

EXPRESSING THE SENSE OF CONGRESS THAT EXPERT TESTIMONY CONCERNING THE NATURE AND EFFECT OF DOMESTIC VIOLENCE, INCLUDING DESCRIPTIONS OF THE EXPERIENCES OF BATTERED WOMEN, SHOULD BE ADMISSIBLE WHEN OFFERED IN A STATE COURT BY A DEFENDANT IN A CRIMINAL CASE

OCTOBER 3, 1992.—Referred to the House Calendar and ordered to be printed

Mr. BROOKS, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H. Con. Res. 89]

The Committee on the Judiciary, to whom was referred the concurrent resolution (H. Con. Res. 89) expressing the sense of Congress that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, should be admissible when offered in a State court by a defendant in a criminal case, having considered the same, report favorably thereon without amendment and recommend that the resolution be agreed to.

SUMMARY AND PURPOSE

House Concurrent Resolution 89 expresses the sense of Congress that expert testimony concerning the nature and effect of domestic violence, including descriptions of the experiences of battered women, should be admissible when offered in a State court by a defendant in a criminal case.

HEARINGS

On August 6, 1992, the Subcommittee on Intellectual Property and Judicial Administration, to which the bill was referred, held a legislative hearing on House Concurrent Resolution 89 and two related bills, H.R. 1252, and H.R. 1253. Testimony was received from Congresswoman Constance Morella, Representative, 8th Congressional District, Maryland; Hon. William Donald Schaefer, the Governor, State of Maryland; Ms. Roberta Francis, Director, New Jersey Division of Women; Ms. Melanie Griffin, Executive Director, New Jersey Commission on Sex Discrimination in the Statutes; Mrs. Barbara Price, Executive Director, New Jersey Coalition for

Battered Women; Dr. Lenore Walker, Psychologist, Denver, Colorado; Judge Rosalyn B. Bell, Associate Judge, Maryland Court of Special Appeals; Ms. Lorraine Chase, YWCA Women's Center, Annapolis, Maryland; and Ms. Leslye Orloff, Director, Clinica Legal Latina at Ayuda Inc., Washington, D.C.

COMMITTEE VOTE

On September 30, 1992, a reporting quorum being present, the Committee on the Judiciary ordered House Concurrent Resolution 89 reported to the House by voice vote.

DISCUSSION

LEGISLATIVE HISTORY

House Concurrent Resolution 89 was introduced by Congresswoman Constance Morella on March 5, 1991. On August 6, 1992, the Subcommittee on Intellectual Property and Judicial Administration held a hearing on the proposed legislation. On September 18, 1992, the subcommittee marked up House Concurrent Resolution 89, and reported it without amendment to the full Committee by voice vote, a quorum of members being present.

On September 30, 1992, House Concurrent Resolution 89 was considered by the full Committee. The measure was passed by voice vote without amendment, a quorum of members being present.

BACKGROUND

The testimony before the committee indicates that each year 3 to 4 million women suffer physical, sexual, and mental attacks—and 3,000 to 4,000 women will be murdered—by a spouse or partner. While these attacks occur, more than 3 million children will watch the violence. Subsequent to these repeated attacks, some of these battered women are driven to retaliate. A few even kill their abusive partners. The committee believes it is critical that judges and juries understand the plight of these battered women. Judges also need to consider the implications of histories of domestic violence before making custody decisions.

The central phenomenon surrounding House Concurrent Resolution 89 what is the "battered woman syndrome" [BWS] and our society's response to it. This syndrome describes the psychological condition of a woman who is repeatedly attacked—physically, sexually, or mentally—by an intimate partner, and explains why her perceptions and reactions may be different from the average person. It also helps to explain why victims of domestic violence remain in these abusive relationships and why, under certain circumstances, a few of these women have sometimes resorted to killing their battering partners.

House Concurrent Resolution 89 expresses the sense of Congress that there is a specialized knowledge of the nature and effect of domestic violence which is sufficiently established to have gained the general acceptance that is required for the admissibility of expert testimony. The testimony of the witnesses before the Committee indicates that expert testimony on the battered woman syndrome is crucial to explain to the factfinder why a defendant used deadly

force against someone who, to all outward appearances, did not appear to pose an imminent danger of death or serious bodily harm.

The Committee wishes to urge the States to re-evaluate the nature of their judicial activity concerning domestic violence, and believes that the effect of domestic violence, including descriptions of the experiences of battered women, should be admissible when offered in a State court by a defendant in a criminal case.

SECTION-BY-SECTION ANALYSIS

The concurrent resolution states that it is the sense of Congress that expert testimony concerning the nature and effect of domestic violence, including description of the experiences of battered women, should be admissible when offered in a State court by a defendant in a criminal case.

It also urges that expert witnesses in this area should be qualified to testify based upon their knowledge, skill, experience, training, and education.

In conclusion it urges that domestic relationships in this area should be broadly interpreted to include relationships between spouses, former spouses, cohabitants, former cohabitants, partners or former partners, and persons in a dating, courtship or intimate relationship.

The concurrent resolution also includes a number of congressional findings which form the bases for the Concurrent Resolution.

COMMITTEE ON GOVERNMENT OPERATIONS OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Operations were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives is inapplicable because the proposed legislation does not provide new budget authority or increase tax expenditures.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of the rule XI of the Rules of the House of Representatives, the Committee estimates that House Concurrent Resolution 89 will have no significant inflationary impact on prices or costs in the national economy.