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HOUSE OF
REPRESENTATIVES

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MEMBER: CORRECTIONS & JUVENILE JUSTICE
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KS ELECTRIC TRANSMISSION
AUTHORITY (KETA)

Testimony for House Bill 2071

Good afternoon Chairman Finch and Committee Members:

Today I bring a bill to you that started late in the 2014 session. Then Chairman Kinzer gave me the opportunity to have a hearing on then, HB 2712. The bill was then referred to the Judicial Council's Criminal Law Advisory Committee, where I was an Ad Hoc member. I have included a list of the committee members so you can see the expertise who helped fashion this legislation.

This legislative amendment is requested after learning of a horrendous event that impacted the life of a good friend of mine. She has been up to testify before this committee two times. It has been three years since the event and I simply couldn't ask her to come bare her soul again this year. Suffice it to say, she received a death threat, at knife-point from her estranged husband. I have also included her previous testimony with my testimony.

House Bill 2071 creates a new subsection that allows, at the time of sentencing for a conviction of domestic battery, the Court (Judge) shall consider any current or prior protective orders issued against the offender.

I appreciate your consideration and thank you for your time.

Sincerely,

COMMITTEE MEMBERSHIP

The members of the Judicial Council Criminal Law Advisory Committee are:

Stephen E. Robison, Chair, Member of Fleeson, Gooing, Coulson & Kitch, LLC and Member of the Kansas Judicial Council; Wichita

Sen. Terry Bruce, Kansas State Senator and Practicing Attorney; Hutchinson

James W. Clark, Practicing Attorney; Lawrence

Sal Intagliata, Criminal Defense Attorney, Wichita

Patrick M. Lewis, Criminal Defense Attorney; Olathe

Prof. Joel Meinecke, Retired Attorney; Topeka

Steven L. Opat, Geary County Attorney; Junction City

Rep. John Rubin, Kansas State Representative, Attorney, and Retired Federal Administrative Law Judge; Shawnee

John Settle, Pawnee County Attorney; Larned

Ann Swegle, Sedgwick County Deputy District Attorney; Wichita

Loren L. Taylor, Attorney and Police Trainer; Kansas City

Ron Wurtz, Retired Public Defender (Federal and Kansas); Topeka

The ad hoc members participating in this study were:

Annie Grevas, Director of Community Corrections for Saline County; Salina

Rep. Annie Kuether, Kansas State Representative; Topeka

Michelle McCormick, Batterer Intervention Program Coordinator, Office of the Attorney General; Topeka

Chris Mechler, Court Services Specialist for the Office of Judicial Administration; Topeka

Kathy Ray, Director of Advocacy, Education and Rural Programs for the Kansas Coalition Against Sexual and Domestic Violence; Topeka

Testimony offered in favor of HB 2024

Debra Goodrich Bisel

It has been more than a year since the day my husband attempted to kill me. It is almost a year since he was convicted and placed on probation. It has been a challenging year. Deciphering "no contact" orders is a tough one. No one seems to know exactly how to interpret the guidelines unless there is an overt and obvious violation. It has been stressful.

Last year, I testified before this committee on the first try at this bill. It has since been modified to delete mandatory treatment programs for first time offenders in domestic violence situations. I understand how that was problematic but I hope it can be accomplished at a later date. I believe that program has been helpful for my husband and would have made a difference in his life had he been mandated to attend many years ago. It could make families stronger and healthier.

The provisions contained in the present bill, however, are so important to the prosecution of domestic violence cases that I feel it cannot be overstated. To allow judges to use the prior PFAs filed against a defendant in sentencing would have made a difference in my case and it brings to light cases that fly under the radar in the court system. Often, PFAs indicate a pattern of abusive behavior that do appear on a defendant's record. There is absolutely no reason to prohibit the judge from considering these PFAs in sentencing. On the contrary, it serves to give the judge a more complete and accurate picture of the defendant's patterns of behavior, personality, and likelihood of repeating the offense.

I am appearing today not for myself. Nothing you can do, as I told the judge who presided over the criminal proceedings, can restore what we have lost. We had a home, a real life, a real marriage. It was not an abusive relationship. I did not live in fear of physical harm. I left because my husband's drinking had gotten out of control. It was my sincere hope that my leaving would be the catalyst to his getting real help with that problem. Whether he did or not, I refused to live in a situation that was deteriorating. That was June 13, 2013. The next months were a roller coaster of rehab, relapse, and reconciliation. We went to marriage counseling. Throughout, I continued to live separately making it plain to my husband that we could not live together again until there were some major changes and those were maintained for a measurable time.

He chose to stop marriage counseling and we were following through with the divorce I filed. It was a week after a status update on our case, on November 14, 2013, that he came to my house one morning and "just wanted to talk." I could tell he had been drinking but he was not drunk. When you live with an alcoholic, you recognize different stages of drunkenness. So, I invited him in. My adult daughter and a friend were watching TV in the living room so my husband and I walked back to the kitchen. He was cordial to my daughter and her friend. When we reached the kitchen, I leaned against the counter and he leaned over me. He is 6 feet tall; I am 4' 11". He put a hand on the counter beside me, I thought to steady himself.

He asked why I was doing this to him. I asked, "Doing what?"

He replied, "Trying to ruin my life."

I said, "Gary, I am just trying to survive."

He then began a disjointed account of relationship rules when I interrupted him and said, "Gary, you have to face what alcohol is doing to your life. You're too drunk to drive now. If you were stopped, you'd be arrested."

He looked me in the eye with absolute calm, still leaning over me, and said, "Deb, you've ruined my life. I'm going to kill you."

With his right hand, he reached behind his back and pulled a "survival" knife from under his shirt. It was hideous with a blade nearly a foot long, with serrated edges designed only to do great harm. He held it to my belly and I knew the only reason I wasn't immediately eviscerated is that he wanted to explain to me why he was doing this.

I screamed and pushed the knife away. Ironically, the knife was so large that I was able to push it away with only minor cuts on my hand because I was able to push the handle. My daughter ran to the kitchen and grabbed my husband's hand, so he was standing between us and all three of us were locked into a struggle over the knife. It seemed like forever. It was surreal. My husband said to my daughter, "Let go of the knife or I will kill you both."

My daughter's friend was able to dial 911 and when my husband knew the police were on the way, he dropped the knife and walked out the back door. He was calm throughout. That's when I realized he had parked in the back, keeping his vehicle out of sight. He had come to the front door when he arrived and I had paid no attention to where he had parked.

He was arrested and charged with five felonies. He was convicted of two: aggravated battery with intentional bodily harm and criminal threat. He was sentenced to 13 months on the first offense and 7 months on the second. He was placed on probation, per the sentencing guidelines. He had no criminal record other than DUI. There was a deadly weapon finding and he is now a registered violent offender.

Batterer's intervention is a condition of his probation.

After this incident occurred, I was contacted by two other women who had been involved with my husband, one when they were teenagers and the other a long-term relationship that ended a decade before we met. Both informed me of his violent behavior. The first regretted not reporting it, the second did seek and obtain an order of protection.

This is a complicated and emotional issue. I myself vacillate on how to view domestic violence. It is unconscionable that we allow domestic violence to continue almost

unabated in this country. Why should a stranger who assaults me be viewed differently than someone I allowed into my life? I'm not sure. In all honesty, I do feel differently. I know the good in my husband and I understand some of the circumstances in his past that created his issues. That being said, I have never lived in mortal fear until now. The scariest day of my life was the day I heard his family was bailing him out of jail after a month from the date of his arrest. It was the most crippling, paralyzing fear I have ever known. I knew that a mere order could not keep me safe and it cannot now.

I appreciate your kind attention and Representative Kuether for addressing this issue. I implore you all to truly support the sanctity of the family by helping keep the home a place of refuge and sanctuary.

The case number for this incident is 13CR02304.

The defendant is Gary D. Bisel.