

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:40 a.m. on Tuesday, March 15, 2005, in Room 231-N of the Capitol.

All members were present except:

Senator John Vratil (E)
Senator Kay O'Connor (E)

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Dee Woodson, Committee Secretary

Conferees appearing before the committee:

Tiffany Muller, Kansans for Justice and Equality Project, Topeka
Representative Jim Yonally
Steve Brown, Kansas Democratic Lesbian, Gay, Bisexual and Transgendered Caucus, Prairie Village, Ks.
Paul Angle, Manhattan resident
Bill Beachy, Topeka Human Relations Commission
Jon Johnson, Topeka resident (written)
Janis McMillen, President, League of Women's Voters (written)
Allen Martin, Executive Director, Topeka Human Relations Commission (written)
Ruth Glover, Kansas Human Rights Commission
Fred Phelps, Westboro Baptist Church, Topeka
Shirley Phelps-Roper, Westboro Baptist Church
Megan Phelps-Roper, Westboro Baptist Church
Rebeka Phelps-Roper, Westboro Baptist Church
Representative Janice Pauls (written)
Judy Smith, State Director, Concerned Women for America of Kansas (written)

Others attending:

See attached list.

Final Action:

SCR 1608 - Honoring Cesar Chavez

Chairman Brungardt called for discussion and final action on **SCR 1608**.

Senator Hensley moved to pass SCR 1608 out favorably, seconded by Senator Gilstrap, and the motion carried.

Chairman Brungardt announced changes in the agenda for the remainder of the week. He noted that copies of the fiscal note on **SB 285** had been distributed to committee members. He also explained that he had to testify at another committee meeting at 11:00 a.m., and the Vice Chairman, Senator Reitz, would conduct the meeting while the Chairman was giving testimony at the other meeting. He would return as soon as his testimony was completed. (Attachment 1)

SB 285 - Discrimination based on sexual orientation made subject to the acts Kansas against discrimination

Chairman Brungardt opened the hearing on **SB 285**. He asked the Revisor to give an overview of the proposed bill.

The Revisor explained the bill would add to the Kansas Act Against Discrimination, concerning discrimination based on sexual orientation. It defines the term "sexual orientation" on page 4, as actual or perceived heterosexuality, homosexuality or bisexuality, and places it under the Act Against Discrimination as other forms of discrimination are coded.

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:40 a.m. on Tuesday, March 15, 2005, in Room 231-N of the Capitol.

Representative Jim Yonally testified as a co-sponsor and in support of **SB 285**. He clarified that this bill does not grant any special privileges to any group of persons. He stated that if this bill were to give a preferred status to persons based on their sexual orientation, then the law, now in statute, would have to grant preferred status to: African-Americans, orientals, etc. because the word "race" is in this list of non-discrimination items; Jews, Catholics, Muslims, etc. because the word "religion" is on the list; men or women, because the word "sex" is on the list; and other groups would be included because the words, "color", "disability", "national origin" and "ancestry" are included in the law. Representative Yonally noted that banning discrimination based on sexual orientation is added to many different parts of the statutes where other kinds of discrimination is likewise prohibited. He concluded that is what this bill does and nothing more. He stated the passage of **SB 285** does grant citizenship and equality. ([Attachment 2](#))

Tiffany Muller, Chairperson of the Kansans for Justice and Equality Project, spoke in favor of **SB 285**. She explained that the proposed legislation would amend the Kansas Acts Against Discrimination by adding "sexual orientation" to the list of "protected" characteristics. Sexual orientation is clearly defined in the bill as: actual or perceived heterosexuality, homosexuality, or bisexuality. Ms. Muller testified that the bill lays out what are discriminatory unlawful practices in employment, in housing, and in public accommodations. It also provides simply the right for someone to seek redress if they believe they have been discriminated against. A complaint can be filed with the human Rights Commission, redress could be sought through a private attorney, the complainant could receive mediation services provided by one of these entities, or a person can go to court. She stated that the proposed amendment does not include any amendments to the current affirmative action sections of current law. There are no quotas, no mandate around benefits that must be offered, and private/fraternal/religious organizations are exempt from this proposed bill.

Ms. Muller said that currently there are 15 states that have in effect this same type of protection state-wide, and there are an additional 11 states that have executive orders (or equivalent) that protect public sector employees against sexual orientation discrimination. She pointed out that like people who have experienced another form of discrimination, those who have experienced discrimination based on sexual orientation deserve to have an outside, non-biased resource to go to for redress. She included a projection of the number of possible complaints for Kansas based on sexual orientation with her written testimony, and stated there would not be an overwhelming number of cases to clog up the court system. Ms. Muller noted that JoAnn VanMeter, an attorney and current legal counsel for the Topeka Human Relations Commission, was in attendance and available to answer any legal questions. ([Attachment 3](#))

Steve Brown, President of the Kansas Democratic Lesbian, Gay, Bisexual, and Transgendered Caucus (LGBT), testified in support of **SB 285**. He stated that currently it is legal for gays and lesbians to be fired, denied housing, and denied access to free and public accommodations because of their sexual orientation throughout the State of Kansas, and asked if that was fair. He said that the Human Rights Campaign Foundation tracks private employers and colleges and universities that include sexual orientation in their organizations primary equal employment opportunity or non-discrimination policy. Included with Mr. Brown's written testimony was a list of Fortune 500 companies that currently include sexual orientation in their organizations primary equal employment opportunity or non-discrimination policy which includes an impressive list of companies with a presence in Kansas. He also listed some companies with a presence in Kansas having sexual orientation in their organizations' primary equal employment opportunity or non-discrimination policies for Forbes 200 largest private companies, Standard and Poor's 500. His lists also included cities, states, counties, and colleges. Mr. Brown added that 144 not-for-profit organizations and 33 unions also have sexual orientation included in their employment policies. ([Attachment 4](#))

Mr. Brown stated that businesses consider the atmosphere of prospective locations when considering whether or not to expand or relocate operations. He said that legislators from coast to coast have recognized how important anti-discrimination policies are to the future development of their states. People do not want to live in states where they are not welcome. Mr. Brown concluded that if Kansas wants to be able to compete in the future for the talented workers that are needed by Kansas businesses,

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then the state needs to send the message that it does not allow its citizens to be victims of discrimination based solely on their sexual orientation.

Paul Angle, Manhattan resident, spoke in favor of **SB 285**. He shared his personal story of discrimination in his hometown when he worked a sales manager for a nationally know large department store. He talked about the harassment and unfair workplace practices that he experienced from a new store manager who had a strong dislike for gay or lesbian people. He eventually was fired , and he told about his struggle against depression, stress, not having insurance coverage, and living with the fear of similar treatment at his next job. He said he was unemployed for ten months, and has entered a totally new profession. Mr. Angle urged the committee to support the passage of **SB 285** because every person should have the right to work free from discriminatory treatment. (Attachment 5)

Jon Johnson, Topeka resident, submitted written testimony in support of **SB 285**. (Attachment 6)

Bill Beachy, member of the Topeka Human Relations Commission, testified in support of **SB 285**. He related the story of a gay man who had spoken during a Commission meeting's public comment time saying that he had been discriminated against at his place of work, a large Topeka employer, because he was gay. Mr. Beach said that one of his Commission colleagues told the complainant that there was no city or state ordinance that speaks to discrimination based on sexual orientation. He said the Commission Chair told the man that the Commission had to be neutral in the man's case, and that would be the same for the State Human Rights Commission. Mr. Beachy asked that the proposed bill be passed as it would give the State's Human Rights Commission the authority to investigate such allegations of discrimination. (Attachment 7)

Janis McMillen, President, League of Women Voters of Kansas, submitted written testimony in support of **SB 285**. (Attachment 8)

Allen Martin,, Executive Director, Topeka Human Relations Commission, submitted written testimony in support of **SB 285**. (Attachment 9)

Ruth Glover, Assistant Director, Kansas Human Rights Commission (KHRC), testified as a neutral conferee on **SB 285**. She explained that the Kansas Human Rights Commission is responsible for administering and enforcing the provisions of the Kansas Act Against Discrimination (KAAD). KAAD sets forth several impermissible considerations (for example, race, sex, color, ancestry, national origin, religion, disability, etc.) which generally cannot form the basis for adverse employment decisions. The current proposed bill would expand the list of impermissible considerations from which individuals would be protected in this regard. Ms. Glover stated that federal employment laws, specifically Title VII of the Civil Rights Act of 1964, and the Federal Fair Housing Act, do no prohibit discrimination based on sexual orientation. Federal civil rights laws do not protect against discrimination based upon sexual orientation in regard to public accommodations.

Ms. Glover said that KAAD, as currently composed, constitutes a statement of the public policy of Kansas which disfavors discriminatory conduct. She added that should the legislature and Governor choose to expand the public policy of the State of Kansas as proposed by **SB 285**, the Commission stands ready to enforce the provisions of the bill, subject to the proviso that there is an expansion of budget and personnel resources provided to KHRC to handle anticipated increases in the number of complaints filed with KHRC. (Attachment 10)

Committee question was asked in regard to the fiscal note on **SB 285** and the need for two additional full-time positions for KHRC. Ms. Glover responded the request would be for one an in-take specialist to receive the phone calls and process those calls, and the other positions would be for an investigator. She stated their research showed that KHRC could expect about 50 complaints per year, and have quotas currently for investigators that have to handle 48-72 cases per year.

Fred Phelps, Westboro Baptist Church, Topeka, testified as the first opponent to speak against **SB 285**. He stated that there is no demonstrated need or justification for this bill. Homosexuals are not

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MINUTES OF THE Senate Federal and State Affairs Committee at 10:40 a.m. on Tuesday, March 15, 2005, in Room 231-N of the Capitol.

discriminated against in any area where government may grant relief: housing, jobs, or public accommodation. He said homosexuals are only discriminated against in matters of religion; when ministers declare their conduct sinful. He talked about the three studies conducted recently by Topeka gays seeking proof of discrimination in housing, jobs and public accommodation. The studies failed to find such proof. Mr. Phelps emphasized the homosexuals want **SB 285** as governmental validation of their sins and to intimidate employers, landlords and the populace. He quoted several biblical verses, and concluded by saying the people, who make up a democracy, are the government; and the people here don't want our government to legitimize homosexual sin. (Attachment 11)

Shirley Phelps-Roper, Westboro Baptist Church, spoke in opposition to **SB 285**. She stated that it is the solemn duty of mankind to make a sharp distinction, every day, between right and wrong, and to do what's right. That is a form of discrimination. Ms. Phelps-Roper strongly emphasized that this committee is intruding into the things of God, where this committee has absolutely no business. She concluded her testimony by telling the committee members that, "the very bringing up of this issue like it is open for discussion is what will take their souls to hell." (Attachment 12)

Megan Phelps-Roper, Westboro Baptist Church, appeared before the committee in strong opposition to **SB 285**. She said that homosexuality is an atrocious sin, along with the acceptance of it. She stated that some dangers of homosexual sex: (1) Significantly higher percentages of homosexuals abuse drugs and alcohol; (2) Homosexuals have vastly more sexually transmitted diseases; (3) Young homosexuals are 7 times more likely to attempt suicide; and (4) The life expectancy of homosexuals is 43 years, which is over 30 years less than the national average. Ms. Phelps-Roper asked if the state should be endorsing, promoting, and putting its stamp of approval on a behavior with such dire consequences as the dangers she had talked about previously. She addressed the committee stating "they are government officials, elected by the citizens of Kansas to serve them appropriately; you do your constituents a disservice when you put their physical, mental, and emotional health on the chopping block, on the altar of appeasing a small group whose only goal is to push their filthy lifestyle, regardless of the consequences for the rest of Kansas." (Attachment 13)

Rebekah Phelps-Roper, Westboro Baptist Church, testified against **SB 285**, and spoke about the dangers that homosexuals pose to society. She said studies prove that homosexuals make up 1 to 3% of the population, but account for 20 to 33% of pedophiles. (Attachment 14)

Representative Janice Pauls submitted written testimony in opposition of **SB 285**. (Attachment 15)

Judy Smith, State Director, Concerned Women for America of Kansas, submitted written testimony in opposition of **SB 285**. (Attachment 16)

Chairman Brungardt closed the hearing on **SB 285**.

Minutes for the March 2 meeting were presented for approval. Senator Barnett made a motion to approve the minutes as written, seconded by Senator Reitz, and the motion carried.

The meeting was adjourned at 11:40 a.m. The next meeting scheduled is Wednesday, March 16, 2005.

SENATE FEDERAL & STATE AFFAIRS COMMITTEE GUEST LIST

DATE March 15, 2005

TIFFANY MULLER	TOPEKA, KS
STEVE BROWN	KS DEM LGBT CAUCUS
Paul Angle	Manhattan
Patricia Witt	DPS
Bill Beachy	Topeka
Minda Menden	Abilene
LAURIE HARDING	ENTERPRISE
Shari Paul	Wesington
Robert Smith	Abilene
Sam Bledsee	Topeka
Jennifer Smidt	Abilene
Amy Hoch Altwegg	Abilene
Trotter Hays - Topeka	Topeka, KS
Fred Phelps	" "
Shirley Phelps - Ripper	" "
Megan Phelps-Roper	" "
Brandon L. Myers	KHRC
Ruth Glover	Ks. Human Rights Commission
William V. Munner	Ks. Human Rights Commission
Bill Wright	Ks. Human Rights Commission
Jim Yonally	Representative
John Van Nuh	Topeka, KS
Elisa Rawler	intern w/ KNASW

KANSAS

DIVISION OF THE BUDGET
DUANE A. GOOSSEN, DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

March 10, 2005

The Honorable Pete Brungardt, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Senator Brungardt:

SUBJECT: Fiscal Note for SB 285 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 285 is respectfully submitted to your committee.

SB 285 would amend the Kansas Act against Discrimination to include sexual orientation. "Sexual orientation" is defined as "actual or perceived heterosexuality, homosexuality, or bisexuality."

Estimated State Fiscal Effect				
	FY 2005 SGF	FY 2005 All Funds	FY 2006 SGF	FY 2006 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$93,432	\$93,432
FTE Pos.	--	--	--	2.00

The Kansas Human Rights Commission estimates the cost to implement this bill would be \$93,432. That cost includes \$77,656 for 2.00 FTE positions, \$9,656 for operations, and \$6,120 for capital outlay, which is a one-time expenditure. The largest expenditure in the \$9,656 for operations would be \$4,000 to update the agency's complaint database to track the new orientation discrimination complaints. The agency bases this estimate on the experience of other states that prohibit discrimination based on sexual orientation and its own experience with citizen

Senate Federal & State Affairs

Committee

3-15-05

Attachment

1

LANDON STATE OFFICE BUILDING, 900 SW JACKSON, SUITE 504,

Voice 785-296-2436 Fax 785-296-0231 <http://da.sta>

The Honorable Pete Brungardt, Chairperson

March 10, 2005

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response to an expansion of the Kansas Act against Discrimination. Any fiscal effect resulting from the enactment of SB 285 would be in addition to *The FY 2006 Governor's Budget Report*.

Sincerely,



Duane A. Goossen
Director of the Budget

cc: Brandy Wheeler, Judiciary
Ruth Glover, Human Rights

JIM YONALLY
 REPRESENTATIVE, 16TH DISTRICT
 JOHNSON COUNTY



HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 MEMBER: EDUCATION
 GOVERNMENTAL ORGANIZATION AND
 ELECTIONS
 TRANSPORTATION

Testimony on SB 285

Mister Chairman and members of the committee, I'm Jim Yonally, and I am appearing here today as a proponent on SB 285. I am here as a co-sponsor, along with a number of other representatives, of a similar bill in the House.

The most important point that I want to make today is that this bill does not grant any special privileges to any group of persons. I know the difference between legislation that grants special privileges and laws that merely prevent discrimination. One of my duties some years ago while I was an assistant superintendent in the Shawnee Mission School District was to draft the district's first affirmative action program. In that situation, people WERE given special privileges. If two people of equal qualifications had applied for the same job, and one of them was a member of an "affected class" (I think it was called), then the law required that you employ that person. Usually, at that time at least, "affected class" meant a person of racial minority, or a female. THAT law granted special privileges, this bill does not.

If this bill were to give a preferred status to persons based on their sexual orientation, then the law, now in statute, would have to grant preferred status to the following:

1. African-Americans, Orientals, etc. because the word "race" is in this list of non-discrimination items;
2. Jews, Catholics, Muslims, etc. because the word "religion" is on the list;
3. Men or women, because the word "sex" is on the list;
4. Other groups would be included because the words, "color", "disability", "national origin" and "ancestry" are included in the law.

You will notice that banning discrimination based on sexual orientation is added to many different parts of the statutes where other kinds of discrimination is likewise prohibited. That's what this bill does, nothing more.

Thank you for this opportunity to be heard on this important issue. I would be happy to stand for questions.

Senate Federal & State Affairs

Committee

3-15-05

Attachment 2

Testimony in Support of:
Senate Bill 285
Kansas Acts Against Discrimination
Senate Federal and State Affairs Committee
March 15, 2005

Chairman Brungardt and members of the committee:

Thank you for allowing me the opportunity to speak in favor of Senate Bill 285 today. I am Tiffany Muller, Chairperson of the Kansans for Justice and Equality Project.

The right to earn a living and live in housing free from discrimination is a basic, fundamental right that we should all be granted. Throughout the years, our state has recognized this fundamental notion and has responded with the Kansas Acts Against Discrimination which makes certain types of discrimination in housing, public accommodations, and employment unlawful. If those types of discriminatory practices occur, the person who was the recipient of those practices has the right to file a complaint or engage in a private course of action through an attorney to try to seek reparations. The types of discrimination have been enumerated and enhanced many times throughout the years. The Act was originally established in 1953. This Act has been amended at least nine times since then. We have continued to amend the Kansas Acts Against Discrimination as the need has been shown to protect the fundamental rights of employment, housing, and public accommodations for those who have been and are targets of discrimination.

Senate Bill 285 would amend the Kansas Acts Against Discrimination by adding "sexual orientation" to the list of "protected" characteristics. Sexual orientation is clearly defined in this bill as: actual or perceived heterosexuality, homosexuality, or bisexuality.

This bill is fairly straight-forward. It lays out what are discriminatory unlawful practices in employment (such as not hiring, firing, or not promoting someone based on one of the characteristics protected), in housing, and in public accommodations. It also provides simply the right for someone to seek redress if they believe they have been discriminated against. They can file a complaint with the Human Rights Commission, seek redress through a private attorney, receive mediation services provided by some of these entities, or go to court. This proposed amendment does not include any amendments to the current affirmative action sections. There are no quotas, no mandate around benefits that must be offered, and private/fraternal/religious organizations are exempt from this bill. Let me reiterate that, religious organizations would not be required to follow this law. If they were operating in a church role, they would be just as able to refuse to hire or house people who were gay as they are to deny women those same things. Additionally, this does not apply to private organizations such as the Boy Scouts, Elks, etc....

Currently, there are 15 states that have in effect this same type of protection state-wide. There are more than 200 towns, cities and counties that ban sexual orientation discrimination, and an additional 11 states have executive orders (or equivalent) that

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3-15-05
Attachment 3

protect public sector employees against sexual orientation discrimination. Our federal employees are even protected from this type of discrimination due to a Federal Executive Order signed originally by President Clinton but continued by President Bush. As you will hear later, there are also a myriad of private companies who have taken the step internally to say that they do not allow discrimination based on sexual orientation in their company. However, even with those companies having done this proactive step it is not enough. Almost every company bans discrimination based on race, sex, etc... Discrimination because of those characteristics still occurs in those companies. Just like people who have experienced another form of discrimination, those who have experienced discrimination based on sexual orientation deserve to have an outside, nonbiased resource to go to for redress.

There is strong support across our state and country for this type of protection. Nearly nine in ten Americans support the principle of sexual orientation nondiscrimination. In Topeka, KS we recently saw that the majority of voters were not in favor of repealing protections based on sexual orientation on the March 1, 2005 ballot.

Some key points that opponents to nondiscrimination laws often bring up:

Sexual orientation laws are special rights:

Truly the concept of "special rights" is legally meaningless. Nondiscrimination laws simply prevent discrimination for EVERYONE based on certain characteristics. In this case, everyone has a sexual orientation and this bill would protect everyone based on that characteristic.

Gay and Lesbian individuals are trying to equate sexual orientation with race:

Racism and anti-gay bias are very different and the history of treatment of people of color is different from that of gay and lesbian individuals, it does not mean that one group is "more deserving" of not being discriminated against than another. There are many people of color who are also gay and lesbian who would benefit from this nondiscrimination law.

A lot of the arguments stem from what is seen to be an immutable characteristic. Many argue that sexual orientation should not be covered because someone's sexual orientation is a choice. More accurately, they say that being gay or lesbian is a choice whereas being heterosexual is "natural, innate" (i.e. not a choice). However, we currently protect people from discrimination based on other things that are a choice: religion, creed, etc...

Courts across the country have ruled that sexual orientation is an immutable characteristic and others have ruled it is not. We clearly see more and more states, cities, and municipalities recognizing that the burden of unfair treatment has been met and that it is the right thing to do to protect people from discrimination based on sexual orientation. Courts often place the burden on the state to show why the discriminatory treatment is for a legitimate state interest.

Sexual Orientation Discrimination does not exist:

Opponents of nondiscrimination legislation make two conflicting claims: 1) discrimination based on sexual orientation does not exist and 2) nondiscrimination laws will lead to a flood of litigation. The General Accounting Office report in 2002 showed that both of these claims were false. They showed that people do file and it is shown HAVE been discriminated against based on sexual orientation in areas where those protections are in place. As a former Human Relations Commissioner in Topeka, I know that people attempted to file reports with the Commission; however, they were told that they did not have jurisdiction and there was nothing that could be done. It is difficult to track the exact numbers because there is no tracking system in place. However, nationally the average percentage of sexual orientation claims is around 2% over the past 5 years in states where these protections exist. This is the same percentage of discrimination claims based on religion and the same percentage of discrimination claims based on color filed in Kansas. We would not consider removing those protections.

There are going to be too many complaints to handle:

See Attached

You will hear from individuals who have been discriminated against and other proponents this morning. Additionally, not signed up to speak, but hear to answer legal questions if they arise is JoAnn VanMeter who is an attorney and current legal counsel for the Topeka Human Relations Commission.

I urge you to support Senate Bill 285 and I would be happy to stand for questions or to answer any questions that may come up later as well.

Thank you,

Tiffany Muller
Chairperson
Kansans for Justice and Equality Project
PO Box 3736
Topeka, KS 66604
kjep@kansasjustice.com

Some Examples of Discrimination

There were many individuals who were unable to join us today to testify in front of the committee. I wanted to share a few of their stories with you as well.

Angel Hollman:

Angel was employed in Topeka, KS in a career that she had been very successful at and with a company in which she was considered a top employee. She was moved from one location of the company to another. Upon her move, she quickly became subject to a hostile work environment. She was passed over for a promotion because she "was too 'out' and had worked with a local gay rights group in her spare time". She was subject to harassment by her manager including calling her a "dyke", saying derogatory statements over the communication systems, and threats to fire her. She was eventually fired and lost her health insurance. As a single mother of two children this was incredibly detrimental to them. She filed an internal grievance with her company based on discrimination because the company had a sexual orientation non discrimination policy. The company agreed to a settlement package and was looking into getting her placed at a different location; however, the company then withdrew most of the settlement offer, terminated her position and left her without any recourse. She had an attorney; however, due to the lack of protection for individuals in this situation she was forced to take a very limited offer and scramble to find ways to make ends meet while looking for another job.

Sandra Stenzel:

Sandra was the Economic Development Coordinator for Trego County, Kansas. Last year, Sandra took a vacation day to come to the Capitol to testify in front of the Senate Judiciary Committee against the Marriage Amendment. Her participation was quoted in several papers across Kansas. Two of the County Commissioners were quoted as saying things such as "No one wants a lesbian running economic development" and that they were going to find a way to get her out of a job because she was a lesbian. The County Commissioners were opposed by a large majority of the community; however, they still chose to cut all funding to the Economic Development program so that Sandra would lose her job. They have both stated publicly that this was because she was a lesbian. Sandra has no recourse of action and is still fighting this battle.

Bus discrimination:

A woman, who has asked to remain anonymous due to fear of repercussions, has been having difficulty with a public transportation system. She takes the bus everyday to work because she has no other form of transportation. Some days the driver refuses to pick her up. On other days, when she does get on the bus, he comments that he doesn't want a "dyke" on the bus and allows the other riders to harass her. She has even been physically assaulted on the bus.

.....

These are just a few examples of the many stories of discrimination that exist across our state based on sexual orientation. We could give you many stories of discrimination based on housing, public accommodations, or employment, but it is difficult for these people to speak to you directly as they have no protection from retaliation or reprisal. I hope that you will still hear their story and recognize the need to protect them and many, many others from these forms of discrimination.

Projected Complaints For Kansas Based on Sexual Orientation

The Kansas Human Rights Commission annual report shows that they processed 1,192 allegations of discrimination and 870 complaints in 2003. Over the past 5 years they have processed an average of 978 complaints/year.

In 2002 the US General Accounting Office reported on states' experience with legislation prohibiting sexual orientation-based discrimination. The GAO report illustrates that while this type of protection is needed and used, that it will not result in a barrage of complaints. Even when states have had this law for many years, sexual orientation-based discrimination cases do not significantly go up over a period of time. The percentage of claims is a proportionally small percentage of the total number of discrimination cases and will not overwhelm the legal system or the various investigative bodies (such as the Kansas Human Rights Commission). *(The GAO Report was based on 14 states having this law. There are currently 15 with this law, but this report was done prior to the passage of a similar law in Illinois in January 2005).*

There is no reason to suspect that the numbers in Kansas would differ much from the numbers seen across the country. If these numbers hold true then Kansas could expect that **22-34 allegations of discrimination based on sexual orientation would be filed per year and that 18-28 of those would result in complaints.**

The Kansas Human Relations Commission is asking for two full-time staff to investigate these complaints, based partly on the belief that there will be a large number of those complaints coming into the office. My understanding is that currently investigators are to handle approximately 6 cases a month or 72/year. They currently have 12 investigators located throughout the state (according to their annual report) which could handle approximately 864 complaints per year (or so). Having been a former Human Relations Commissioner, I understand the time and detail that must go into discrimination complaints. **However, 18-28 complaints represents only 25-39% of a full-time investigator**, not two full-time equivalent investigators. There would probably be additional intake time and other staff time required to handle some of these complaints. Perhaps that adds up to two full-time staff. If the request is for the amount to cover an investigator it would be more like a ½ time FTE which would be somewhere in the neighborhood of \$20,000.

Lawrence has had this ordinance for a number of years and had 8 cases that they investigated. 6 of these were found to have probable cause. This was not a huge burden on their staff.

Appendix A

States Banning Sexual Orientation Discrimination in Public Employment by Means Other than Statute

(updated January 2005, after Illinois)

1. Alaska

Administrative Order No. 195¹
(Issued March 5, 2002)

2. Arizona

Executive Order 2003-22
(Issued June 21, 2003)

3. Colorado

Personnel Regulation
(Personnel Rules and Administrative Procedures - Chapter 9, Section 3)

4. Delaware

Executive Order No. 10
(Issued Jan. 23, 2001)

5. Indiana (trans-inclusive)

Governor's Policy Statement
(Issued Aug. 1, 2001)
(EXEC ORDER IN 2004 – included gender identity)

6. Kentucky (trans-inclusive)

Executive Order 2003-533²
(Issued May 29, 2003)

7. Louisiana

2004

8. Michigan

2003 or 2004

9. Montana

Personnel Regulation
(Montana Operations Manual, Policy No. 3-0630)

10. Pennsylvania (trans-inclusive)

Executive Order No. 2002-3
(Issued May 3, 2002)
Executive Order No. 2003-10³
(Issued July 28, 2003)

11. Washington

Executive Order No. 93-07
(Issued 9/27/93)

¹ Under Alaska law, an administrative order is defined as one "to assign functions in the executive branch, under AS 44.17.060" among other specific functions. It is not issued under the governor's constitutional authority, unlike an executive order.

² Protected sexual orientation and gender identity.

³ Added gender identity and expression to protected classes.

Support of SB 285
Senate Federal and State Affairs Committee
March 15, 2005

Senator Brungardt and members of the committee, thank you for giving me this opportunity to speak to you today.

My name is Steve Brown and I am President of the Kansas Democratic Lesbian, Gay, Bisexual, and Transgendered Caucus.

I am testifying in support of SR 285 and in support of amending the Kansas Statutes on Discrimination to include 'sexual orientation'.

Currently, it is legal for gays and lesbians to be fired because of our sexual orientation throughout the State of Kansas. Is this fair?

Currently, it is legal for gays and lesbians to be denied housing because of our sexual orientation throughout the State of Kansas. Is this fair?

Currently, it is legal for gays and lesbians to be denied access to free and public accommodations because of our sexual orientation throughout the State of Kansas. Is this fair?

The Human Rights Campaign Foundation tracks private employers and colleges and universities that include sexual orientation in their organizations primary equal employment opportunity or non-discrimination policy.

Currently, 415 Fortune 500 companies include sexual orientation in their organizations primary equal employment opportunity or non-discrimination policy.

Included is an impressive list of companies with a presence in Kansas. Some of those companies are:

Aetna, Inc.

AFLAC, Inc.

Allstate

American Express, Inc.

AT&T Corp.

Avon Products

Bank of America Corp.

Barnes and Noble Inc.

Berkshire Hathaway

Boeing

Burlington Northern Sante Fe

CarMax

Caterpillar

Cisco Systems

Colgate-Palmolive Co.

ConocoPhillips

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Costco Wholesale Corp.
Coventry Health Care
Deere & Co.
Dillard's Inc.
Federated Department Stores
FedEx Corp.
Goodyear Tire & Rubber
H&R Block
Hilton Hotels Corp.
Hormel Foods Corp.
Host Marriott
J.C. Penney Company Inc.
Kmart Corp.
Lucent Technologies Inc.
McDonald's Corp.
MetLife
OfficeMax Inc.
PepsiCo Inc.
Raytheon Co.
SBC Communications Inc.
Sears, Roebuck and Co.
Sprint Corp.
Starbucks Corp.
SYSCO Corp.
Target Corp.
Time Warner Inc.
Tyson Foods
Union Pacific
United Parcel Service
Wal-Mart Stores Inc.

Currently 28 of the Forbes 200 Largest Private Companies include sexual orientation in their organizations primary equal employment opportunity or non-discrimination policy.

Included are the following companies with a presence in Kansas:

Enterprise Rent-A-Car Co.
Hallmark Cards Inc.

Currently 379 of the Standard and Poor's 500 companies include sexual orientation in their organizations primary equal employment opportunity or non-discrimination policy.

Included is an impressive list of companies with a presence in Kansas. Some of those companies are:

Aetna, Inc.

AFLAC, Inc.
Allstate
American Express, Inc.
AT&T Corp.
Avon Products
Bank of America Corp.
Best Buy Co., Inc.
Boeing
Burlington Northern Sante Fe
Caterpillar
Cisco Systems
Colgate-Palmolive Co.
ConocoPhillips
Costco Wholesale Corp.
Deere & Co.
Dillard's Inc.
Dollar General Corp.
Federated Department Stores
FedEx Corp.
Goodyear Tire & Rubber
H&R Block
Hilton Hotels Corp.
Home Depot
Humana Inc.
J.C. Penney Company Inc.
Lucent Technologies Inc.
McDonald's Corp.
MetLife
OfficeMax Inc.
PepsiCo Inc.
Raytheon Co.
SBC Communications Inc.
Sears, Roebuck and Co.
Sprint Corp.
Starbucks Corp.
SYSCO Corp.
Target Corp.
Time Warner Inc.
Toys 'R' Us Inc.
Union Pacific
United Parcel Service
Wal-Mart Stores Inc.

Currently 532 cities, states, counties, and their agencies include sexual orientation in their organizations primary equal employment opportunity or non-discrimination policy.

Included in that list are:

Over half of the 50 States

City of Lawrence, KS

Shawnee, KS County

City of Topeka, KS

Currently 550 colleges and universities include sexual orientation in their organizations primary equal employment opportunity or non-discrimination policy.

Included in that list are:

Emporia State University

Kansas State University

University of Kansas

Washburn University

Currently 144 Not-for-Profit organizations include sexual orientation in their organizations primary equal employment opportunity or non-discrimination policy.

Currently 33 unions include sexual orientation in their organizations primary equal employment opportunity or non-discrimination policy.

Why are these lists so large?

Businesses recognize that they have to be able to compete to attract employees. Given the choice between an inclusive and exclusive company, gays and lesbians choose the inclusive company. Gays and lesbians want to work where they do not have to fear that they will be fired because they are gay or lesbian.

Businesses consider the atmosphere of prospective locations when considering whether or not to expand or relocate operations. They want to bring their employees into an environment where their employees feel safe from discrimination outside of the workplace.

Gays and lesbians choose where to attend school or where to relocate based on how safe and how protected they feel they will be from experiencing discrimination based solely on their sexual orientation.

Legislators in states from coast to coast have recognized how important anti-discrimination policies are to the future development of their states. People do not want to live in states where they are not welcome. People do not want to

attend school in states where they are not wanted. People do not want to move their families to states where they are not wanted. People do not want to remain in states where they are not wanted.

As you can see from these lists, numerous companies, two cities, one county, and four universities in Kansas believe that including 'sexual orientation' in their EEO statements was the right thing for them to do.

Although I do not have the figures or lists, allowing discrimination based on 'sexual orientation' in housing and equal access to public accommodations is just as damaging to the state as employment discrimination.

I was hoping to present the numbers of employment, housing, and denial of public access claims that have been filed, but do not have those figures available today. Gays and lesbians are reluctant to report these incidents when these actions are not illegal.

If Kansas wants to be able to compete in the future for the talented workers that are needed by today's Kansas businesses and for new businesses to establish a presence in Kansas, Kansas needs to send the message that it does not allow its citizens to be the victims of discrimination based solely on their sexual orientation.

I stand here today to ask you to do the right thing for Kansas. I stand here today to ask you to support SR 285 and amend the Kansas Statutes on Discrimination.

Thank you.

Steven L. Brown
President, Kansas Democratic Lesbian, Gay, Bisexual, and Transgendered Caucus
7837 Dearborn
Prairie Village, KS 66208
913-648-4459
slbrownks@earthlink.net

SUPPORT SB284
Senate Federal and State Affairs Committee
March 15, 2005

This is my story, my story of discrimination. I have always been one to think that it could never happen to me but lo' and behold it did.

I grew up in a town of less than 50,000 people. A town where everyone knows almost everyone else, and what exactly everyone is doing. For that reason I was never truly "out" in my hometown before a few years ago. I finally got to a point where I said that I have to live my life for me, and what that meant, was me coming out.

I worked for a nationally known large department store. I loved my job and what I was doing. I'm a people person and love to help people, and that is exactly what I did at my job. I was a sales manager, and had a staff that I would do anything for and they would do the same for me. The only problem was when the store that I was working at got a new store manager. I was never really sure why exactly it was that she didn't like me, but I of course had some ideas but never thought that it was because I was gay. I'm not one to just tell someone that I am gay.

The first few months went by with little conflict or trouble. After a few months I was asked to come up to her office and the store manager said to me "There is a rumor going around the store that you are gay. Is that true?" At first it took me aback that she had the nerve to ask me that but after I gained my composure I told her that first and foremost my sexual orientation was truly none of her business, but I had no problem answering her question. I told her that the rumors are true that I was and am gay. She proceeded to tell me that I was to make sure that I didn't show any signs of being gay while at the store and that she had a "problem with it" and to keep it under "control" while at work. That took me aback but at that point all I wanted to do was just leave that room as fast as I possibly could. A few weeks after that meeting the store manager started to basically make sure that I wasn't doing my job properly. There was a time where I had spent all day doing a project that she had asked me to do. After I was done, and gotten the O.K. from her on the project's completion, I left work. She then went out and totally destroyed it, and then the next day she wrote me up for the project not being done. I of course asked her what it was that I wasn't doing correctly and how could I change what ever it was that was the problem. Still to this day she has not given me a legitimate reason for any of the write up's on me that she did. Everything that she would state, I would point out to her that other sales managers where also doing the same thing and why was it that I was the only one getting written up for it. Well she also couldn't come up with a legitimate reason for that.

I bet I got called up to the store manager's office at least once a week, because she said that I was doing something wrong. I had never had that kind of performance issue with any of my jobs before. I stayed late to try to do everything I could so I wouldn't get in trouble with her and continued to ask how to improve my performance. This was to no avail. She continued to write me up or reprimand me on things that others would not get written up on. She made the work environment hostile and when other people tried to stand up for me it did no good. She did eventually fire me. I was unemployed for 10 months and had a very difficult time making ends meet. I was chronically stressed out and depressed. I lost my insurance and was concerned about what whether or not I would

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receive similar treatment at the next job. I think it is wrong for this kind of discriminatory treatment to be allowed. We should all be able to have our work based not on who we are, but whether or not we can do our jobs.

But luckily my story actually ends on a happy note. After I was fired it made me realize that I was no longer afraid of who and what I was or am. Today if anyone asks me if I am gay I tell him or her with pride that yes I am. I also have just recently entered into a whole new profession, which is nursing which I think, and others have told me, suits me better than retail. This whole thing has made me a better person all around. I am no longer stressed out and have a happy out look on my future.

Please support Senate Bill 285. We all should have the right to work free from discriminatory treatment.

Thank you,
Paul Angle
Manhattan, KS

To: Senate Federal and State Affairs Committee
Re: Support SB285

Thank you for allowing me to speak today in support of Senate Bill 285.

My name is Jon Johnson. I live in Topeka, KS and have lived here most of my life. I am here today to let you know that I have been discriminated against based on my sexual orientation when I was looking for a job in Topeka. About a year ago, I was online searching for a job and ran across an ad for a place that was looking for a bartender. I had tended bar for 3 ½ years, so I decided to call and ask more about the job. A woman answered the phone and identified herself as the owner. She was very pleasant and interested, especially when I told her I had experience. She asked where I had tended bar and I told her. She asked me if the place was a gay bar. I said, "yes ma'am". She said, Oh, no. No! No!" I was confused by her response and asked her what she meant. She said, "My beer distributor told me that when you get them people in here, they will ruin your business. Don't even bother." I wasn't quite comprehending what she was saying to me, and I proceeded to ask if I could come in and fill out an application since I had experience bartending. She told me "no" and that **she didn't even want me in her building**. After I got off the phone, I pretty immediately felt outraged. I couldn't believe what had just happened to me.

I stewed about it for the rest of the evening and talked it over with my boyfriend. I decided that the next day I was going to file a complaint. I called the City of Topeka and spoke with Bobbi Wilkerson at the Human Relations Commission. He asked me to come down to his office and tell him what happened. After relaying to him how I was discriminated against, he told me there was nothing he could do to help me. He said he wished he could help, but sexual orientation wasn't covered. I was very disappointed. I felt that the system had failed me.

Senate Bill 285 will ensure that anytime someone experiences discrimination in employment like I did that they can get some help. I do not enjoy speaking in front of groups; however, I feel that it is important that people have a resource that I didn't because what happened to me was wrong. I urge you to support Senate Bill 285.

I did end up finding a job, and it's one I really enjoy. I was very guarded about myself when I first started working there. I didn't know what would happen if they found out I was gay. I had never experienced feeling that way before my conversation with the lady at that bar. After getting to know my new co-workers a bit, I found out that they are a pretty good bunch of people who accept me for who I am. Everyone should be able to feel that way. Please support this bill. Thank you for your time.

Jon Johnson
1118 Jane
Topeka, KS

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Senate Federal and State Affairs Committee
Hearing on S. 285
15 March 2005

Good morning. My name is Bill Beachy. I'm a member of the Topeka Human Relations Commission. I am testifying in favor of S. 285.

Earlier this year the Topeka Human Relations Commission was approached by a gay man, who I will call John Miller, saying during our public comment time that he had been discriminated against at his place of work, a large Topeka employer, because he was gay.

John said he had been harassed and had anti-gay slurs made against him over a period of several months. Anti-gay remarks like sissy and wimp and I acted like I should [wear] a skirt or sarong were made. He found three dollar bills in a public place, close to where he worked, titled "Queer Reserve Note." A representative of his employer told him he shouldn't expect his supervisor to remedy the situation, that he should confront the violator himself.

Another time, he reported, his supervisor reprimanded him for speaking out against his violator.

When John volunteered to help write an agreement on co-workers getting along, he was told it was just his perception and to let it go. He was told you're over-reacting, to calm down.

He reported that he had had a difficult time finding attorneys or other resources that could be helpful or would even hear his story.

He said he even had two witnesses to his situation.

One of my Commission colleagues told John that there is no city or state ordinance that speaks to discrimination based on sexual orientation. Our good Commission Chair told John that the Commission had to be neutral in his case. That would be the same for the state Human Rights Commission.

None of us would stand for this kind of behavior toward an employee if she was a woman or African American. It would be illegal in Topeka and in Kansas to treat someone like this at work because of his religious faith or national origin. John shouldn't have to put up with it because he is gay. Its not fair. Its discrimination.

I'm asking you this morning to pass this bill. It will give the state's Human Rights Commission the authority to investigate allegations likes John's. Thank you.

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LEAGUE OF WOMEN VOTERS® OF KANSAS

To: Chairman Brungardt and members of the Senate Federal and State Affairs Committee:
Re: SB 285, Kansas Act Against Discrimination
Date: March 15, 2005

The League of Women Voters of Kansas (LWVK) supports SB 285, The Kansas Act Against Discrimination.

The LWVK, as the state representative of the League of Women Voters of the United States (LWVUS), believes in the individual liberties guaranteed by the Constitution of the United States. The League is convinced that individual rights now protected by the Constitution should not be weakened or abridged. Further, the League's positions on Equality of Opportunity make it clear that they reference "all persons, regardless of their race, color, gender, religion, national origin, age, sexual orientation or disability".

The League joined the National Endorsement Campaign in 1992 calling for the extension of existing civil rights laws by local, state and federal legislation to prohibit discrimination against lesbians and gay men in jobs, housing and public accommodations. The League believes that the federal government shares with other levels of government the responsibility to provide equality of opportunity for education, employment and housing for all persons in the United States regardless of their race, color, gender, religion, national origin, age, sexual orientation or disability.

The LWVUS and the LWVK, in both their values and practices, affirm their belief and commitment to diversity and pluralism, which means there shall be no barriers to participation in any activity of the League on the basis of gender, race, creed, age, sexual orientation, national origin or disability. The League recognizes that diverse perspectives are important and necessary for responsible and representative decision-making. The League subscribes to the belief that diversity and pluralism are fundamental to the values it upholds and that inclusiveness enhances the organization's ability to respond more effectively to changing conditions and needs. The LWVUS and LWVK affirm their commitment to reflecting the diversity of the country within its board, staff and programs.

Janis McMillen
Janis McMillen
President

618 S. Kansas Ave., Suite B1
Topeka, KS 66603

Senate Federal & State Affairs
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WRITTEN TESTIMONY CONCERNING THE ADDITION OF SEXUAL ORIENTATION, AS A PROTECTED CLASS, WITHIN THE KANSAS ACT AGAINST DISCRIMINATION.

I, Allen H. Martin, am a resident of Lawrence, KS and currently serve as the Executive Director of the Topeka Human Relations Commission, having been appointed to this position on 12/6/04. Prior to my current position, I served as a Human Relations Specialist with the City of Lawrence, Human Relations Department from November 1997 to November 2004. (Previous to this position, I was the Human Relations Officer for the City of Manhattan, KS, Special Investigator for the Kansas Human Rights Commission and an Equal Opportunity Specialist in the United States Army. I entered the Civil Rights Profession in January 1978.) One of the functions that I performed in Lawrence, was intake of employment and public accommodation complaints.* During my tenure, intake was done on eight (8) complaints alleging discrimination based on sexual orientation. This constituted an extremely small percentage of the total complaints docketed in all categories over the same seven year period of time.

It is my understanding that most other jurisdictions that offer protection based on sexual orientation have had similar experience.

I have become deeply concerned, over my career, with the discrimination and violence visited upon this group of citizens. Virtually every scientific study that has been done on the topic of sexual orientation, has concluded that it is an immutable trait. I believe that it is unconscionable to deny a group of citizens protection of the law just as that which is enjoyed by every other protected group. This does not provide "special rights" as

*Lawrence added "sexual orientation" as a protected class, in their Human Relations Ordinance in 1995.

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is alleged in a pejorative manner by groups opposed to granting civil rights based upon sexual orientation. Notably, the only protected group that is not based upon an immutable trait, is religion. Religion is the basis upon which most opposition is cited. Many religions, however, do not endorse the proscriptions of other denominations, and indeed welcome people regardless of sexual orientation, in an open and affirmative manner.

It should be self evident that protections based upon sexual orientation ought to be included within the Kansas Act Against Discrimination. The cries from religious zealots who quote scripture should be disregarded even if you believe those scriptures on a personal level. The only "scripture" with relevance is the Constitution of the United States, with it's First Amendment protections. We don't stone our citizens for violating the Sabbath. Neither should we deny the basic civil rights of any minority group of citizens to due process and protection under the law.

Respectfully Submitted,

Allen H. Martin

MES E. BUTLER, Chairman
MANHATTAN
DAVID A. HANSON
TOPEKA
BRENDA C. JONES
KANSAS CITY
ERROL V. WILLIAMS
TOPEKA
DEBORAH A. WHEELER
EMPORIA
BETH M. BRADRICK, Ph.D.
PITTSBURG
LOU ANN THOMS
TOPEKA



K A N S A S

KANSAS HUMAN RIGHTS COMMISSION

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**TESTIMONY OF THE KANSAS HUMAN RIGHTS COMMISSION
REGARDING
S.B. 285
MARCH 15, 2005**

Staff Attending Hearing: William V. Minner, Executive Director
Brandon L. Myers, Chief Legal Counsel
Ruth Glover, Assistant Director

S.B. 285 proposes to amend the Kansas Act Against Discrimination (K.S.A. 44-1001, et seq., hereinafter referred to as "KAAD") to add provisions prohibiting discrimination on the basis of "sexual orientation" with regard to employment, housing and public accommodations. S.B. 285 defines "sexual orientation" as "actual or perceived heterosexuality, homosexuality or bisexuality".

The Kansas Human Rights Commission (hereinafter referred to as "KHRC") is responsible for administering and enforcing the provisions of the KAAD. KHRC is committed to its mission of preventing and eliminating discrimination and segregation in the State of Kansas and opposes discrimination which prevents individuals from obtaining employment for which they qualify, or that prevents persons from obtaining housing and the services of public accommodations which they can afford. KAAD sets forth several impermissible considerations (for example, race, sex, color, ancestry, national origin, religion, disability, genetic screening/testing results, retaliation (and age, per the Kansas Age Discrimination in Employment Act)) which generally cannot form the basis for adverse employment decisions. Similar prohibitions exist as to decisions regarding housing or provision of goods and services of a place of public accommodation, although age and genetic testing/screening prohibitions only apply to employment and there are additional prohibitions against discrimination in housing on the basis of familial status. The current bill would expand the list of impermissible considerations from which individuals would be protected in this regard.

Federal employment laws, specifically Title VII of the Civil Rights Act of 1964, and the federal Fair Housing Act, do not prohibit discrimination based on sexual orientation. Federal civil rights laws do not protect against discrimination based upon sexual orientation in regard to public accommodations.

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The City of Lawrence, Kansas, currently prohibits discrimination based upon sexual orientation. We are not aware of other Kansas municipalities that provide such protection. However, various local governmental entities have policies or ordinances prohibiting sexual orientation discrimination in their own employment practices.

The neighboring states of Colorado, Missouri, Nebraska, and Oklahoma do not have statutory provisions prohibiting discrimination based on sexual orientation.

Based upon our research, at least twelve states (California, Connecticut, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Vermont, and Wisconsin) and the District of Columbia have some type of statutory prohibition on discrimination based upon sexual orientation in the areas of employment, public accommodation, and/or housing.

KAAD, as currently composed, constitutes a statement of the public policy of Kansas which disfavors discriminatory conduct. Should the Legislature and Governor choose to expand the public policy of the State of Kansas as proposed by S.B. 285, the Commission stands ready to enforce the provisions of the bill, subject to the proviso that there is an expansion of budget and personnel resources provided to KHRC to handle anticipated increases in the number of complaints filed with KHRC, as more fully set out in the Fiscal Note accompanying S.B. 285. Although KHRC did not seek the introduction of the bill, KHRC would not oppose its adoption in light of the above.

In previous years the Legislature has been reticent to expand the duties of KHRC based upon concerns over the large number of discrimination complaints open and pending investigation by KHRC. This "backlog" of complaints has been reduced by KHRC to the point that it is essentially no longer an issue. With fairly minimum expansion of resources, KHRC believes it could implement the provisions of S.B. 285 without significant concerns that the new provisions would return the agency to the days of an extensive backlog of cases. However, it is impossible to predict with absolute certainty, the number of complaints that might be filed based upon these new provisions in the law, so that would have to be monitored and addressed through the budget process as appropriate in the future. As with any expansion to the KAAD, we can be fairly certain that complaints testing the legislation will be filed and will need to be processed, placing demands on agency resources and personnel.

It is noted that H.B. 2416 is a similar bill filed this session in the House of Representatives. KHRC believes it is helpful that S.B. 285 has a specific definition of "sexual orientation." Such a definition is not contained within H.B. 2416 and in KHRC's response to a request for input for a Fiscal Note, KHRC suggested such a definition should be contained within H.B. 2416. KHRC would therefore favor S.B. 285 over the current version of H.B. 2416 based upon this provision.

BEFORE THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS
 The Honorable Pete Brungardt, Chairperson
 Statehouse, Room 231 North
 Topeka, Kansas
 March 15, 2005

TESTIMONY OF FRED W. PHELPS, SR.

I'm Fred Phelps of Topeka, Kansas. It is a privilege to appear before this distinguished committee. I oppose SB 285, which would amend the Kansas Act Against Discrimination to include sexual orientation.

There is no demonstrated need or justification for SB 285; just the opposite

Homosexuals are not discriminated against in any area where government may grant relief: housing, jobs, public accommodation. They are only discriminated against in matters of religion – when ministers declare their conduct sinful.

Indeed, they have the finest housing, the best jobs, and the motel/restaurant industry competes for their business from coast to coast – because their income is three times the national average – their disposable income four times.

Topeka gays conducted three studies recently seeking proof of discrimination in housing, jobs and public accommodation. They failed. The last such effort – titled, “Study of Discrimination in Topeka” – was completed July 16, 2002. Tiffany Muller helped conduct the study. (See, attached). Though thousands responded, NOT ONE case of discrimination against gays in housing, jobs or public accommodation was found.

As late as the famous Phelps vs. Irigonegaray debate sponsored by Washburn Law on Nov. 19, 2003, NOT ONE such case of discrimination had yet been found. (See, attached).

They want SB 285 as governmental validation of their sins – and to intimidate

One might ask why homosexuals want SB 285 – since there is no such discrimination against them. Homosexuals long for validation of their sins. They will use SB 285 as a weapon to intimidate employers, landlords and the populace generally to give lip service acceptance and respectability to that which the Lord God calls abomination: “Thou shalt not lie with mankind as with womankind; it is abomination.” Lev. 18:22.

SB 285 “frameth mischief by a law.” Psa. 94:20. Dr. King said a law that violates God’s moral law is a bad law. Puritan preacher John Owen addressing Parliament on this subject said: “Remember, my lords, the Destroyer of Sodom is not dead.” In a democracy the people are the government. We the people here don’t want our government to legitimize homosexual sin. We the people here don’t want SB 285.

Respectfully submitted,
 Fred W. Phelps

Senate Federal & State Affairs
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WASHBURN UNIVERSITY
School of Applied Studies

July 16, 2002

Roy W. Menninger, Chairman
Concerned Citizens For Topeka
1248 SW Buchanan Street
Topeka, KS 66604

Dear Dr. Menninger -

The research team of Dr. Richard B. Ellis, Dr. Michael Birzer, Ms. Tiffany Muller, Ms. Renee Kahler, and Mr. Travis Barnhart respectfully submit our final report, "A Study of Discrimination in Topeka", undertaken in response to your request in the fall of 2001.

As you will see from this report, significant discrimination exists in the city of Topeka. Since this study was meant to be descriptive in nature, it precludes any predictive analysis. However, analysis of the data makes clear that discrimination is a major problem for the citizens of this city. We hope this study will contribute to efforts to mitigate that problem and improve the social and emotional climate of the city.

Thank you for the opportunity to work on this critical problem.

Sincerely,

Richard B. Ellis, Ph.D.
Human Services Department

Michael Birzer, Ph.D.
Criminal Justice Department

Study of Discrimination in Topeka

By

Richard B. Ellis, Ph.D.
Associate Professor Human Services

Michael Birzer, Ph.D.
Assistant Professor Criminal Justice

Tiffany Norris-Muller, BAS
Human Services

Renee Kahler, BAS
Human Services

Travis Barnhart, Student
Social Work

Westboro Baptist Church

(WBC Chronicles - Since 1955)

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November 22, 2003

Mr. Pete Goering

Mr. Jim Cates

Mr. Chris Moon

TV-13

TV-27

And if there be any other media attending the Nov. 19 WU debate

Dear Friends:

I am herewith providing each of you with documentation from the WU "Study of Discrimination in Topeka" (hereinafter referred to as the "Study").

The Study was commissioned and paid for by Pedro's side in the debate -- not mine. Pedro vouched for the Study before the City Council, personally passing a copy to each member of the Council in support (he said) of the Ordinance Pedro pushed for and lost by vote of the Council Sept. 11, 2002.

Therefore the Study's statistics which I quoted at the debate constitutes Pedro's evidence -- not mine. I only borrowed Pedro's statistics -- Pedro's evidence if you will -- because Pedro's only evidence proves there is zero discrimination against homosexuals in Topeka in matters of jobs, housing and public accommodation.

Enclosed please find: 1) cover letter dated July 16, 2002, showing who did the Study and for whom it was done; 2) first page of Executive Summary, showing 18,000 surveys were mailed out and nine town hall meetings were held; 3) second page of Executive Summary, showing that of the 1633 responses, only 144 pertained to sexual orientation; and, 4) Appendix D, Qualitative Data Regarding Sexual Orientation, showing that of the 65 sexual orientation responses quoted from, 48 (74%) were complaints about Westboro Baptist Church and her pastor, about half of the remaining 17 were complaints by straight people about homosexuals discriminating against them, and NOT ONE legally cognizable complaint by a single homosexual of discrimination in jobs, housing or public accommodation in Topeka.

If any of you want a copy of the full Study report, I will give you one promptly upon request. Thank you for your interest in this matter. With kindest personal regards and best wishes, I remain,

Sincerely yours in Christ.



Fred W. Phelps
Pastor

Encls. 3 sheets, as indicated

11-5

Special Thanks To:

Pastor Fred Phelps and his staff
Pedro L. Irigonegaray and his staff

WSBA would like to give Special Appreciation and thanks to the following, for this event would not have been possible without their help and coordination:

Tom Ellis
Dean Carol Vizzier
Memorial Union Administration Staff
The Entire Washburn Student Bar Association
Washburn Law Democrats

WSBA Debate Committee — Kevin Barone, Levi Henry, Dionna Mitchell, Jeff English, Kelly McDonald, and Vanessa Smith, along with all of the law students who volunteered their time to help with the event.

Thank you to all of the sponsors of the Policy Debate:

Kansas Senate Democrats
Kansas House Democrats
Kathy and Whitney Damron
LegisTrak Consulting
Westlaw
Hein Law Firm
Tuck Duncan
Capital Center Inn
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Woody Moses

WASHBURN LAW POLICY DEBATE

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WEDNESDAY
NOVEMBER 19, 2003
7:00 PM

WASHBURN MEMORIAL UNION BALLROOM A
WASHBURN UNIVERSITY
TOPEKA, KS



P. 05

FAX NO.

MAR-14-2005 MON 02:15 PM



PASTOR FRED PHELPS

Fred Phelps was born Nov. 13, 1929, in Meridian, Mississippi. Graduated Meridian High at 16 with highest academic honors, American Legion Citizenship Award, track letter, Bausch-Lomb Science Award, Eagle Scout, Principal Appointment to West Point Military Academy. The summer following graduation, he had a profound religious experience, gave up West Point, enrolled instead for Bible/ministerial training at Bob Jones College, Cleveland, Tennessee (later moving with them as they transitioned to Bob Jones University, Greenville, South Carolina). Ordained by the Southern Baptists Sept. 8, 1947. Met his wife, Margie M. Phelps, in 1951 while preaching at the Arizona Bible Institute in Phoenix, Arizona. Their marriage May 15, 1952 has been blessed of God with 13 children, 52 grandchildren (to date) and one great-grandchild (to date). Has served as Pastor of Westboro Baptist Church in Topeka, Kansas, since Nov. 1955. WBC has conducted more than 22,000 picketing demonstrations across America and some foreign countries during the past 12 years — aimed at showing Americans their transgression (Isa. 58:1) and causing America to know her abominations. Ezek. 16:2. Mr. Phelps is a graduate of Washburn University School of Law.



PEDRO L. IRIGONEGARAY

Pedro Irigonegaray was born in Havana, Cuba in 1948, and at the age of 12, in 1961, immigrated with his mother to the United States as political refugees. Weeks later, his two sisters, ages three and seven, came separately, followed by his father in March of 1961. He was raised in Topeka, Kansas. He graduated from high school at Kemper Military Academy in Boonville, Missouri, in 1966. He earned an Associate of Arts Degree from Kemper Military Academy in 1968, a Bachelor's Degree in Business Administration and Economics from Washburn University in 1970, and his Juris Doctor from the Washburn University School of Law in 1973. Upon graduation from law school and successful completion of the Kansas and Florida bar examinations, Mr. Irigonegaray began the private practice of law. Mr. Irigonegaray was appointed in 1999 to serve on the Topeka Race Relations Council and he was also the 2001-2002 President of the Kansas Trial Lawyers Association.

THE PANEL:

Jim Cates, Panelist

Jim Cates is the host of The Jim Cates Show, a local radio program on 1440 am. He has been with the radio station for six years. Formerly Mr. Cates was the Chairman of the Kansas Lottery. Before that he served as a Kansas State Senator for one term and as a Kansas State Representative for two terms, from 1989-1992. Mr. Cates is a Topeka resident of 28 years.

Pete Goering, Panelist

Pete Goering is the local columnist for the Topeka Capital-Journal and has worked been with the newspaper for 31 years. Mr. Goering, a 1970 Kansas State University graduate, has held the positions of sports editor, managing editor at executive editor at the Capital Journal. He is a member of the Ichabod Club board of directors and was a member of the Moore Bowl Renovation Steering Committee.

David Ryan, Moderator, Professor of Law, Washburn University

Professor Ryan is a 1964 graduate of Washburn University and a 1966 graduate of the Washburn University School of Law. He received his L.L.M. from the George Washington School of Law in 1968. Professor Ryan has practiced at all levels of Kansas state and federal courts and in the United States Supreme Court. He has written six books including *Kansas Administrative Law with Federal References*, *Vernon's Kansas Criminal Code Annotated* and *Code of Criminal Procedure*. Professor Ryan is Chair of the Administrative Law Committee of the Kansas Judicial Council and a member of the Kansas Bar Association (KBA) Journal Board of Editors. Professor Ryan serves as Counsel to the Topeka Metropolitan Transit Authority and Chair of the Kansas Criminal Ombudsman Board. He was a member of the Community Resources Council Board and also serves as President of the Friends of Topeka Library Board.

Bob Eye, Panelist

Bob Eye is an attorney engaged in private practice with Irigonegaray & Associates in Topeka, Kansas. Mr. Eye specializes in both criminal defense and the representation of plaintiffs in civil cases. He earned Bachelor's and Master's degrees in Political Science from Kansas State University and a Juris Doctor degree from the Washburn University School of Law. Mr. Eye resides in Lawrence, Kansas.

Levi Henry, Panelist

Levi Henry is a second year law student at the Washburn University School of Law. Mr. Henry is a 2001 graduate of Kansas State University and is originally from Hulton, Kansas. He is the Vice-President of the Washburn Law Democrats, Second Vice-President of the Kansas Young Democrats, and a Representative for the Washburn Student Bar Association.

Dee Ann Woodson - My words for the hearing tomorrow morning on Senate Bill 285

From: "Shirley Phelps-Roper" <slpr@cox.net>
To: <DeeAnnW@senate.state.ks.us>
Date: 3/14/2005 2:58:38 PM
Subject: My words for the hearing tomorrow morning on Senate Bill 285

Thanks - if you have any questions - feel free to call me at 273.0277 or 640.6334. Thanks!

My name is Shirley Phelps-Roper

Thank you for allowing these comments.

This proposal Senate Bill No. 285 begins with a blasphemous, sacrilegious pronouncement, scarcely equaled on earth since Nebuchadnezzar thumped his chest in defiance of God, and boasted: "Is not this great Babylon, that I have built by the might of my power, and for the honor of my majesty?" Dan. 4:30.

Have you read this thing? **"Be it enacted by the Legislature of the State of Kansas:"** . . . **"The practice or policy of discrimination against individuals . . . by reason of . . . sexual orientation is a matter of concern to the state. . ."** **WHY is it a matter of concern to the state?** What business is it of the state's to meddle in matters that pertain to the LORD YOUR GOD?!

If you pass this thing, declaring it to be the policy of the state to eliminate discrimination against homosexuals – beside the FACT that there is none, you need to understand that it is the eternal policy of God Almighty, and all His holy saints and angels in Heaven, and all His people and His churches on earth to discriminate against homosexuals.

Your new policy will be the policy of Hell and his majesty the Devil.

Homosexuality is a monstrous sin, and those who practice it are monstrous sinners. YOU can't change that!!

It is the solemn duty of all mankind to make a sharp distinction, every day, between right and wrong, and to do what's right. That, is a form of discrimination. It is obviously impossible to do what's right without first performing the holy duty to discriminate between right and wrong. The alternative is anarchy.

Here is the problem that this committee and this Senate must face: These rabble-rousers don't want to concede or admit that their conduct is sinful. They want you as government to pass a law declaring that their conduct is NOT sinful. That is *ultra vires* – out side your powers. It is blasphemous for you to pretend that you can do so. You

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blaspheme God!

All the dietary code of Moses was to make this point: Put a distinction – discriminate – between the clean and the unclean. Eat ONLY the clean. The law of the leper was to make this point. Some people have leprosy – some don't. Make a distinction – that is – discriminate. The leper must cover his head as he approached people, and cry, Unclean, Unclean!

The prophets were told that if they were unwilling to take forth the precious from the vile – discriminate between truth and error – they could not speak for God: “And if thou take forth the precious from the vile, thou shalt be as my mouth!” Jer. 15:19. The Hebrew Christians were told that they must, “by reason of use have their senses exercised to discern both good and evil.” Heb. 5:14.

This committee – like King Uzziah, who was smitten with leprosy for his usurpation – is intruding into the things of God, where this committee has absolutely no business!! “It appertaineth not unto thee, Uzziah, to burn incense unto the Lord.” 2 Chron. 26:18. It appertaineth not unto this legislative body, to declare it the policy of this state to eliminate discrimination against those whom God has declared to be monstrous sinners, and whom God has ordered all mankind to discriminate against – homosexuals.

If you follow the commandments of that God that created you, and is the only being that can send you to hell for eternity, all these issues are blessedly simple. Behold, I set before you this day a blessing and a curse; A blessing, if ye obey the commandments of the LORD your God, ... And a curse, if ye will not obey the commandments of the LORD your God, ... Deut. 11: 26-28

If I whet my glittering sword, and mine hand take hold on judgment; I will render vengeance to mine enemies, and will reward them that hate me.” Deut. 32:41 John Gill, authoritative 17th century expositor on the whole Bible says this about that: His enemies that hate him, and will not have him to rule over them, are the followers of antichrist. You hate God and oppose his kingly office, taking upon yourselves to exercise dominion and tyranny over the consciences of men, making new laws to impose on them, and dispensing with the laws of Christ.”

One final note – the very bringing up of this issue LIKE IT IS OPEN FOR DISCUSSION is what will take your souls to hell!

Thank you!

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BEFORE THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS
The Honorable Pete Brungardt, Chairperson
Statehouse, Room 231 North
Topeka, Kansas
March 15, 2005

TESTIMONY OF MEGAN PHELPS-ROPER

I'm Megan Phelps-Roper, and I oppose Senate Bill 285. Thank you for allowing me to give testimony.

Homosexuality is an atrocious sin, along with the acceptance of it. I think Sodom and Gomorrah. Here are some dangers of homosexual sex:

- Significantly higher percentages of homosexuals abuse drugs and alcohol. (Medical Institute for Sexual Health)
- Homosexuals have vastly more sexually transmitted diseases. Young homosexuals are 23 times more likely to contract STD's than young heterosexuals. (Mireya Navarro, "Federal Officials See Sharp Rise of Hepatitis Among Gay Men," The New York Times, March 6, 1992; American Adolescents: How Healthy Are They?, p. 31, American Medical Association, 1990).
- Young homosexuals are 7 times more likely to attempt suicide. (Remafedi, Gary & French, Simone. "The relationship between suicide risk and sexual orientation: Results of a population-based study." *American Journal of Public Health* 88 (1): 57-60, 1998).
- The life expectancy of homosexuals is 43 years - over 30 years less than the national average. (Cameron, P., Playfair, W.L. & Wellum, S. [1994]).

Part of the bill before you today reads "[D]iscrimination against individuals...by reason of...sexual orientation...is a matter of concern to the state." Shouldn't the health and welfare of its citizens be a matter of concern to the state? Should the state be endorsing, promoting, and putting its stamp of approval on a *behavior* with such dire consequences as the ones I've mentioned today? You are government officials, elected by the citizens of Kansas to serve them appropriately; you do your constituents a disservice when you put their physical, mental, and emotional health on the chopping block, on the altar of appeasing a small group whose only goal is to push their filthy lifestyle, regardless of the consequences for the rest of Kansas.

Why not just pass a law making a protected class out of children who want to drink and do drugs? They would also be a class defined by sinful conduct. That wouldn't be nearly as bad as the law you are considering today. And remember - alcoholics and drug addicts say they can't help it - just like homosexuals.

Thank you.

Respectfully Submitted,

Megan Phelps-Roper

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Homosexuality is High Risk for Physical, Mental and Emotional Problems

- One study found that the life expectancy of homosexuals is 43 years. Cameron, P., Playfair, W.L. & Wellum, S. (1994). "The longevity of homosexuals: Before and after the AIDS epidemic." *Omega* 29, 249-272. This study has been sharply criticized by homosexual activists, with healthy doses of attacks on Paul Cameron, particularly after former Education Secretary William Bennett referred to this study in several public statements. See, for instance, Sullivan, A. (1998, January 5). "False Bennett: Gay bashing by the numbers." *New Republic*, page 15. However, the 14th International AIDS Conference in Barcelona opened with the release of a study showing that the AIDS pandemic would cause a decline in life expectancy in 51 countries in the next two decades. Information released the same day indicated that data from 25 U.S. states suggested that the number of new cases of HIV infection had stabilized since 1998. However, experts noted that this study could not ensure a permanent or prolonged plateau in new cases because the latest count is only complete through 2000, and, more important, because California, New York and Florida, each with large numbers of HIV-infected people, were not included in the sample. The study ending in 2000 also found alarming rates of unprotected sex during the previous six months by practicing homosexuals. All of this information indicates that impact on life expectancy is a very real part of the homosexual lifestyle.
- Homosexual men are at significantly increased risk of HIV/AIDS, hepatitis, anal cancer, gonorrhea and gastrointestinal infections as a result of their sexual practices. Medical Institute for Sexual Health.
- Homosexual behavior accounts for a disproportionate number of sexually transmitted diseases. Mireya Navarro, "Federal Officials See Sharp Rise of Hepatitis Among Gay Men," *The New York Times*, March 6, 1992.
- 65 percent of all reported AIDS cases among males since 1981 have been men engaged in homosexual behavior. Center for Disease Control, HIV/AIDS Surveillance Report, Vol. 9, No. 2, May 1998.
- The 2002 update reported by the Center for Disease Control indicates that 62% of known HIV cases involve men who have had sex with other men, and an additional 8% of those cases involve men who have had sex with other men and use intravenous drugs. Thus, 70% of known HIV cases involve homosexual men. And, another alarming finding is reported: only 1/4 of homosexual men with HIV get tested or discovered before the disease progresses into full blown AIDS. Therefore, the number of homosexual men who have HIV is potentially staggeringly high.

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- Homosexual youth are twenty-three times more likely to contract STD's than heterosexuals. American Adolescents: How Healthy Are They?, p. 31, American Medical Association, 1990.
- At least nine separate studies done since 1990 have found that homosexual youth have significantly higher rates of suicide. (Ferguson, David, et al., "Is Sexual Orientation Related to Mental Health problems and Suicidality in Young People?" *Archives of General Psychiatry* 56 (10): 876-880, 1999; Garofalo, Robert. Wolf, Cameron. "The Association Between Health Risk Behaviors and Sexual Orientation Among a School-based Sample of Adolescents." *Pediatrics*; v101 n 5 p 895-902, 1998; Remafedi, Gary & French, Simone. "The relationship between suicide risk and sexual orientation: Results of a population-based study." *American Journal of Public Health* 88 (1): 57-60, 1998; Faulkner, Annie H. & Cranston, Kevin. "Correlates of same-sex sexual behavior in a random sample of Massachusetts high school students." *American Journal of Public Health* 88 (2): 262-66, 1998; Hershberger, Scott L., & Pilkington, Neil W. "Predictors of suicide attempts among gay, lesbian and bisexual youth." *Journal of Adolescent Research* 12 (4):477-97, 1997; Jordan, Karen M., Vaughan, Jill S., & Woodworth, Katharine J. "I Will Survive: Lesbian, Gay and Bisexual Youths' Experience of High School." *Journal of Gay and Lesbian Social Services* 7, 4, 17-33, 1997; Schaffer, David & Fisher, Prudence. "Sexual Orientation in Adolescents Who Commit Suicide." *Suicide and Life Threatening Behavior* 25, supplement, 64-71, 1995; Proctor, Curtis D. & Groze, Victor K. "Risk factors for suicide among gay, lesbian and bisexual youths." *Social Work* 39 (5): 504-13, 1994; Rotheram, Borus & Mary J., et al. "Suicide Behavior and Gay-Related Stress Among Gay and Bisexual Male Adolescents." *Journal of Adolescent Research* v9 n 4 p498-508 October 1994.)

Comparing sexually active youth, Faulkner's study found 42% of the homosexuals reported having attempted suicide, compared to 27% of the heterosexual students. Fergusson found 32% of the homosexual youth reporting attempts, compared to 7% of the heterosexuals. A similar gap was found in Garofalo's study, with 35% of homosexuals reporting attempts, compared to 10% of heterosexuals. Remafedi found 28% of males compared to 4% of males, and 20% of females compared to 14% of females.

- There is a high degree of destructive behavior among homosexuals, including alcohol, drug abuse and emotional and physical violence. Robert Garofalo, et al, "The Association Between Health Risk Behaviors and Sexual Orientation Among a School-based Sample of Adolescents," *Pediatrics*, 101 pp 895-902 (1998).
- 1999 FBI data on crimes reflects that homosexuals have a 50,000 percent greater risk of being the victim of a "love" crime than a "hate" crime. The

numbers show only 1317 reported "hate crime" offenses against victims of sexual orientation compared to 650,000 incidents of domestic violence between male homosexual couples in 1998.

- The Streetwork Project Study of 1991 found that 42 percent of the homeless were homosexual.
- A 2001 study by the Sexual Health Unit at Alice Springs Hospital in Australia found that lesbians have higher rates of bacterial vaginosis and hepatitis C, related to higher rates of smoking and oral sexual practices.
- Significantly higher percentages of homosexual men and women abuse drugs, alcohol and tobacco than do heterosexuals. Medical Institute for Sexual Health.
- 10 facts about homosexual men according to the Gay and Lesbian medical Association in a press release issued through *Gay Wired* on June 10, 2002:
 - Men having sex with men are at increased risk of HIV infection, a fact that is "well known." Also, the last few years have "seen the return of many unsafe sex practices."
 - Homosexual men use substances at a higher rate than the general population. This includes amyl nitrate ("poppers"), marijuana, Ecstasy and amphetamines.
 - Depress and anxiety effect homosexuals at a higher rate than the general population.
 - Men having sex with men are at an increased risk of sexually transmitted infection with the viruses that cause the serious condition of the liver known as hepatitis, which can lead to cirrhosis and liver cancer.
 - Sexually transmitted diseases occur in sexually active homosexuals at a high rate. This includes STD infections for which treatment is available (syphilis, gonorrhea, chlamydia, public lice) and those for which there is no cure (HIV, Hepatitis A, B, or C virus, Human Papilloma Virus).
 - Homosexual men are at risk for death by prostate, testicular or colon cancer.
 - Homosexual men have higher rates of alcohol dependence and abuse than heterosexual men.
 - Homosexual men use tobacco at much higher rates than heterosexual men, reaching nearly 50 percent in some studies. Tobacco-related health problems include lung disease, lung cancer, heart disease, high blood pressure and a host of other serious problems.
 - Homosexual men are more likely to experience and eating disorder such as bulimia or anorexia nervosa, and overweight and obesity affect a large subset of the homosexual community.
 - Homosexual men are at risk for human papilloma virus, which causes anal and genital warts, and plays a role in increased rates of anal cancers.

BEFORE THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS
The Honorable Pete Brungardt, Chairperson
Statehouse, Room 231 North
Topeka, Kansas March 15, 2005

TESTIMONY OF REBEKAH L. PHELPS-ROPER

My name is Rebekah Phelps-Roper. Thank you for allowing me to address this committee.

I am opposed to Senate Bill 285. I will focus my comments on the dangers that homosexuals pose to society.

Almost 14 years ago, after homosexuals attempted to lure several of our young boys into the bushes of Topeka's Gage Park, members of Westboro Baptist Church took to the sidewalk at the corner of 10th and Gage to protest the homosexual takeover of Gage Park.

This propositioning of the little boys of our church is not an isolated incident. Studies prove that homosexuals make up 1 to 3% of the population, but account for 20 to 33% of pedophiles.

This should cause all of us to gasp in horror. Instead, you are considering a law that would give these homosexual pedophiles protection. Shame on you!

Respectfully submitted,
Rebekah L. Phelps-Roper

Senate Federal & State Affairs
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RANKING MINORITY MEMBER:
JUDICIARYMEMBER:
HOUSE RULES AND JOURNAL
TRANSPORTATION
JOINT HOUSE AND SENATE COMMITTEE
ON JUVENILE JUSTICE AND CORRECTIONS
OVERSIGHT
JOINT HOUSE AND SENATE COMMITTEE
ON ADMINISTRATIVE RULES AND
REGULATIONS
JOINT HOUSE AND SENATE COMMITTEE
ON REDISTRICTING

KANSAS SENTENCING COMMISSION



TOPEKA

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REPRESENTATIVES

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WRITTEN TESTIMONY ON
SB285Before the Federal and State Committee
March 15, 2005

Chairperson Brungardt, Vice-Chair Reitz, and Ranking Minority Hensley and members of the Senate Federal and State Committee

I apologize that I did not realize this bill was set for hearing. I do look at the Senate Calendar, but usually only the Judiciary Committee schedule. Today about 11:30 am I realized you'd had a hearing on this bill. Your chairperson graciously allowed me to submit my testimony on this bill as you have not yet worked it.

This bill would represent a major policy shift in the law of Kansas. This bill is fraught with the danger of increased litigation and would truly be a nightmare of unintended consequences. Businesses could be hit with fines of up to \$50,000 when it appears that a discriminating housing practice is about to occur. Not only is "sexual orientation" a poorly defined class but is not a readily perceived class. The definition of sexual orientation in this bill is "actual or perceived heterosexuality, homosexuality or bisexuality". I am not sure exactly how one discriminates based on actual or perceived heterosexuality, let alone homosexuality or bisexuality. Additionally, basing litigation on a "perception" of something is very difficult. Currently the only protected classes of individuals in Kansas (or by Federal law also) are those of: race, religion, color, sex, disability, natural origin, ancestry, (or in housing by reason of familial status which means having a child under 18 living with a parent) or age. Age discrimination is prohibited by the Kansas Age Discrimination in Employment Act, so "age" is not a protected class except in employment cases. The Kansas Act against Discrimination states that it "shall be deemed an exercise of the police power of the state for the protection of public welfare, safety, health and peace of the people of this state".

The existing Act against Discrimination states also that "such discrimination threatens not only the rights and the privileges of the inhabitants of the state of Kansas" but "menaces the institutions and foundations of a free democratic state". The act gives "civil rights" to these groups. Civil rights given to these protected classes under this existing act include:

(1.) Under KSA 44-1030 (page 17 of the bill) any contractor with the state, a county, a city, a school, etc. must agree to not discriminate against those protected classes. Failure to comply means the contract is terminated.

(2.) The Human Rights Commission currently:

a. investigates complaints, subpoena witnesses, takes depositions and goes to District Court to compel testimony and punish by contempt orders failure to obey a court order,

b. prepares a comprehensive educational program for "the public schools of this state... to emphasize the origin of prejudice against such groups, its harmful effects and its incompatibility with American principles of equality and fair play",

c. sets up advisory and conciliation councils, locally, regionally, or statewide to study and eliminate instances of discrimination,

d. issues publications to prevent discrimination, and

e. takes action by the Commission or by the district court:

1. Any person claiming to be aggrieved in all discrimination but housing discrimination files a complaint which is investigated by the commission or local agency. If the matter is not resolved by the commission or in lieu of the hearing by the commission, a civil action may be filed in court by an election by the aggrieved person. The court may award actual or punitive damages and attorney fees (see KSA 44-1021).

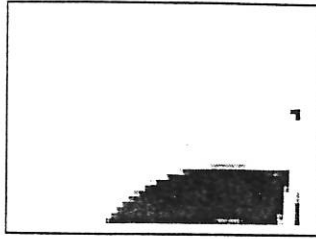
2. KSA 44-1019 allows an award by the Commission in housing discrimination for actual damages, including pain, suffering and humiliation. A civil fine may also be assessed, for a first offense of \$10,000.00, a second offense \$25,000.00, and a third offense of up to \$50,000.00. (KSA 44-1019 is not in your bill although it is part of the Act Against Discrimination.)

There are many other rights granted to aggrieved individuals under the Kansas Act Against Discrimination. The fiscal note for this bill indicated a cost of \$93,432 for FY 2006, to add two full time positions and the rest of the cost to revise the database. The cost for staff would be an

ongoing cost. The fiscal cost does not reflect the cost to individuals or businesses which would face the costs of litigation and inquiry by the commission. As the definition of "sexual orientation" in this bill reflects "actual or perceived heterosexuality, homosexuality, or bisexuality" a complaint could be made based on what the complainant believes the employer thinks about the complainant's sexual orientation. No other protected class is defined by the perception of the offender as viewed by the complainant. Also, I am puzzled by the fact that as a heterosexual one could file a complaint based on another's discrimination against the heterosexual based on the offender's actual or perceived belief about the complainant's heterosexuality.

This bill will be a dream bill for some attorneys especially as the District Court can award attorney fees in such cases as a housing case if it even appears that a discriminatory housing practice is about to occur. (KSA 44-1021(D)(4)).

I would urge the committee not to pass this bill. It grants an incredible amount of protection to a poorly defined group. The bill would increase litigation and investigations, without actually furthering the State of Kansas's goal of protecting its citizens who actually need protection against discrimination.



March 22, 2005

Members of the Committee:

We would like to present our position on S 285 for the record. CWA of Kansas is opposed to adding sexual orientation to discrimination statutes. Discrimination laws have traditionally been based upon immutable characteristics such as gender, age, ethnicity, race, handicaps...all things that are clearly visible and unchangeable. There must be demonstrable economic effect based on those immutable characteristics in order for it to qualify as discrimination.

In the case of sexual orientation, the proposed addition to discrimination statutes is based on a *behavior*. This is a dangerous precedent. People who choose the lifestyle of homosexuality are not suffering discrimination in the same way that those who cannot change their appearance, their disability or their gender. There is no demonstrable economic loss based upon their choice of lifestyle.

Recent ordinances have shown that that the next step in this process will be real or perceived "gender identity;" in other words, everyone will have to be a mind reader to know what another person's perceived or real "gender identity" is. Fortunately this premise did not pass, but it shows how radical this agenda is.

Those who choose the lifestyle of homosexuality are already protected by the U.S. and Kansas Constitutions. They enjoy the same rights as any other citizen. They do not need special rights based upon behavior.

We urge you to consider these facts in working this bill.

Judy Smith, State Director, Concerned Women for America of Kansas
Marsha Strahm, Legislative Liaison, CWA of Kansas

Senate Federal & State Affairs
Committee

3-15-05
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