

# Common-law marriage ban urged by teen

## Senate committee endorses measure outlawing practice

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TOPEKA — The 16-year-old girl stood calmly before a handful of state senators and told her story of sexual abuse by a man her mother had invited to live in their home.

She had come to Topeka to ask the Legislature to enact a law that might prevent other girls from having similar experiences.

She wanted lawmakers to make common-law marriage, marriage without civil or religious ceremonies, illegal in Kansas.

"I don't want to see another child go through what I went through," she had written in a letter to Sen. Dwayne Umbarger, a Missouri Republican, who brought her case to the Senate Judiciary Committee. "I also want to help other girls overcome some of the adversity that I have."

The teen-ager, who now lives with a foster family in southeast Kansas, quietly told lawmakers last week of a series of events that began in Texas, then Oklahoma and finally ended in Kansas.

Speaking in a calm but steady voice, she told of the 21-year-old man who moved into the home with her mother, older sister and twin brother when she was 9.

By the time she was 10, they were sharing a room and she was having sexual relations with him. At 11, she was pregnant. At 12, she had a baby she gave up for adoption. At 13, she was pregnant again and had that baby when she was 14.

Last year, Jerry P. Crooks Jr. was arrested for raping the girl and was tried in Butler County.

He contested the charge, arguing that there could be no rape because he and the girl were common-law husband and wife.

Kansas case law allows common-law marriage when the male is as young as 14 and the female as young as 12. Parental approval is not required.

In Kansas a couple can establish a common-law marriage if they have the capacity to enter into a marriage relationship, have the present intent to be married and hold themselves out to the world as a married couple.

At the November trial, the jury deliberated two hours before rejecting the common-law defense. Crooks was sentenced to 25 years in prison. He is serving a 10-year

The defense Crooks attempted would be prevented by legislation now before the Senate Judiciary Committee. It would abolish common-law marriage in Kansas.

Kansas is one of eight states that recognize common-law marriage. The others are Alabama, Colorado, Rhode Island, South Carolina, Iowa, Montana and Pennsylvania. The District of Columbia also recognizes such marriages.

"I find it difficult to understand why common-law marriage should exist at all," said White, who joined the girl in testifying before the subcommittee earlier in the week.

He said the common-law marriage defense is little more than a loophole in the Kansas judicial system.

The bill has been recommended for passage by a judiciary subcommittee led by Sen. David Adkins, a Leawood Republican.

"We don't think do-it-yourself marriage is a good thing," Adkins said.

The Senate Judiciary Committee, on a voice vote, recommended the bill for passage on Monday. It now heads to the Senate floor for debate.

During committee discussion on the bill, Sen. Ed Fugh, a Wamego Republican, said common-law marriage is not just a tool used by criminals, and its elimination could have unintended consequences.

He cautioned that it could cause problems should a common-law couple split up or with inheritance matters.

A similar bill was introduced last year in the Kansas House by Majority Leader Shari Webber, a Herington Republican, and 13 others.

It would abolish common-law marriage for couples under 18 unless there is parental or judicial consent.

At a hearing on the House bill on Monday, the chief proponent, Autumn Fox, an Abilene lawyer, told the House Judiciary Committee she would prefer to abolish common-law marriage, but she was not convinced the Legislature would agree.

She noted that under Kansas law 12- and 14-year-old children can not consent to a sexual act or enter into a contract, but they can consent to a common-law marriage.

"Surely, Kansas has no desire to attract — or to harbor — pedophiles by upholding an antiquated belief that 12- and 14-year-old children can consent to marriage," she said.

The bills are H.B. 2300 and S.B. 402. Bills are available on the Internet at