Garden City, and Kansas City. The majority of our staff are parents or family members of young people with disabilities.

We are writing today in support of Senate Bill 304, which would require new and rehabilitated single-family dwellings, duplexes and triplexes that receive financial assistance from the state to have certain accessibility features. Many of the families we work with have difficulty paying for necessary home modifications, and these families also have trouble securing any outside financial assistance. If all available housing is accessible then these families will not be forced to do without necessary features within their homes. Also, families will not be forced to seek financial assistance which many times is not available.

Senate Bill 304 would also enhance the independence of children with disabilities and their families. Families would be able to invite friends and neighbors into their homes as well as visit the homes of others without the worry of physical barriers.

Families Together, Inc. would appreciate your support of Senate Bill 304.

Thank you.

Wichita Parent &
Administrative Center
3340 W Douglas, Suite 102
Wichita, KS 67203
Voice (316) 945-7747
1-888-815-6364
Fax (316) 945-7795
e-mail: fmin@feist.com

Topeka Parent Center
501 Jackson, Suite 400
Topeka, KS 66603
Voice/TDD (785) 233-4777
1-800-264-6343
Fax (785) 233-4787
e-mail: family@inlandnet.net

Garden City Parent Center
111 Grant
Garden City, KS 67846
Voice/TDD (316) 276-6364
1-888-820-6364
Español (316) 276-2380
Fax (316) 276-3488
e-mail: famtogether@pop.gcnet.com

Kansas City Parent Center
6333 Long, Suite 230
Shawnee, KS 66216
Voice (913) 962-9657
Fax (913) 962-9690
e-mail: kcfam@kc.net

Statewide Spanish Parent Line
1-800-499-9443 (Español)

Sen. Federal & State Affairs Comm.

Date: 2-25-99
Attachment: #29-1

Assisting Parents and Their Sons and Daughters

To the Members of the Kansas Senate Federal and State Affairs Committee,

My name is Heather De Mian and I am a Disability Rights Advocate for The Whole Person, Inc., a Kansas City Center for Independent Living that serves Johnson and Wyandotte Counties in Eastern Kansas.

I strongly urge the support of SB 304, requiring Visitability in ALL new and rehabilitated housing programs that receive public assistance.

People with disabilities comprise nearly 20% of the US population, and we have a 70% unemployment rate. While we are the largest minority group in the country, we are also the poorest. We also are the only minority group that anyone can join at any time in their life. The US Department of Housing and Urban Development (HUD) reported last year that the number of Fair Housing complaints pertaining to discrimination on the basis of disability in housing overwhelming surpassed that of any other protected minority class. Title II of the Americans with Disabilities Act (ADA) already requires all state and locally funded programs be accessible to people with disabilities. Adding a Visitability requirement to the construction and rehabilitation of publicly funded housing would assist the state in complying with the federal civil rights statute to provide access to housing programs. In addition, the amenity of access allows housing to adapt to the person's needs as they age, creates more convenience for new moms with baby strollers, makes it easier to move furniture, and makes the housing welcoming to everyone without being "special."

Visitability is a design concept that would simply require newly constructed and substantially rehabilitated housing to have a minimum one no-step entrance, 32 inch clearance in all interior doors (including the bathroom), and adequate space in the bathroom to maneuver a walker or wheelchair. The cities of Atlanta, GA and Austin, TX have both passed Visitability ordinances that apply to all new housing that use public funds. Numerous people get sentenced to nursing "homes" as they age, because their current housing has steps that they can't afford to ramp, or they can't fit through their 24" bathroom door anymore. One woman with Multiple Sclerosis (MS) from a Chicago suburb finally gave up her years-long search for accessible, affordable housing and made her final trip to Michigan to visit Jack Kevorkian.

When I first moved to the Kansas City area in 1997 it took me more than 4 months to locate and acquire pseudo-accessible housing that I could afford, and my income is more than twice that of most of people with disabilities who are stuck on \$500/month supplemental security income (SSI). In my job I specialize in housing needs of people with disabilities, and I receive at least 5 calls a week from people with disabilities looking for affordable, accessible housing. In Kansas City we see a waiting list for federally, financially assisted housing (Section 8) that is 1 to 3 years in length; more than 10,000 people. Even with this demand for subsidized housing, in Kansas City we see a 45% return rate on Section 8 certificates. I can't count how many calls I have gotten from people with mobility disabilities who have lived on the streets, or crawled into the homes of family and friends, for several years, finally received their Section 8 certificates, and then had to turn around and give them back when they could not find accessible housing within the allotted time limit. The prevalent notion that the number of accessible houses/apartments should equal the number of wheelchair users is ludicrous.

As a wheelchair user, I often feel isolated in my own home, constantly denied the opportunity to visit the houses of my family and friends. Many of my friends are embarrassed to invite me to parties; after all, who wants to have to watch someone they care about crawl up steps into their homes?

My mother's house has a ramp that takes up her entire front yard. She lived there for almost 3 years before being able to afford the construction of that ramp.

Sen. Federal & State Affairs Comm.

Date: 2-25-99

Attachment: # 30-1

My father has no ramp; I have not been to visit his home in over 5 years. I have missed watching my brother and sister grow up, and I have lost that father/daughter bond; sabotaged by antiquated, outmoded, discriminatory building practices in housing. When my sister was looking for a new house last year, access was an issue because she wanted me to be able to visit and baby-sit my nephew, as well as be prepared as her own disabilities progress. She was able to find a ranch style house, but it still had 2 steps on it, and she has not been able to afford to ramp them yet. I crawled up those steps on Christmas Day to spend time with my family. How many of you have been forced to crawl, be carried like a sack of potatoes, or just completely been left out of your family's holiday plans, because architects chose to follow outdated traditions in home design that negate wheelchair user access?

My family home where I was raised is a small 2-bedroom house with 3 steps requiring a 38-foot ramp that winds around most of the front and north side. In 1994, my neighbor Ginny was found murdered. Ginny had progressive MS, and her family had just put a ramp on her house 3 weeks prior to her death. The police told my family that she had been singled out because of that ramp. The ramp made her house stand out, and to the criminal signaled that there was a vulnerable person there. The police's only suggestion for protection was for me to get a big dog! While a ramp on a public building tells me I am welcome there as a person with mobility disabilities, a ramp on a private home paints a target of vulnerability.

In Atlanta, Georgia, the first city to pass a Visitability ordinance in 1992, more than 500 homes have been built Visitable. In these neighborhoods and developments, you can't just look at the houses and know, "oh, one of those people lives there." Neighbors can visit each other, facilitating the integration and acceptance of people with disabilities into the community.

The first self-propelled manual wheelchair was invented in 1536. For more than 450 years wheelchair users have been denied basic access to housing by archaic design practices! Even the original Fair Housing Act of 1968 forgot about us, and had to be amended in 1988 to include people with disabilities.

The scarcity of affordable, accessible housing is emphasized further in Kansas by the number of people with disabilities still imprisoned in nursing "homes." Nursing "homes" are not housing. Even HUD classifies nursing "home" prisoners as homeless. The State of Kansas is recognized throughout the country as a pioneer and leader in providing home and community based Medicaid services. Even though KS HCBS can provide up to 24-hour in-home services for people with disabilities, the paucity of accessible, affordable housing leaves thousands of Kansans unnecessarily incarcerated in nursing "homes," even more segregated from their families, friends, and communities.

Please, I implore you to support the full equality and integration of people with disabilities into mainstream communities, and pass SB 304.



Gina McDonald
President/CEO

Member Agencies:

Center for Independent Living for Southwest Kansas
Garden City, KS
316/276-1900 Voice

Coalition for Independence
Kansas City, KS
913/287-0999 Voice/TT

ILC of Northeast Kansas
Atchison, KS
913/367-1830 Voice

ILC of Southcentral Kansas
Wichita, KS
316/942-6300 Voice/TT

Independence, Inc.
Lawrence, KS
785/841-0333 Voice
785/841-1046 TT

Independent Connection
Salina, KS
785/827-9383 Voice/TT

LINK, Inc.
Hays, KS
785/625-6942 Voice/TT

Prairie Independent Living Resource Center
Hutchinson, KS
316/663-3989 Voice

Resource Center for Independent Living, Inc.
Osage City, KS
785/528-3105 Voice

Southeast Kansas Independent Living, Inc.
Parsons, KS
316/421-5502 Voice
316/421-6551 TT

The Whole Person, Inc.
Kansas City, MO
816/561-0304 Voice
816/531-7749 TT

Topeka Independent Living Resource Center
Topeka, KS
785/233-4572 Voice/TT

Testimony to:
Senate Federal and State Affairs Committee
February 26, 1999

My name is Gina McDonald. I am the President of the Kansas Association of Centers for Independent Living (KACIL). KACIL's mission is to ensure the rights of people with disabilities in Kansas. We represent twelve Centers for Independent Living (CILs) in the state.

Centers for Independent Living are an alternative to traditional rehabilitation programs. We assist individuals with all types of disabilities, and their families, to meet their needs to be as independent as they choose. CILs have found over the years if we assist people in getting what they ask for, they tend to succeed. As the old saying goes, we don't give people fish, we teach them to fish so they can eat for a lifetime. Most people with disabilities do not want to become dependent on a system, they want to work, pay taxes, live in their own home, and have access to the same dreams as all Kansans.

KACIL requests your support of Senate Bill 304, Kansas Visitability Initiative. As we look at demographics for the state of Kansas, we recognize that our population is aging. As we review the budgets for Social Rehabilitation Services (SRS) and Department on Aging (DOA) we recognize that people with disabilities live longer and all Kansans are choosing to stay in their own homes as they age.

Senate Bill 304 would create more housing that will be available and useable by Kansans as we age and/or become disabled. It will reduce the need for people to have to make major modifications to their homes as they age and/or acquire disabilities.

If you look at the SRS and DOA budget, you will see that some of those costs are now paid by taxpayer funds under Home and Community Based Services Waivers.

Creating more housing that is accessible for all makes good financial sense. It makes practical sense and it is visionary in terms of looking at the needs of the state for the next century.

KACIL applauds DRACH for their work on this bill and asks for your support. If you have any questions, I can be reached at 785-825-2675.

Thank you.

1423 West Crawford ♦ Salina, KS 67401 ♦ Voice/TT: 785/825-2675
Capitol Office ♦ 501 Jackson, Suite 450 ♦ Topeka, KS 66603-3373 ♦ Voice/TT: 785/233-4231

Sen. Federal & State Affairs Comm

Date: 2-25-99

Attachment: # 31-1

Testimony Presented to
Senate Federal & State Affairs Committee on
Senate Bill 304
By Shannon Jones
February 25, 1999

My name is Shannon Jones. I am the director of the Statewide Independent Living Council of Kansas (SILCK). The SILCK is mandated by the federal Rehabilitation Act as amended in 1998 to study existing services for people with disabilities and make recommendations to improve or expand services that will enable Kansans with disabilities to achieve their optimum level of independence and improve their quality of life.

The SILCK supports SB 304. Today Kansas has the fourth highest aging population in the country. As we age, we acquire disabilities. This means the need for accessibility will not go away. We need to address a long-range plan for how we will address our aging and disabled population. While more people are choosing to stay in their own homes, they do not want to be prisoners in their homes. According to a study done by the Kansas Department of Health and Environment, "Behavioral Risk Factor Surveillance Survey", between 16 - 18% of adult Kansans identify themselves as having some form of a mobility impairment.

BASIC ACCESS IMPROVES THE LIVES OF EVERYONE IN OUR COMMUNITIES.

In addition, Kansas has been a national leader in implementing home and community based services across the state to ALL populations. The result has been that more and more people are choosing to stay in their homes and receive services. The passage of this bill would greatly enhance the community services system.

The SILCK urges this committee to favorably pass SB 304 to ensure access in all housing built or rehabilitated with public funds in the state of Kansas.

DEPARTMENT OF HUMAN RESOURCES



Bill Graves, Governor

Wayne L. Franklin, Secretary

COMMISSION ON DISABILITY CONCERNS

1430 S.W. Topeka Boulevard, Topeka, Kansas 66612-1877

Voice: (785) 296-1722 • TTY: (785) 296-5044 • Fax: (785) 296-0466

Toll Free: (Outside Topeka) 1-800-295-5232

Testimony on SB 304
Senate Federal and State Affairs
Given by
Martha K. Gabehart, Executive Director
February 25, 1999

Thank you for the opportunity to testify in support of SB 304. The Kansas Commission on Disability Concerns (KCDC) is an advisory commission that provides information and education to the legislature and governor on issues of importance to Kansans with disabilities. The mission statement of KCDC is: The Kansas Commission on Disability Concerns believes that all people with disabilities are entitled to be equal citizens and equal partners in Kansas society. The purpose of the Kansas Commission on Disability Concerns is to involve all segments of the Kansas community through legislative advocacy, education and resource networking to ensure full and equal citizenship for all Kansans with disabilities.

SB 304 creates a new law which would require that all new and rehabilitated single-family dwellings, duplexes and triplexes that receive financial assistance from or through the state government be made generally accessible to people with disabilities. Accessible housing is hard to find anywhere in Kansas and particularly in rural areas. Finding the money to make modifications to existing houses is also difficult. SB 304 would increase the number of houses and housing units, which are adaptable and have many accessible features already in place. Also, the current language providing for an exterior accessibility waiver is acceptable.

KCDC encourages your support for SB 304.



Assistive
Technology
For
Kansans

A Project
Coordinated by the
University of Kansas
At Parsons

For Statewide
Information and
Referral Phone
800-526-3648
(Voice & TTY)

34

**Testimony before the Senate Committee on Federal and State Affairs
Regarding Senate Bill 304
Mary Ellen O'Brien Wright
Assistive Technology for Kansans
February 25, 1999**

I am Mary Ellen O'Brien Wright and I work with Assistive Technology for Kansans. The primary mission of our project is to ensure that children and adults with disabilities in Kansas have access to assistive technology and related services. Assistive technology is any piece of equipment used to maintain, improve or increase a person's independence, and includes home modifications. We ensure access in a number of ways, including five regional access sites which provide direct services; an equipment loan program from which people can borrow equipment; an annual statewide conference and other educational activities; and a funding and policy component in which we identify the funding barriers that keep people from obtaining needed assistive technology, and attempt to eliminate those barriers.

I am writing today in support of Senate Bill 304, which would require new and rehabilitated single-family dwellings, duplexes and triplexes that receive financial assistance from the state to have certain accessibility features. One of the primary barriers to people with disabilities obtaining assistive technology and home modifications is funding. Staff of our project are frequently approached for assistance in obtaining funding for home modifications. In many areas of the state, home modification funding is not readily available. The lack of an accessible home can make the difference between remaining at home and in your community, or institutionalization. Those who cannot afford to pay for the modification and/or obtain a loan and make monthly payments with interest must seek other funding sources, such as federal/state programs or civic organizations. This is difficult for many people to do.

Placing accessible features within the home initially makes it easier for people with disabilities to remain at home and in the community, and not faced with the prospect of institutionalization because they cannot access their home. They are also not forced to seek funding sources from government programs and private sources if homes are initially made accessible.

Assistive Technology for Kansans is continually seeking funding sources for assistive technology and home modifications, and this bill would be one avenue toward reducing that need. We would appreciate your support of Senate Bill 304. Thank you for your time and consideration.

Sen. Federal & State Affairs Comm
Date: 2-25-99
Attachment: # 34-1



Living Independently in Northwest Kansas

2401 E. 13th Street
(785) 625-6942(V/TT)

Hays, KS 67601
(785) 625-6137 (FAX)

Testimony to
Committee on Federal & State Affairs
Senator Lana Oleen, Chairperson
on SB304
Brian Atwell
LINK, Inc.
2-25-1999

Thank you Chairperson Oleen and Committee Members for allowing me to testify today as a supporter of SB304. I am Brian Atwell, the Executive Director of Living Independently in Northwest Kansas, (LINK). As a person with a disability for 20 years, this bill will provide basic access and improve the lives of many in our great state of Kansas. Many houses are built without accessible features, but as our population ages the basic accessible features of SB304 will make all new housing built or rehabilitated with public funds very attractive.

Thank you for your support of SB304. If you have any question, I can be reached at 785-625-6942, 2401 E. 13th St. Hays, KS 67601.



LINK, Inc. also has offices in Hill City, Colby, Osborne and Great Bend

Sen. Federal & State Affairs Comm
Date: 2-25-99
Attachment: # 35-1



Western Kansas Association on Concerns of the Disabled

2401 East 13th • Hays, Kansas 67601 • (785) 625-6942

Access + Opportunity = Independence
Celebrating More Than 20 YEARS of Civil Rights Advocacy

Testimony to
Committee on Federal and State Affairs,
Senator Lana Oleen, Chairperson,
on SB304 by
Thomas L. Robinson, President
Western Kansas Association on Concerns of the Disabled
February 22, 1999

Thank you Chairperson Oleen and Committee members for allowing me to testify today as a supporter of SB304. My name is Thomas L. Robinson. I am from Hays, KS and have been President of WKACD for the last ten years. I have been disabled for 40 years. I have been able to take part in and benefit from all the changes that have and are taking place today, especially in the State of Kansas.

This senate bill we are testifying for today SB304 "VISIT-ABILITY" is another indication that the State of Kansas has taken the leadership role for future visionary concepts for people with disabilities.

Over the years I have not been able to visit aunts, uncles, sisters and friends because their homes are not accessible. When they were younger they would pull or carry me into their homes and leave my wheelchair outside, but now as we have gotten older, they are not able to lift and pull me into their homes. I have a power chair, which has been limited in being able to visit them even more. We have to meet in restaurants or motels. This is not the same as being able to experience visiting a person in their home.

Can you imagine a friend or relative being gravely ill and you would like to pay your last respects, spend some time with this person, but you can't because it is dictated by who is available to get you in and out of the house? This happened to me with my father, who had a partially accessible house, meaning I could get in and out of the house by myself but the bathroom was not accessible. When his health worsened, he could no longer help me with bathroom duties, I had to go outside or go home. Later, when he was dying and had to move in with my sister, I could not spend the time I wanted to with him because of architectural barriers that made me depend on others time and availability to get in and out of the house or use the bathroom. This is not right, we could have spent more time together. SB304 is necessary to help counteract such situations, and to give people with disabilities the same opportunities to visit their loved ones that all other people have. Please support this bill.

Thank you very much for listening and your time. If you have any questions, I would be glad to answer them. You may reach me at the above address and phone number.



United Way Agency

1.

Sen. Federal & State Affairs Comm.

Date: 2-25-99

Attachment: # 36-1

39

Testimony to: Committee on Federal & State Affairs
Senator Lana Oleen, Chairperson
RE: SB304
Date: February 24, 1999

My name is Jeff Simon and I am an Independent Living Counselor. I work with people that receive Home and Community Based Services for the Physically Disabled. I have worked in the Independent Living field for nine years and access is one of the most important issues we face.

As an Independent Living Counselor, I see many people with physical disabilities have a very difficult time finding housing, much less having an opportunity to visit friends and family. I have people living in institutions that want to move into their own home, but are unable to do this because of lack of access. Many people such as myself, may only need an accessible entrance to make a home accessible to them. I also see that in the future that as "baby boomers" age that there will be a huge need for access to homes.

In closing I would like to ask you for your support for SB304. Thank you for your time Senator Oleen. If you have questions I may be reached at 44 S. Elm, Russell KS or 785-483-9625.

Sen. Federal & State Affairs Comm.
Date: 2-25-99
Attachment: # 37-1

Testimony to
Committee on Federal and State Affairs,
Senator Lana Oleen, Chairperson,
on SB304

By
Blake Knoll
February 25, 1999

Thank you Chairperson Lana Oleen and Committee members for allowing me this time to speak to you in support of SB 304. I'm Blake Knoll from Liberal KS. I have lived in Liberal for 37 years, and have been in the wheelchair for the past 19 years. I would like to share some of my experiences with you, and why the passing of SB 304 is necessary.

When I was 23 years of age I got married and had to try and find us a place to live. Being that there was no accessible housing in Liberal, I had to rent an apartment that was not accessible and modify it to make it useable. I had to spend around \$2000.00 to make this apartment accessible for me. At the age of 25 I needed to find a bigger place to live, because we now had a baby and needed more room. I still couldn't find an accessible house for us to live in, so I purchased a mobile home. The purchase price of the home was \$19,000.00 and I still had to put out another \$5000.00 into it to make this home accessible for me to live in. At the age of 31 we got divorced and had to sell the home. So there I was again looking for an accessible house to live in. I got another home where I am presently. I had to spend another \$5000.00 to make this home accessible to live in. People ask me why I spent the money to make all of these homes accessible when I could have gotten some assistance. I told them that I had no choice. There are very few programs out there to help make homes accessible. If SB304 is passed, the 5 required features would make many more rental homes much more accessible for me to begin with. I may have to make only minor changes to live in a house with these basic features.

As far as being able to go out to visit family and friends in their homes, I can't do this because their homes are not accessible for me to get into, move about within their homes, or to be able to use the restrooms. I now have a girlfriend, but I cannot get into her home because it is not accessible. This upsets her, but I cannot afford to spend the money to make her place accessible for me. I was happy to hear about SB 304 to make new housing accessible. Access features would allow me to visit anyone in the community whose house is covered by SB 304.

I believe SB 304 will give more people a choice of where they would like to live within their own community, and that more of them will be able to participate within their own communities.

Thank you for giving me your time in listening to me. If you have any questions. I may be contacted at 409 W. Pine Liberal, Kansas 67901, or 316-624-7789

AIA Kansas

A Chapter of The American Institute of Architects

February 25, 1999



TO: Senator Oleen and Members of the Senate Federal and State Affairs
Committee

FROM: Trudy Aron, Executive Director

RE: Concerns About SB 304

Good Morning, Madam Chair, and members of the Committee, I am Trudy Aron, Executive Director, of the American Institute of Architects in Kansas (AIA Kansas.) Thank you for allowing me to relay our concerns regarding SB 304.

AIA Kansas is a statewide association of architects and intern architects. Most of our 700 members work in over 100 private practice architectural firms designing a variety of project types for both public and private clients including justice facilities, schools, hospitals and other health facilities, industrial buildings, offices, recreational facilities, housing, and much more. The rest of our members work in industry, government and education where many manage the facilities of their employers and hire private practice firms to design new buildings and to renovate or remodel existing buildings. Our members assist clients everyday in making decisions that affect the accessibility of buildings.

SB 304 goes far beyond what is currently required under federal law - in the Americans with Disabilities Act (ADA) and the Fair Housing Act Guidelines. The later act covers new residential facilities with four or more units. While it would be feasible to design new residences that comply with the requirements stated in the bill, it is an entirely different matter to provide for these in existing housing.

What is the criteria for a "rehabilitated" residence? Exterior entrances, as well as some interior ones, will require widening the openings in loadbearing walls. Relocating electrical outlets and connections will require knowledgeable people. Neither of these change are for amateurs.

Will the passage of this bill further reduce the stock of affordable housing? Will landlords delay needed repairs and renovation because of the increased cost of meeting the requirements of this bill?

We do not know the answer to these questions and believe they need to be addressed.

Thank you for your time in hearing our concerns on SB 304.

700 SW Jackson, Suite 209
Topeka, Kansas 66603-3757
Telephone: 785-357-5308
800-444-9853
Facsimile: 785-357-6450

1. Sen. Federal & State Affairs Comm.
Date: 2-25-99
Attachment: # 39-1