

SB 101
Committee on Judiciary
WRITTEN TESTIMONY
February 9, 2017
SUPPORT

Chairman Wilborn and Members of the Committee:

This testimony is on behalf of the Kansas Coalition Against Sexual and Domestic Violence (KCSDV). KCSDV is a statewide nonprofit organization whose membership is made up of 27 sexual and domestic programs serving victims across the state of Kansas.

According to the latest report by the Kansas Bureau of Investigation (KBI), a rape occurs in Kansas every seven hours and thirty-six minutes.¹ That estimate only includes those instances that are reported to law enforcement and we know sexual assault is one of the most underreported crimes.

Despite whether a victim reports their assault to law enforcement, victims still want to feel safe and many want protection from further interaction with their perpetrator. Often, victims are told by their friends, family, or even school to go seek a protection order for their safety. Unfortunately, there is no civil protective order remedy for a victim of sexual assault in Kansas unless the perpetrator is either an intimate partner or household member or the perpetrator has committed at least two separate acts that place the victim in emotional distress (stalking).

Many victims are not sexually assaulted by an intimate partner or household member. There is a “protection gap” in Kansas. SB 101 would amend the Protection from Stalking Act to provide victims of sexual assault with the same protection available to victims of stalking, such as: ordering the defendant to have no communication with the victim; prohibiting the defendant from following the victim or going around the victim’s home; and granting the court authority to provide any other actions deemed necessary to protect the safety of the victim.

Additionally, when victims are sexually assaulted by an intimate partner, household member or in a dating relationship, it has been unclear whether the definitions in the Protection from Abuse Act would actually cover an act of sexual violence. Recent case law in Kansas has indicated that “rape” is “bodily injury” for purposes of Kansas law.² KCSDV believes SB101’s amendment to the PFAA would make this protection more readily available to victims.

¹ *Kansas Bureau of Investigation, “Domestic Violence, Stalking, and Rape in Kansas As Reported by Law Enforcement Agencies, 2015.”*

² *Kerry G. v. Stacy C.*, No. 114757, 2016 Kan. App. LEXIS 66 (Dec. 9, 2016).

Currently, at least thirty states have some sort of protection order available for victims of sexual assault. KCSDV supports SB 101, it would provide a civil protection order for victims of sexual assault in Kansas regardless of the prior relationship with the defendant.

Suggested Amendments:

Further, to ease confusion and make clear that the definition of "sexual assault" is separate from the definition of "course of conduct" (which would require at least two separate acts that would cause a reasonable person to suffer substantial emotional distress), KCSDV recommends that the definition of "sexual assault" found in subsection (e) on page 3, lines 28-30, be moved to and designated as subsection (a) on page 3, lines 8-10.

In addition, to better clarify and avoid duplication, KCSDV recommends that subsection (4) on page 5, lines 15-23 be removed. KCSDV feels the addition of this language may be misread to mean subsection (4) is the only remedy a judge can order in a case based on a sexual assault. Victims of sexual assault will need all of the protections afforded by the protection order statutes.

Submitted by,



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