

FEDERAL AND STATE AFFAIRS COMMITTEE

March 11, 1969

The meeting was called to order by the Chairman who introduced Senator Doyen to discuss H.B. 1577. Senator Doyen stated that many local sheriffs do not wear uniforms, nor do their deputies; that this bill would require it and would provide for uniformity so that one could determine if one is a law enforcement officer; that the Kansas Peace Officers' Association has requested this measure; that the bill proposes to make a \$10.00 per month allowance to assist these men in the cost of uniforms.

Royal Henderson, a former member of the Legislature appeared in support of this bill, stating that in Belleville they had not had uniforms and that the sheriff and his deputies had purchased their own this last year; that he feels the authority of a uniform helps law enforcement officers.

Sheriff Blecka of Republic County supported this bill, stating that he had purchased his own uniform; that he believes it is helpful in his work, citing in particular lost children and stating that most people teach small children not to talk to strangers but to go to police officers for help; that children don't look at badges but that they do look at uniforms. Sheriff Clenchman of Cloud County stated that if a "plain-clothes" sheriff attempts to enforce the law the first thing people want to know is who you are, and that the uniform gives considerable authority.

Mr. McGill stated that for those who already have their uniforms, he felt there should be some provision in the bill for "phasing them out" rather than requiring the purchase of a new style or color. Mr. Patton inquired why certain counties are amended out and Senator Doyen explained that the bill had been drafted hurriedly and that he would not oppose including everyone, and would not oppose other amendments that would improve the bill.

The Chairman stated that opponents to HB 1282 and SB 16 would be heard, and Ruth Schmidt appeared in opposition, reading and quoting from the U.S. Constitution, and stating that all of these rights are already granted under the Constitution and she opposed setting certain individuals apart and spelling out certain things; that this violated her rights and deprived her of safety in her house and home.

Homer Floyd discussed S.B. 16, and presented some proposed amendments to the bill. (see exhibit file) He stated that the proposed amendments would grant the same rights in the housing field that the Commission now has in Public Accommodations and Employment. Mr. Winters inquired if these amendments were offered in the Senate Committee and Mr. Floyd stated that one was not, and the others were not in the same exact form.

Mr. McGill inquired why the proposed amendments didn't mention the change in the board as it does in 1282 and Mr. Floyd explained that he was not compromising his position on 1282; that they just felt that this was something that would give the public more adequate representation, but that the amendments proposed for 16 would just in his opinion, make the proposal workable. Mr. Keenan inquired why in the last amendment they wanted to preclude the Attorney General, and Mr. Floyd stated that they didn't; that this would just require him to file complaint with the agency; that taking a complaint direct to the court is an expense for the person the complaint is filed against and that he felt the Commission should make an investigation first to see if a complaint is warranted.

Mr. Keenan inquired if there were any other instances where the Attorney General is called upon to go to an agency and Mr. Floyd replied that in the employment division and public accommodations division of the statutes.

The meeting was adjourned.

*exhibit
march 11th*

PROPOSED COMMITTEE AMENDMENTS TO S. B. NO. 16

On page 4, by striking all of lines 20 to 31, inclusive;

On page 5, by striking all of lines 1 to 31, inclusive;

On page 6, by striking all of lines 1 to 31, inclusive;

On page 7, by striking all of lines 1 to 3, inclusive, and by inserting in lieu thereof the following:

" (b) Upon receipt of any such complaint, the commission shall promptly commence consideration of the complaint, by utilizing the following methods and procedures in the sequence listed herein, and in accordance with the applicable provisions of K.S.A. 1968 Supp. 44-1005:

" (1) The commission shall promptly serve a copy of the complaint on each of the parties alleged to have committed a discriminatory housing practice; and

" (2) the commission shall investigate the complaint to determine whether probable cause exists for crediting the allegations in the complaint; and

" (3) if such probable cause is found to exist, the commission shall attempt to eliminate any such discriminatory housing practice by informal methods of conference, conciliation and persuasion; and

" (4) in case of failure to eliminate a discriminatory housing practice by such informal methods, the commission shall hold a hearing in which a respondent who is alleged to have committed a discriminatory housing practice is summoned before the commission to answer the charges in the complaint; and

" (5) at the close of the evidence presented in such hearing, the commission shall either issue an order to the complainant dismissing the complaint as to any such respondent, or issue an order to any such respondent directing him to cease and desist from the discriminatory housing practice and to take such affirmative action deemed necessary by the commission to eliminate the discriminatory housing practice.

" (c) Any final order of the commission, issued pursuant to paragraph (5) of subsection (b) of this section, may be appealed by any party aggrieved by such order in the manner prescribed in K.S.A. 1968 Supp. 44-1011. The Commission, attorney general or an appropriate county attorney, at the request of the commission, may secure enforce-

ment of any such final order of the commission in the manner prescribed in K.S.A. 1968 Supp. 44-1011.

" (d) The commission is authorized to enter into formal conciliation agreements and may include any term in a conciliation agreement as could be included in a final order under this act and may apply to district court of the county where the respondent resides or transacts business for enforcement of any conciliation agreement by seeking specific performance of such agreement."

PROPOSED COMMITTEE AMENDMENTS TO S. B. NO. 16

On page 11, in line 8, by inserting "or the commission" after the word "general"; in line 11, by inserting "person or" after the word any; in line 12, by placing a comma after the word "act" and by striking the remainder of line 12; by striking all of lines 13 to 23, inclusive; and by inserting in lieu thereof the following: "the attorney general may file a complaint with the commission, or the commission on its own motion may initiate and process such complaint in accordance with the provisions of section 5 of this act. Such complaint must be filed within six (6) months after the alleged discriminatory housing practice has occurred."

PROPOSED COMMITTEE AMENDMENTS TO S. B. NO. 16

On page 9, by striking all of lines 28 to 31, inclusive;

On page 10, by striking all of lines 1 to 10, and to the word "If" in line 11, inclusive and by inserting in lieu thereof the following:

"(a) The rights granted by sections 2 and 3 of this act may be enforced by civil actions in the district court of the county in which the alleged discriminatory housing practice is alleged to have occurred. Any such civil action may be commenced by a person aggrieved in lieu of filing a complaint pursuant to section 5 of this act within one hundred and eighty (180) days after the alleged discriminatory housing practice has occurred: Provided, That upon commencement of such action, the commission shall not have jurisdiction to investigate or consider in any way a complaint which alleges a discriminatory housing practice which is the matter in controversy in such action."

March 11

SENATE BILL NO. 16

By Committee on State and Local Affairs

AN ACT supplementing the Kansas act against discrimination; prohibiting certain discriminatory housing practices, declaring certain other acts to be unlawful and providing penalties for violations thereof; prescribing powers and duties of the Kansas commission on civil rights; providing rights and remedies of persons aggrieved by discriminatory housing practices; and prescribing powers and duties of attorney general.

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

Section 1. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein, unless the context otherwise requires:

(a) "Commission" means the Kansas commission on civil rights.

(b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" means an individual, corporation, partnership, association, labor organization, legal representative, mutual company, joint-stock company, trust, unincorporated organization, trustee, trustee in bankruptcy, receiver and fiduciary.

(e) "To rent" means to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means any act that is unlawful under sections 2 and 3 of this act.

(g) "Person aggrieved" means any person claiming to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur.

Sec. 2. Subject to the provisions of section 4 of this act, it shall be unlawful for any person:

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, ancestry or national origin.

(b) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, ancestry or national origin.

(c) To make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, religion, ancestry or national origin, or an intention to make any such preference, limitation or discrimination.

(d) To represent to any person because of race, color, religion, ancestry or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, ancestry or national origin.

(f) To deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation, because of race, color, religion, ancestry or national origin.

Sec. 3. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, ancestry or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

Sec. 4. Nothing in this act shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, ancestry or national origin. Nor shall anything in this act prohibit

a private club in fact not open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. Nor shall anything in this act apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

Sec. 5. (a) The authority and responsibility for administering this act shall be in the commission. Any person aggrieved may file a verified complaint with the commission. Such complaints shall be in writing, shall state the facts upon which the allegations of a discriminatory housing practice are based and shall contain such other information and be in such form as the commission may require. Complaints must be filed within one hundred eighty (180) days after the alleged discriminatory housing practice occurred, but may be reasonably and fairly amended at any time. A respondent may file a verified answer to the complaint against him and with the leave of the commission, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time.

(b) Upon receipt of any such complaint, the commission shall promptly commence consideration of the complaint, by utilizing the following methods and procedures in the sequence listed herein, and in accordance with the applicable provisions of K. S. A. 1968 Supp. 44-1005:

(1) The commission shall promptly serve a copy of the complaint on each of the parties alleged to have committed a discriminatory housing practice; and

(2) the commission shall investigate the complaint to determine whether probable cause exists for crediting the allegations in the complaint; and

(3) if such probable cause is found to exist, the commission

shall attempt to eliminate any such discriminatory housing practice by informal methods of conference, conciliation and persuasion; and

(4) in case of failure to eliminate a discriminatory housing practice by such informal methods, the commission shall hold a hearing in which a respondent who is alleged to have committed a discriminatory housing practice is summoned before the commission to answer the charges in the complaint; and

(5) at the close of the evidence presented in such hearing, the commission shall either issue an order to the complainant dismissing the complaint as to any such respondent, or issue an order to any such respondent directing him to cease and desist from the discriminatory housing practice and to take such affirmative action deemed necessary by the commission to eliminate the discriminatory housing practice.

(c) Any final order of the commission, issued pursuant to paragraph (5) of subsection (b) of this section, may be appealed by any party aggrieved by such order in the manner prescribed in K. S. A. 1968 Supp. 44-1011. The commission, attorney general or an appropriate county attorney, at the request of the commission, may secure enforcement of any such final order of the commission in the manner prescribed in K. S. A. 1968 Supp. 44-1011.

(d) The commission is authorized to enter into formal conciliation agreements and may include any term in a conciliation agreement as could be included in a final order under this act and may apply to ^{the} district court of the county where the respondent resides or transacts business for enforcement of any conciliation agreement by seeking specific performance of such agreement.

Sec. 6. (a) In conducting an investigation or hearing the commission shall have access at all reasonable times to premises, records, documents and other evidence or possible sources of

evidence and may examine, record and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: Provided, however, That the commission first complied with the provisions of art. 15 of the Kansas constitution and the fourth amendment to the U. S. constitution relating to unreasonable searches and seizures. The commission may issue subpoenas to compel access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the district court of the county in which the investigation is taking place. The commission may administer oaths.

(b) Upon written application to the commission, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the commission to the same extent and subject to the same limitations as subpoenas issued by the commission. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

(c) Witnesses summoned by subpoena of the commission shall be entitled to the same witness and mileage fees as are allowed witnesses in proceedings in district courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by said respondent.

(d) Within five (5) days after service of a subpoena upon any person, such person may petition the commission to revoke or modify the subpoena. The commission shall grant the petition if it finds that the subpoena requires appearance or attendance at an

unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous or for other good reason.

(e) In case of contumacy or refusal to obey a subpoena, the commission or other person at whose request it was issued may petition for its enforcement in the district court in the county in which the person to whom the subpoena was addressed resides, was served or transacts business.

(f) Upon the request of the commission, and at any time after a complaint has been filed with the commission and after a finding of probable cause by the commission, the district court within the county wherein the unlawful discriminatory housing practice is alleged to have occurred and which is the subject of the complaint, may grant temporary injunctive relief pending final determination of the matter by the commission.

(g) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in his power to do so in obedience to the subpoena or lawful order of the commission, shall, upon conviction, be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both such fine and imprisonment. Any person who, with intent thereby to mislead the commission, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document, submitted to the commission pursuant to subpoena or other order of the commission, or who shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports,

accounts, records or other documents, or who shall willfully mutilate, alter or by any other means falsify any documentary evidence, shall, upon conviction, be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one year, or both such fine and imprisonment.

Sec. 7. (a) Within thirty (30) days after the entry of an order by the commission pursuant to section 5 of this act, a person aggrieved may bring a civil action in the district court of the county in which the alleged discriminatory housing practice is alleged to have occurred or in which the respondent resides or transacts business. Such action may be brought to enforce said order of the commission, or to enforce the rights granted or protected by sections 2 and 3 of this act, insofar as such rights relate to the subject of the complaint with respect to which said order was issued [and all such actions shall be heard by the court in a trial de novo]: Provided, That no such civil action may be brought in any district court if the person aggrieved has a judicial remedy under a local fair housing ordinance which provides rights and remedies for alleged discriminatory housing practices and which are substantially equivalent to the rights and remedies provided in this act. If the court finds that a discriminatory housing practice has occurred, or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate: Provided further, That any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this act, and involving a bona fide purchaser, encumbrancer or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this act, shall not be affected.

(b) Upon application by the person aggrieved and in such circumstances as the court may deem just, the district court of

the county in which a civil action under this section may be brought may appoint an attorney for the person aggrieved and may authorize the commencement of a civil action, upon proper showing, without the payment of fees, costs or security. Said court shall take into consideration the fact that the person aggrieved may be financially able to purchase or rent the property in question but such person may, at the same time, be financially unable to retain an attorney.

(c) The court, in its discretion, may grant as relief any permanent, temporary or mandatory injunction, temporary restraining order or other proper order, and may award to the plaintiff actual damages and not more than one thousand dollars (\$1,000) punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff: Provided, That the said plaintiff, in the opinion of the court, is not financially able to assume said attorney's fees.

Sec. 8. (a) Whenever the attorney general or the commission has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this act, or that any person or group of persons has been denied any of the rights granted by this act, the attorney general may file a complaint with the commission, or the commission on its own motion may initiate and process such complaint in accordance with the provisions of section 5 of this act. Such complaint must be filed within six (6) months after the alleged discriminatory housing practice has occurred.

Sec. 9. Any court in which a proceeding is instituted under section 7 of this act shall assign the case for hearing at the earliest practicable date and cause the case to be in every way expedited.

Sec. 10. Nothing in this act shall be construed to invalidate or limit any ordinance of any city in this state that grants,

guarantees or protects the same rights as are granted by this act; but any ordinance of a city that purports to require or permit any action that would be a discriminatory housing practice under this act shall, to that extent, be invalid.

Sec. 11. The commission may cooperate with local agencies charged with the administration of local fair housing ordinances and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist the commission in carrying out this act. In furtherance of such cooperative efforts, the commission may enter into written agreements with such local agencies. All such agreements and terminations thereof shall be made available to the public by the commission.

Sec. 12. It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 2 or 3 of this act. This section may be enforced by appropriate civil action.

Sec. 13. Any person, whether or not acting under color of law, who by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with---

(a) any person because of his race, color, religion, ancestry or national origin and because he is or has been selling, purchasing, renting, financing, occupying or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization or

facility relating to the business of selling or renting dwellings; or

(b) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from---

(1) participating, without discrimination on account of race, color, religion, ancestry or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section; or

(2) affording another person or class of persons opportunity or protection so to participate; or

(c) any citizen because he is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, ancestry or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate---shall, upon conviction, be fined not more than one thousand dollars (\$1,000), or imprisoned for not more than one (1) year, or both such fine and imprisonment; and if bodily injury results shall be fined not more than ten thousand dollars (\$10,000), or imprisoned for not more than ten (10) years, or both such fine and imprisonment; and if death results, such person shall be subject to imprisonment for any term of years or for life.

Sec. 14. If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

Sec. 15. This act shall be supplemental to and a part of the Kansas act against discrimination.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.