

SUMMARY OF PROPOSED STATE LEGISLATION OF CONCERN TO WOMEN IN WISCONSIN, 1975

Address given in Madison to women in Communications

by Norma Briggs, Executive Secretary
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I am very happy to be with you tonight to talk about proposed legislation of concern to women. This is a good year in that there are a number of excellent proposals being introduced. And there is a growing awareness on the part of a lot of women and men that there are in fact harmful inequities built into the fabric of our lives, and that some of them can be resolved legislatively.

SB-113
AB-240

Wisconsin inheritance tax, for instance, puts no economic value on a wife's unpaid contributions to the marriage or family business. A farmer's widow may have worked for fifty years keeping house, raising the children, feeding the chickens, keeping the farm records, driving the tractor, laboring in a hundred different ways--and the Revenue Department discounts it all. Apart from a \$50,000 deduction that will cover the cost of the homestead, on her husband's death she must pay inheritance taxes not just on his half of the property held in joint tenancy, but on her half, unless she can prove she made a cash contribution: a contribution in "money or money's worth." Unpaid labor does not count. On a \$150,000 farm, her tax could be almost 4-1/2 thousand dollars (\$4,375)--high enough to force her to sell part of the property in order to pay the taxes. The same dilemma could face the widow in a number of different kinds of small family businesses--the grocery store, apartmental rental unit or plumbing business.

Two identical bills have been introduced, one in each house, to correct this inequity: Senate Bill 113 was introduced by Senator Katie Morrison and is co-sponsored by 21 other senators; the Assembly Bill is number 240, introduced by Representative Mary Lou Munts and co-sponsored by 38 other representatives. They provide that, and I quote:

"If property is held by husband and wife with the right of survivorship, upon the death of one spouse, one half of the value of that property is not taxed under this subchapter."

If there is any opposition to these bills my guess is that it will stem from concern over the loss of revenue to the state, which will probably run to six millions of dollars for the biennium. Even in these hard times, however, I do not see that Wisconsin has to keep its revenues flowing in by unfairly and disproportionately burdening the elderly widows. A better way to get a general revenue increase would be to pass SB 152, a proposed revision of 72.28 (taxing of trusts). It would close a glaring loophole for the really rich in inheritance tax.

Other pending legislation that will affect women includes: strengthening the credit equality law, reforming the old rape statutes, setting up meaningful economic safeguards so that divorced women with dependent children will not so frequently be forced onto welfare and a renewed and improved version of last session's AB-23, the bill that was commonly known as the women's equality law.

SB-233

I have brought along pamphlets explaining the proposed sexual assault legislation in detail. Rape is something that seems very far from the lives of many of us, yet we ought all to pay attention. A couple of facts: rape is the most rapidly increasing serious crime--there was a 351% increase in the number of forcible rapes reported in Wisconsin between 1960 and 1973. And respectable women of all kinds are sexually attacked--one-third of reported rapes occur in the victim's home. One extensive study showed that over 80% of rapes are planned in advance, that almost half of the attackers had a previous arrest record and that a very high proportion--85%--of all rapes are accompanied by some form of violence, such as beating or choking. The Federal Commission on Crimes of Violence estimates that only 4% of all reported rapes involved any provocative behavior on the part of the victims. Rape doesn't just happen to women who ask for it. Yet present legal practice allows the defense attorney to publicly and cruelly probe into the victim's sexual history and style of life in an effort to slur her credibility. Rape is presently the only crime in which the victim is put on trial rather than the offender. No wonder so few women report it when they have been sexually attacked.

Senator Bablitch's bill is a very carefully thought out piece of work. If it is passed as proposed it will allow us to deal with rape rationally, as the crime of violence that it is rather than as a crime against sexual morality or of passion. It will shift the emphasis from the degree of resistance displayed by the victim to the amount of force used by the attacker. It would recognize different degrees of harm to the victim and provide appropriately graduated penalties. It would restrict the type of evidence that can be brought into the courtroom--specifically barred would be dragging in details about the victim's lifestyle to imply that sexual assault did not occur at all. And lastly, it would extend legal protection to men who are sexually assaulted, as well as women.

The rape reform bill is an example of a discrete area of law which last year was included in the omnibus women's equality bill but is this year being introduced separately. Last session's AB-23 has been pruned and refined into this session's AB-431. It is again introduced by Representative Midge Miller, but instead of being a daunting 134 pages long it is now a digestible 48 pages. The other areas that have been separated out from the omnibus bill to be dealt with as separate issues are: support obligations between husband, wife and dependent children, and prostitution.

AB-431 Let me try to summarize what is in the bill--

First: There are various statutes already on the books banning discrimination on the basis of race, creed and color. The bill extends these existing bans on discrimination to include sex discrimination. The areas covered are discrimination by government contractors, in the Wisconsin national guard, in the promulgation of administrative rules, in the cancellation of non-renewal of automobile insurance and in public accommodations. And, to ward off fears, I should add that the bill specifically says, and I quote:

"Nothing in this section shall prohibit separate facilities for persons of different sexes with regard to dormitory accommodations, public toilets, showers, saunas and dressing rooms."

Sex discrimination is also added to statutes banning discrimination in housing. (Generally and in veteran's housing projects, housing projects for the elderly, low income housing projects, urban redevelopment, blight elimination and slum clearance programs.) There is one entirely new section--banning discrimination on account of sex, race, religion or national origin in public school education.

Secondly: The bill clarifies and strengthens employment protections in several ways. The present minimum wage law covers only women and minors: men would be covered also and the Department of Industry, Labor and Human Relations would have to set the same minimum wage for both. The Fair Employment Practices Act would clearly cover state and local governments as employers. (There was a recent lower court decision that, if upheld, would leave thousands of government workers unprotected and with no recourse against race or sex discrimination on the job.) The bill would also require the Department of Industry, Labor and Human Relations to preserve the anonymity of any employee who files a complaint of discrimination against his or her current employer until a determination of probable cause has been made. This could be a valuable protection for some complainants. The bill also prohibits newspapers from classifying employment opportunities on the basis of sex. The old Help Wanted - Male and Help Wanted - Female columns will be things of the past. AB-431 makes a number of other--mostly minor--changes in the law so that the sexes are treated equally. I won't try to list them all but will mention just a few:

- the minimum age at which young people may marry is equalized to 18 years, or 16 years with parental consent
- aid to dependent children could be granted to eligible parents regardless of sex where the parent has no spouse, or where the spouse is incapacitated or absent from home on a continued basis
- men as well as women will be allowed to use the Huber Law privilege for purposes of housekeeping and family care
- either parent will be permitted to sign a minor child's motor vehicle purchase and registration, or to register the birth of a child.

Lastly, the bill makes numerous, non-substantive language changes to present statutes changing words like warehouseman to warehouse keeper, fireman to firefighter. And--a small thing, but one that can cause irritation to women who hold office, the bill states that "any person who by statute, rule or ordinance is designated a chairman, alderman or other similar title may use another equivalent title such as, in the case of chairman, "chair," "chair-person," "chairwoman," or other such appropriate title."

Somewhat less pompously Section 90 reads:

"It is the legislature's intent that the statutes of this state be written to reflect the equal status before the law of men and women. It is the policy of the legislature that the creation of new statutes and the revision of existing statutes incorporate the use of non-discriminatory terminology in all statutory language." So piece by piece, as statutes are created, amended, revised, the old sexist language will be toned down or eliminated.

Support

As the next topic, let us look for a few minutes at some of the factors contributing to today's patterns of support.

Last year the Commission on the Status of Women made a major effort to arouse public awareness to the economic risks attendant on full-time homemaking as a career. Those women who have led the opposition to the Equal Rights Amendment and the Wisconsin Implementation legislation have implied that if only women would virtuously remain homemakers, then they would have no need for mere legal equality, for they would be more than adequately protected, by their husbands. Unfortunately, the facts do not really bear out this belief.

The facts are better summarized by a Help Wanted Ad I came across last year. (From an article entitled 'The Value of Housework: For Love or Money?')

It describes the job of the homemaker--still the chosen occupation of by far the largest group of American women today.

It reads:

HELP WANTED

REQUIREMENTS: Intelligence, good health, energy, patience, sociability, skills: at least 12 different occupations. HOURS: 99.6 per week. SALARY: None. HOLIDAYS: None (will be required to remain on standby 24 hours a day, seven days a week). OPPORTUNITIES FOR ADVANCEMENT: None (limited transferability of skills acquired on the job). JOB SECURITY: None (trend is toward more layoffs, particularly as employee reaches middle age. Severance pay will depend on the discretion of the employer). FRINGE BENEFITS: Food, clothing, and shelter generally provided, but any additional bonuses will depend on financial standing and good nature of employer. No health, medical, or accidental insurance; no Social Security or pension plan.

There you have it in a nutshell. And I think the key words are "Job Security: None." Divorces now run in the United States at about 1 million a year. Almost one marriage in three ends in divorce. There has been an increase in the proportion of divorces in which children are involved: in 1943 42% of divorcing couples had children. By 1966 the percentage had increased to 62%. Couples are divorcing after years of marriage. I have some Wisconsin statistics which show that in this state in 1972 over 40% of divorces granted were after marriages of 10 years duration or more; 26% of divorces granted were to those who had been married for more than fifteen years.

And what happens to the women and children? The most recent figures available from the Women's Bureau show that 45% of female-headed families with children under the age of 18 were living below the poverty line in 1971. Broken down by race the figures are: 37% of white female-headed families with children under 18 were living below the poverty line, and 60% of black families (the poverty threshold in 1971 being set by the Social Security Administration at \$4,137 for a non-farm family of four). The median income of families headed by women in 1971 was \$5,114--that compares to a median of \$9,208 for single-parent families headed by white men. And we are talking large numbers of people: in 1971 there were more than 3.9 million children below 14 years of age living below the poverty level in families headed by women.

Several weeks ago our office checked and found that in Dane County approximately 1/3 of those who should have been receiving child support payments from their ex-spouses were on AFDC or welfare. We also found that on November 30, 1973 arrearages on civil support orders in Dane County alone amounted to almost \$9.6 million--as compared with the \$5.2 million collected for the year to that date. Of the \$9.6 million almost half (\$4.5M) was owed the Dane County Department of Social Services--which indicates the extent to which the welfare department had had to pick up the responsibility for support not being provided by the absent spouse.

In 1971 alone New York State had 36,000 families receiving AFDC because of the father's absence from home due to divorce or legal separation. There is obviously a shocking lack of economic safeguards for divorced homemakers and children and grossly inadequate collection procedures. For several months now the Commission on the Status of Women has been working closely with Representative Mary Lou Munts and a number of attorneys. We have been analyzing the shortcomings of different facets of the present system and attempting to formulate the strongest possible safeguards for the homemaking spouse and children that are consistent with due process for the spouse who is ordered to make payments.

I am not an attorney, so I am not prepared to debate the merits of all the specific provisions being drafted as part of this bill. I can say however that they do include:

- a stricter law compelling the full disclosure of assets
- statutory standards as guidelines for courts to fairly assess contributions made to the acquisition of property (and the unpaid contributions of a full-time homemaker are to be counted)
- statutory standards to be considered in reaching an equitable division of assets and income (and the wife who put her husband through graduate school by working as a secretary would have this contribution considered here).
- strong provisions for strict enforcement of support orders, including effective collection remedies such as money judgments and wage assignments that would go into effect on application by the spouse who has not received payments ordered by the court. The paying spouse would have the right to request a hearing to show that extraordinary circumstances prevented fulfillment of the obligation, and such circumstances are unlikely to reoccur.

Present law is inadequate in that it does not provide any easily accessible avenue for the spouse receiving support to initiate enforcement or to collect payments not made. His or her only recourse is to hire a lawyer and bring criminal contempt charges against the non-paying spouse. If the charges are proved, it can result in imprisonment but not necessarily collection of the ordered amount of money. At present an assignment of wages can be ordered, but another court session is required for this and no criteria has been set for determining when it should be ordered.

This means that practices vary widely from one county to another.

The divorce process, as it currently operates, is surrounded by an atmosphere of fault, recrimination and punishment which is neither humane nor socially healthy. Within this feeling of blame and failure it is difficult, if not impossible, to make rational decisions regarding the emotional, financial and custodial needs of the individuals and any children involved.

In fact, present Wisconsin divorce law promotes the concept of financial reward for the innocent party and financial punishment for the person adjudged guilty.

We need to eliminate the concepts of fault in the division of property and provisions for family support and to eliminate fault entirely from the divorce process.

The bill being drafted will make irrevocable breakdown the only basis for the legal termination of a marriage and mandate that any payments awarded shall be neither punishment nor reward, but will reflect the needs and responsibilities of the parties and any children.

SB-22
SB-23
AB-277

There have been several so-called no-fault divorce bills already introduced in this session. The Commission on the Status of Women, the Wisconsin Women's Political Caucus and the National Organization for Women testified that they were unable to support them because they did not include any of the economic safeguarding provisions that I have described to you tonight. In fact, the Wisconsin Commission has received urgent warnings from Commissions in other states of the devastating effects of the passage of no-fault divorce without thoroughly reviewing and making provisions for the economic protection of the homemaking spouse.

Let me briefly explain why we have been warned about what have been called "wife-shedding" bills: traditional divorce allows an innocent party to divorce the guilty one, but forbids the couple to mutually agree that a divorce is the best solution. That would be collusion. The law is widely flouted, however, and in cases where the husband would like to trade off his old wife for a newer model, he has to ask her to go along with the letter of the law and testify that he has been cruel and inhuman, for instance, so that the judge may legally grant a divorce. (By the way, nearly 90% of all divorces in Wisconsin in 1972 were on the grounds of cruel and inhuman treatment.)

The fact that the husband needs his wife's cooperation in order to terminate the marriage gives her leverage. Her lawyer has a tool with which he can extract agreement to a property settlement or financial payments advantageous to the wife.

To take away the homemaker's leverage by removing the fault system without at the same time building protections and recognition of her contribution into the statutes leaves her completely exposed.

And the more dutifully she has kept her role as full-time homemaker and parent, the more disadvantaged she is in the job market that she is suddenly thrust into.

In Nebraska, in the first year following the enactment of no-fault divorce, the rate of divorce in marriages of 30 years or more duration increased 60%. And too many judges have been known to have said to women on divorce: "Well, you wanted liberation. You have got it. You are equal now, so go and support yourself." . . .completely ignoring the fact that the woman has sacrificed her development of job skills and can only earn very low pay in a sex-biased employment scene. I strongly believe that women have the potential to be equal, but the reality of today is that many women have not been able to realize that potential. And there is nothing worse than treating a woman like her own granddaughter.

I have left until the end any discussion of the two bills introduced by Senator Flynn that had been aimed at strengthening the credit equality law passed by the Legislature late in 1973. Three days ago the Senate amended both in such a way that they would, if passed as amended, weaken rather than strengthen the present statute. The 1973 statute did not spell out who had the responsibility of enforcing the ban on sex discrimination in the granting of credit. And, not surprisingly, everybody's business became nobody's business. Concerted efforts by the Commission on the Status of Women, the League of Women Voters and the Center for Public Representation, a public interest law firm, resulted early this year in only modest results--some relatively weak administrative rules adopted by the Savings and Loan Board and no word on stronger proposed rules from the Banking Commission. Banking lobbyists testified in January at the Commission hearing that no rules were needed since banks already recognized it was bad business to discriminate. It is ironic--and telling--that these same lobbyists worked so hard last week to render ineffective a proposed law designed to eliminate what they say the banking industry does not do in the first place.

SB-108 The bill that directs the state financial regulatory agencies to issue administrative rules to enforce the credit anti-discrimination statute was amended twice. One amendment is innocuous and only demonstrates the extent of misunderstanding of the credit equality issue by some of the bill's opponents. It states "nothing in these rules shall prohibit enquiry into the credit worthiness of the applicant." Of course, a good look at the actual credit worthiness of individuals instead of biased projections based on sex or marital status is precisely what women want. The other amendment, by inserting the word "solely," would make the law apply only to discrimination that was based solely on sex or marital status. As Senator Flynn commented, "This is much worse than the present law; it now says you can discriminate a little bit."

SB-109 The other bill, the one that would have provided a civil remedy still reads that a woman who has been discriminated against does not have to wait for help from a government agency. She may hire a lawyer and take the lender to court. If she wins, she may still recover actual damages, court costs and her attorney's fees, and punitive damages of \$1000 for each offense. But it now reads that if she loses her case, she would not only have to pay her own lawyer and court costs, but the lending agency's lawyers too. I imagine there are very few women prepared

to get caught with the cost of paying expensive bank lawyers.

What will happen to these two bills will depend a great deal on which committee they are assigned to next Tuesday. They are probably dead if they get sent to the Insurance and Banking Committee. On the other hand, if they go to State Affairs (Midge Miller) or Commerce and Consumer Affairs Committee (Sanasarian and Louise Tesmer), they stand a reasonable chance of being restored to their original form.

5B-220 I was at a meeting Thursday evening with representatives of a number of different women's organizations that belong to the Equal Rights Coalition. We heard then not only details of what the Senate had done to the credit equality bills but what it had done that day on the contraceptive question. It killed by a 17-16 vote the bill which would have repealed the law that labels contraceptives "indecent articles" and bans their sale to unmarried persons. A law that has already been declared unconstitutional by a three judge federal panel! We learned too that several Assembly Representatives had initiated moves to kill AB-431. They profess to favor what it contains but want it delayed as they feel the legislature could handle its contents more effectively if it were divided into seven separate bills which Representative Azim plans to introduce soon. By the time these seven separate bills are ready for consideration the legislature will be engrossed in budget battles.

As these three events were discussed, I sensed a growing anger in the room. Then a sense of determination. Those women were prepared to work and they knew how to mobilize support from their members around the state. Most of them are going into action this weekend. I hope you will help.

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