Approved 4-6-88
Date

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Marvin L. Littlejohn at
Chairperson

9:00 a.m./~~p.m.~~ on March 28, 1988 in room 519-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Research
Norman Furse, Revisor
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Dr. Pat Schhloesser, Director/Division of Health Administration/
Department of Health and Environment
Senator Steineger
Elizabeth Taylor, Association of Local Health Departments
Dr. Ray Baker, Shawnee County Health Department
Dr. Fred Tosh, Wichita/Sedgwick County Health Department
Dr. Gordon Risk, Psychologist at Menningers/also American Civil
Liberties Union

Chairman called meeting to order at 9:00 a.m. (Room 519-S), to conclude hearings on SB 686.

Chair called attention to SB 686.

Dr. Pat Schloesser, Department of Health and Environment, (Attachment No. 1), spoke in support of SB 686. Through 3/1988, 121 Kansans have been reported to have the disease AIDS, and 83 known to have died. Kansas is considered a low prevalence AIDS state by the Centers of Disease Control (CDC), and with the concerted approach recommended by the Governor's Task Force on AIDS, it can remain so. Boaad based educational measures are essential; focused individualized counseling for persons who are infected or pursue high-risk activities. She explained a weakness in sB 686, i.e., Section 10, which proclaims that AIDS is not an infectious or contagious disease and excludes it from other state public health laws. She recommended the deletion of Sections 10 and 11 of SB 686, noting a similar changein Rules and Regulations related to adult care facilities has been made in order to allow such facilities to admit AIDS patients. This should solve the problem of children being able to attend public schools if they are an AIDS patient. She urged for this amendment and for passage of SB 686.(Attachment 1 (a), 1 (b) are statical information.)

Senator Jack Steineger spoke in regard to numerous amendments proposed for SB 686. He stated he feels we would all be better off without SB 686 as is currently stands. This asks us to repeal statutes that will drop AIDS and HIV from the infectious disease list. Many believe this bill comes no where close to dealing with problems that come with this fatal disease. It is projected there will be a 558% increase in the disease by 1991. There is a potential alarming fiscal problem attached to this epidemic. There is a huge liability problem in connection with persons incarcerated in our prisons. We need to use common sense strageties. He suggested numerous amendments, i.e., contact tracing of AIDS and HIV, or, one or the other; testing of tissue and blood samples at blood and tissue banks; liability costs and liability concerns.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 519-S Statehouse, at 9:00 a.m./p.m. on March 28, 1988

Hearings continued on SB 686:

Senator Steineger continue
d, premarital testing should be done as it was when trying to control the spread of veneral diseases; health care providers are entitled to know if they will be taking care of a patient infected with AIDS. He offered amendments that speak to all these concerns. He answered questions.

Elizabeth Taylor, Association of Local Health Departments, (Attachment No. 2), noted their Association believes contact follow-up is very important after a person has been tested positive with AIDS. They are in support of increased funding for AIDS with the following priorities, i.e., support continued testing/counseling/education of individuals with high-risk behaviors; support public health departments in efforts for contact follow-up; offer voluntary testing; mandate testing in prisons and jails/ provide voluntary testing for persons not in high risk groups/ continue education about AIDS in schools/workplaces/ and for the general public. They feel that the handling of AIDS should be handled as are other communicable diseases and those testing positive should be reported to Local Health Departments. Local Health Departments recommend strongly the deletion of Section 10 of SB 686.

She introduced Dr. Ray Baker, Shawnee County Health Officer.

Dr. Ray Baker, Shawnee County Health Department, (Attachment No. 3), stated SB 686 is a good start, however, he recommended changes. Section 6 (b) would be greatly improved by adding "counseling" to the activities to be undertaken; Section 2 (a) and 3 (a) that require reporting/investigation/supervision of AIDS, should continue to be reported through the Local Health Officer. One critical tool omitted from SB 686 is the reporting of HIV infections. They should be treated for purposes of disease control just as AIDS cases. He explained rationale. It is unlikely he said there will be an effective vaccine or drug to combat AIDS for many years, so it is essential that public health officers be given the tools to measure the extent of the problems of this disease, identify carriers/concentrate educational and control efforts where they will be the most effective. He answered questions.

Dr. Fred Tosh, Sedgwick County/Wichita Local Health Department Officer, stated he supports Education in the battle against AIDS, however, if Local Health Departments are to keep abreast of this disease they must be given authority to manage them as other communicable diseases are. Cases of AIDS and HIV should be reported to Local Health Departments by clinical labs performing the testing. He urged to not exclude AIDS or HIV from the list of contagious diseases in Section 10 of SB 686. He noted the importance of reporting of positive cases to the Local Health Departments and contact tracing/ follow-ups. He answered questions.

Mr. Gordon Risk, physician and psychiatrist at Menningers, and President of American Civil Liberties Union offered hand-out, (Attachment No. 4). He agreed in New Section 4 should read that a physician "may" disclose HIV information to others; he opposed the section that relates to funeral directors and others involved in disposition of dead bodies, as he stated there is no evidence to indicate funeral directors observing customary precedures are in any danger of contacting AIDS; testing sex offenders offers no assistance to the victim; testing the offender would constitute an unreasonable search and seizure under the Fourth Amendment and would be a violation of the offenders' right to privacy. (He noted language in the bill may leave the victim of a sex offense less likely to seek and utilize help through HIV testing, since a positive result would place them under the preview of the Secretary of Health and Environment.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 519-S Statehouse, at 9:00 a.m./~~p.m.~~ on March 28, 1988

Hearings continue on SB 686--
Dr. Fred Tosh continued:-- language in the bill requiring physicians to report names and addresses of any individual "who has or is suspected of having AIDS", violates a patients' right to privacy and confidentiality; places the physician in the position of violating his responsibility to do his patient no harm. He spoke of concerns with confidentiality issue in SB 686. If this bill is adopted he said, the Secretary of Health and Environment and county Boards of Health can do whatever they wish as long as it can be rationalized as related to AIDS disease without regard to individuals rights and liberties or due process. He did encourage anonymous testing and counseling, as well as prohibiting discrimination on the basis of HIV status or presence of such disease.

Chair thanked all conferees for returning this date to offer their testimony on SB 686.

Hearings closed on SB 686.

Chair noted agenda for meeting 1:00 this date, and for Tuesday, March 29th.

Meeting adjourned 10:04 p.m.

STATE OF KANSAS

DEPARTMENT OF HEALTH AND ENVIRONMENT
Forbes Field
Topeka, Kansas 66620-0001
Phone (913) 296-1500

Mike Hayden, *Governor*

Stanley C. Grant, Ph.D., *Secretary*
Gary K. Hulett, Ph.D., *Under Secretary*

Testimony Presented to

House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

Senate Bill 686

The Kansas Department of Health and Environment is the state agency responsible for investigating and controlling infectious or contagious diseases. AIDS is one of these diseases. We are here today to support the features of SB 686 that contribute to carrying out this responsibility.

Through March 1, 1988, a total of 121 Kansans have been reported to have the disease AIDS, and at least 83 of these persons are known to have died. A full accounting of the impact of AIDS must also include the number of persons who are infected with the virus but have not yet developed the disease. These infected, but seemingly well persons, are capable of spreading the disease and thus represent a significant public health risk.

Kansas is considered a low prevalence AIDS state by the Centers for Disease Control (CDC). With the concerted approach recommended by the Governor's Task Force on AIDS, it can remain so! A total of 250 persons have the HIV infection according to positive tests confirmed by the KDHE laboratory. The Kansas ratio of two infected persons to every one diagnosed case is far less than the CDC ratio estimate of fifty to one. Therefore we strongly support the expansion of testing and counseling to reach a larger segment of the high risk population.

Broadly based educational measures are essential. Education is currently the most potent tool available to us to break the chain of transmission of AIDS. AIDS is amenable to an educational approach because, with a few exceptions, AIDS spreads by specific, identifiable and controllable activities. This education must be of two types-- broad-based public education, and focused individualized counseling for persons who are infected or who pursue high-risk activities. S.B. 686 recognizes these needs, both directly in Section 6, which requires provision of AIDS-related educational materials to persons applying for marriage licenses, and indirectly, in Section 3, which provides the Secretary of Health and Environment with authority to adopt rules and regulations for the prevention and control of AIDS.

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We recognize the following strengths of S.B. 686:

1. The provision of confidentiality

2. The assurance of immunity from liability for reporting.

3. The assignment of authority to the Secretary of KDHE to promulgate rules and regulations to prevent and control this disease

4. The authorization of an educational program aimed at a cross-section of the population, i.e., applicants for a marriage license.

There is one weakness in S.B. 686 that must be addressed, namely Section 10, which proclaims that AIDS is not an infectious or contagious disease, and excludes it from other state public health laws. This section was intended as an anti-discrimination measure to prevent the exclusion of persons with the infection from schools or child-care facilities. Currently AIDS is designated as an "infectious or contagious" disease by Kansas Administrative Regulation 28-1-2. This designation was made in 1985 in order to authorize AIDS case reporting by physicians. However, this designation carries with it a disadvantage; namely, it could preclude the admittance into school or child-care facilities of infected but well children who pose no unusual risk to their classmates. To resolve this problem, we propose amending Kansas Administrative Regulation 28-1-2 to delete AIDS as a designated infectious or contagious disease. Such a change would allow the deletion of Sections 10 and 11 of S.B. 686. A similar change in the rules and regulations related to adult care facilities has been made, in order to allow such facilities to admit AIDS patients. We are uncomfortable with the prospect of a Kansas statute stating that AIDS is not an infectious or contagious disease when we all know otherwise. Such a statement might not always be cited within the context of the entire law.

We have no qualms about deleting AIDS from the regulations designating infectious or contagious diseases, provided that Sections 2 and 3 of S.B. 686 remain intact. Section 2 provides for disease reporting, includes measures to safeguard confidentially of reports, and provides immunity from liability for those who provide the reports. Section 3 provides authority for the Secretary to adopt and enforce rules and regulations for prevention and control of AIDS. Such authority is essential!

S.B. 686 is a reasoned step towards coping with the AIDS threat. It may not satisfy the concerns of everyone, but we are in the midst of a dynamic disease phenomenon. While our knowledge of the epidemiology of AIDS has grown immensely during the past five years, the exact steps for control have not been fully defined. Of particular concern is the maternal-infant transmission of the virus. Already two infants have been diagnosed with AIDS in Kansas. Preventive strategies to reach drug users must be developed and implemented as a means of preventing transmission of the virus to infants.

Undoubtedly we will be reviewing our legislation as we learn more about the prevention and control of AIDS. Kansas is still a "low prevalence" AIDS state and S.B. 686 will assist public health officials in preventing further spread of the disease.

We recommend the one proposed change for your consideration and support Senate Bill 686.

Presented by:

Patricia Schloesser, M.D.
Director of Health
March 28, 1988

ACQUIRED IMMUNODEFICIENCY SYNDROME (AIDS)
WEEKLY SURVEILLANCE REPORT
UNITED STATES CASES REPORTED TO CDC

As of February 29, 1988

I. TRANSMISSION CATEGORIES

TRANSMISSION CATEGORIES	ADULT MALES	ADULT FEMALES	TOTAL	(%)	CHILDREN	(%)	TOTAL
Homosexual/Bisexual Male	34,687	-0-	34,687	64%			34,687
Intravenous Drug User	7,406	2,067	9,473	18%			9,473
Homosexual/IV Drug User	4,016		4,016	7%			4,016
Hemophilia/Coagulation Disorder	530	22	552	1%	48	1%	600
Heterosexual Cases	987	1,182	2,169	4%			2,169
Transfusion/Blood Components	845	452	1,297	2%	118	14%	1,415
Parent with AIDS/or at risk					663	77%	663
Undetermined	1,311	353	1,664	3%	36	4%	1,700
TOTALS	49,782	4,076	53,858	100%	865	100%	54,723

II. AGE AT DIAGNOSIS BY RACIAL/ETHNIC GROUP

AGE GROUP	WHITE, NOT HISPANIC	(%)	BLACK, NOT HISPANIC	(%)	HISPANIC	(%)	OTHER UNKNOWN	(%)	TOTAL	(%)
Under 5	135	0%	419	3%	174	2%	7	1%	735	1%
5 - 12	59	0%	48	0%	21	0%	2	0%	130	0%
13 - 19	106	0%	82	1%	40	1%	5	1%	233	0%
20 - 29	6,240	19%	3,299	24%	1,720	23%	88	17%	11,347	21%
30 - 39	14,915	46%	6,682	48%	3,539	47%	222	44%	25,358	46%
40 - 49	7,378	23%	2,401	17%	1,455	19%	125	25%	11,359	21%
Over 49	3,915	12%	1,011	7%	578	8%	57	11%	5,561	10%
TOTALS	32,748	60%	13,942	25%	7,527	14%	506	1%	54,723	100%

III. REPORTED CASES AND DEATHS BY OPPORTUNISTIC DISEASE CATEGORY

DISEASE CATEGORY REPORTED	CUMULATIVE CASES/DEATHS			
	Reported Cases		Known Deaths	
	Number	(% Total)	Number	(% Deaths)
Pneumocystis Carinii Pneumonia	34,130	62%	19,381	57%
Other Opportunistic Diseases	14,743	27%	8,570	58%
Kaposi's Sarcoma	5,850	11%	2,764	47%
TOTALS	54,723	100%	30,715	56%

IV. CASES OF AIDS AND CASE-FATALITY RATES BY YEAR OF DIAGNOSIS

	NUMBER OF CASES	NUMBER OF KNOWN DEATHS	CASE-FATALITY RATE
1981	271	249	92%
1982	1,023	898	88%
1983	2,833	2,510	89%
1984	5,720	4,680	82%
1985	10,236	7,732	76%
1986	15,558	8,835	57%
1987	18,510	5,694	31%
1988	497	53	10%
TOTALS	54,723	30,715	56%

#1(a)
3-28-88
9:00 am.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
BUREAU OF EPIDEMIOLOGY
AIDS PROGRAM

MONTHLY SURVEILLANCE REPORT
CUMULATIVE KANSAS CASES REPORTED TO KDHE THROUGH FEB 29,1988

TRANSMISSION CATEGORIES

TRANSMISSION CATEGORIES	ADULTS MALE	ADULTS FEMALE	CHILDREN	TOTAL	(%)
Homosexual/Bisexual Male	83	-	-	83	69%
Intravenous Drug User	4	1	-	5	4%
Homosexual/IV Drug User	7	-	-	7	6%
Hemophilia/Coag. Disorder	5	0	0	5	4%
Heterosexual Cases	2	2	-	4	3%
Transfusion/Blood Components	7	4	0	11	9%
Parent with AIDS/or at risk	-	-	2	2	2%
Undetermined	4	0	0	4	3%
TOTAL	112	7	2	121	100%

. AGE AT DIAGNOSIS

GROUP	NUMBER	(%)
Under 13	2	2%
13-19	0	0%
20-29	35	29%
30-39	51	42%
40-49	21	17%
Over 49	12	10%
TOTAL	121	100%

Mean Age: 35.4

III. RACIAL/ETHNIC GROUP

	ADULTS	CHILDREN	(%)
White, not Hispanic	103	2	87%
Black, not Hispanic	12	0	10%
Hispanic	4	0	3%
Other/Unknown	0	0	0%
TOTAL	119	2	100%

. REPORTED CASES AND DEATHS BY OPPORTUNISTIC DISEASE GROUP

PRIMARY DISEASE REPORTED	REPORTED CASES Number	REPORTED CASES (%)	KNOWN DEATHS Number	KNOWN DEATHS (%)
Pneumocystis carinii Pneumonia	69	57%	44	64%
Other Opportunistic Diseases	48	40%	37	77%
Kaposi's Sarcoma	4	3%	2	50%
TOTAL	121	100%	83	69%

CASES OF AIDS AND CASE FATALITY RATES BY YEAR OF REPORT

	NUMBER OF CASES	NUMBER OF KNOWN DEATHS	CASE-FATALITY RATE
1982	1	1	100%
1983	2	1	50%
1984	2	2	100%
1985	16	14	88%
1986	38	28	74%
1987	55	34	62%
1988	7	3	43%
TOTAL	121	83	69%

VI. CASES OF AIDS AND CASE FATALITY RATES BY COUNTY OF RESIDENCE (Counties with 10 cases) (or more)

	NUMBER OF CASES	NUMBER OF KNOWN DEATHS	CASE-FATALITY RATE
Johnson	29	16	55%
Wyandotte	27	18	67%
Shawnee	13	11	85%
Sedgwick	22	17	77%
All Others	30	21	70%
TOTAL	121	83	69%

VII. AIDS CASES PENDING AT CDC: 14

#1 3-28-8[illegible] 9:00 am.

KANSAS ASSOCIATION OF LOCAL HEALTH DEPARTMENTS

"... Public Health in Action"

FY 1989

AIDS PREVENTION AND CONTROL

I. Issue Definition

The public health aspects of acquired immunodeficiency syndrome (AIDS) should be handled as other communicable diseases in that positive blood tests should be reported to health departments and contact follow-up should take place. Mandatory blood tests should be required under some circumstances and all medical information should be kept confidential as it is with other communicable diseases.

II. Background

AIDS is a fatal disease caused by a virus that is transmitted by sexual intercourse and blood, the latter usually is through sharing of contaminated needles by intravenous drug abuse. Since AIDS was first reported in the United States in mid 1981, public health services has received reports of about 36,058 cases with a case fatality ratio of 58%. Approximately 70% of the cases has occurred in homosexual/bisexual men and 17% have occurred in intravenous drug abusers. While the percent of cases in these groups has remained constant, there has been a significant increase in heterosexual cases. AIDS is a public health problem that merits serious concern and is a major priority of the U.S. Public Health Service. The AIDS virus is spread by sexual contact and needle sharing and may be transmitted from infected mother to infant during pregnancy or birth, or shortly after birth (probably through breast milk). The risk of infection with the virus is increased by having multiple sexual partners, either homosexual or heterosexual. Through June 18, 1987 there have been 74 AIDS cases in Kansas with a case fatality ratio of 64%.

The current recommendations for the prevention and control of AIDS is through education in schools, the workplace and the general public and through anonymous testing of individuals in high risk groups. There is no contact follow-up. Positive blood tests are not reported to local or State health officials and no contact follow-up is made. The number of people estimated to be infected with the AIDS virus in the

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112 West Sixth Street, Suite #500, Topeka, Kansas 66603 913-354-1605

United States is about 1.5 million. All of these individuals are assumed to be capable of spreading the virus sexually (heterosexually or homosexually) or by sharing needles and syringes or other implements for intravenous drug use. Scientists predict that 20%-30% of those infected with the AIDS virus will develop AIDS within five years. Traditionally the control of communicable diseases has been to report known cases to official public health agencies, so their contacts can be investigated. Also, individuals who are infected and capable of transmitting the infection are reported to public health officials so their contacts can be investigated.

III. Options

A. Continue with education and anonymous testing and hope that it diminishes further spread of the AIDS virus.

B. Continue education and voluntary anonymous testing of high risk individuals and mandate testing of immigrants and prisoners in local jails and State prisons.

C. Supply increased funding for AIDS with the following priorities.

1. Support the continued testing, counseling, and education of individuals with high-risk behaviors.
2. Support public health departments in their effort to do contact follow-up of cases and those with positive HIV test results.
3. Offer voluntary testing in clinics for family planning and sexually transmitted diseases and for anyone thought to be at risk.
4. Mandate testing in prisons and jails.
5. Provide voluntary testing for individuals not in high-risk groups.
6. Continue with education about AIDS in schools, workplaces, and for the general public.

IV. Recommendation

The Kansas Association of Local Health Departments recommends option C. AIDS is a sexually transmitted disease and testing, counseling, education and follow-up are necessary public health components. Testing in prisons and jails would be productive in segregating positive individuals from those who tested negative. Because drug abuse and homosexual activity occurs during incarceration, separation of the prisoners could prevent transmission of the infection and prevent the

treatment costs which will fall back on local or State governments operating the prisons and jails.

Many of the patients attending family planning and sexually transmitted disease clinics may be in high risk categories and therefore testing should be offered and followed by counseling about the risks of promiscuity. The follow-up of positive HIV tests will help public health authorities control the spread of this infection. These practices have been successful in syphilis and other communicable diseases.

V. Fiscal Impact

The cost of performing the procedures under option C would be high but case treatment costs are extremely high. The cost to draw the blood for the test and provide counseling is estimated at $15.00 per person. The number of positive tests will probably be small and the number of contacts to be followed should not be overwhelming.

VI. Legislative Implications

Legislation would be needed to mandate testing in prisons and jails. There may be the need to strengthen the anti-discrimination laws to protect individuals who are found to be positive on mandated and voluntary testing.

VII. Impact on Other Agencies

Option C and accompanying legislation would have an impact on the KDHE laboratory and epidemiology unit, local health departments that would test and counsel individuals, State Prisons and County jails, and private physicians that would do voluntary testing.

VIII. Supporting Documents

Surgeon General's report on Acquired Immune Deficiency Syndrome. Facts about AIDS-winter 1987-U.S. Public Health Service. Public Health and the Law-AIDS Screening, Confidentiality, and the Duty to Warn. Larry Gostin, J.D. and William J. Curran, J.D., LLM, SMHYG. APHA 77;361-365, 1987.

:SENTATION TO SENATE PUBLIC HEALTH COMMITTEE ON SB 686, March. ð8.

I'm Dr. Ray Baker, Health Officer for Shawnee County; I appreciate this opportunity to testify on SB 686/

The development of this bill is a recognition that AIDS is a serious threat to the public health of this state and nation. Obviously, the legislature wants to respond positively to the well-founded fears of Kansas citizens.

This bill is a good start; I'd like to comment on several areas that are particularly commendable and several where I believe changes are needed.

The Sections 2(c) and 3(b) dealing with confidentiality are excellent. They should help reassure and protect many who have feared their lives and reputations would be ruined by careless handling of AIDS information. That reassurance, in turn, ought to improve trust and cooperation between patients, public health officials and practicing physicians, which is vital to any program of control.

Second, Section 6(a) is an excellent compromise. It avoids costly and --at this point--probably minimally productive premarital screening,and instead sets up an important educational opportunity for young people about to be married.

Third, Section 6(b) requiring the Secretary to establish testing sites is highly desirable. It would be greatly improved by adding "counselling" to the activities to be undertaken.

Section 2(a) and 3(a) which require reporting, investigation and supervision of AIDS cases should continue to be through the Local Health Officer. Any local health officer who feels unable to cope with these obligations in his/her county can--and should--call on the Secretary for assistance. But, by and large control and investigation of disease outbreaks are far better done locally.

There is one critical public health tool that is omitted in this bill: the reporting of HIV infections. They should be treated for purposes of disease control just like AIDS cases. Let me tell you why. It is estimated there are 50 to 100 HIV positive individuals (carriers) for every AIDS case in this country..... That means there are at least 6,000 carriers in Kansas. Each is capable of spreading the AIDS virus probably far more efficiently and extensively than AIDS patients who are often quite weak, ill and bedfast. Since there is very unlikely to be any effective vaccine or drug against AIDS for many years, it is absolutely essential that public health officials be given the tools to measure the extent and location of the problem, identify the carriers and cases and concentrate our educational and control efforts where they will do the most good. Of course, we need to continue mass education, but that's not enough; we need to take the next step and supplement it by more precise and intense activities.

Ladies and Gentlemen of the committee, I applaud your efforts to stop this frightening disease and hope my comments will assist you in your deliberations.

3-24-88

Ray D. Baker, MD, MPH
Health Officer & Director
Topeka-Shawnee County Health Agency

attm. #3
3-24-8
PH&W
9:00 AM

Senate Bill #686

My name is Doctor Gordon Risk, and I'm the president of the American Civil Liberties Union of Kansas. I'm here today to register our comments and concerns regarding SB 686. Since I am a physician and psychiatrist I am also directly affected by this bill.

The provisions of this bill providing for anonymous testing at sites throughout the state and distribution of AIDS related educational material are to be applauded. I would only hope that the educational material might be more widely distributed than is currently contemplated, since marriage among homosexuals is not recognized by the state, and heterosexuals do have sex outside of marriage. Distribution at the time of marriage seems rather quaint. State funding of the anonymous testing would make it more available, a result to be desired.

I would agree with a number of the criticisms of the bill that were voiced on Thursday. I think that New Section 4 should read that a physician "may" disclose HIV information "to other health care personnel who because of the involvement with the care of the patient are subject to risk of exposure to HIV." This offers the patient greater protection of his right to privacy than the requirement that the physician "shall" disclose such information and is to be preferred on this account. Other health care personnel who think the physician has exercised his discretion improperly can sue for damages.

The section of the bill relating to funeral directors and others involved in the disposition of dead bodies is an example, I think, of the hysteria surrounding AIDS. I know of no evidence to indicate that funeral directors observing customary procedures are in any danger of contacting AIDS. The deceased's right to privacy should not be breached so lightly. People convey a message both by what they say and what they do. I think by passing a bill with a provision requiring notification of funeral directors of the AIDS status of a deceased individual, the legislature will be sending the people of Kansas a message that the virus can be casually and easily transmitted; i.e., the carrier doesn't even have to be alive, all information about the virus' fragility to the contrary. Is this the message you want to send?

Testing sex offenders offers no real assistance to the victim, who must proceed in a timely way to look after his or her own mental and physical health. The victim can't wait for the trial, conviction, and testing of the offender to act. Testing of the offender would constitute an unreasonable search and seizure under the Fourth Amendment and would be a violation of the offenders' right to privacy. We should not be guilty of violating the right to privacy of sex offenders simply because they have been guilty of violating the rights of others. The bill paradoxically may leave the victim of a sex offence less likely to seek and utilize help through HIV testing, since a positive result would place him or her under the preview of the secretary of health and environment, who would have power "to enforce rules and regulations for the provision and control of AIDS." This result would be doubly unjust.

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900 AM.

The section of the bill requiring physicians to report the name and address of any individual "who has or is suspected of having AIDS" to the secretary of health and environment violates a patients' right to privacy and confidentiality, requires a physician to report potentially damaging hearsay information, and places the physician in the position of violating his responsibility to do his patient no harm. The scrutiny and supervision of AIDS patients' envisioned by this bill is an infringement of civil liberties. The fact that a person has AIDS should not diminish his civil liberties, and the infringement becomes even more flagrant when extended to "suspected" cases. If confidentiality is breached, and this bill is replete with instances in which confidentiality may be breached, the affected person may face loss of his job, insurance benefits, and friends. How can a physician who has a responsibility not to harm his patient report under the circumstances? You would turn physicians into law breakers. I would suspect that individuals with the disease and those with the infection who may develop the disease would be less apt to seek counseling for their condition if reporting to the state is the only certain result. Without counseling affected individuals may be in a poorer position to deal with their feelings and to act in a thoughtful manner.

All this of course is prologue and coda to the central sections of this bill, which give the secretary of health and environment the power to undo, alter, or augment anything the legislature may decide with regard to AIDS or the virus that causes it. New Section 3(a) permits the secretary to "adopt and enforce rules and regulations for the prevention and control of AIDS and for such other matters relating to cases of AIDS as may be necessary to protect the public health." For those of us concerned with individual liberty, this grant of power is a Trojan horse. The secretary may decide that funeral directors will be informed of the deceased's AIDS status, even though this legislature may have decided otherwise. He may decide that physicians "shall" inform other treatment personnel about a patient's AIDS status, even though this legislature may have decided otherwise. He may order contact tracing or pre-marital testing, measures rejected by this legislature. Quarantine could be ordered. Since his authority may be delegated to county boards of health, they would presumably have the power to "adopt and enforce rules and regulations" as they saw fit, and to make their own determinations as to whether confidentiality should be breached. The exception allowing breach of confidentiality, "if the disclosure is necessary, and only to the extent necessary," is an exception so large as to render the concept of confidentiality meaningless. The path is clear for many to be damaged.

If this bill is adopted the secretary of health and environment and county boards of health can do whatever they want as long as it can be rationalized as related to AIDS, without regard to individual rights and liberties or due process. There would be no significant constraint upon their ability to interfere in the life of the citizens of this state in whatever way they might wish. This is a wholly inappropriate grant of power, quite at odds with our ideas of limited government and individual rights. Adoption of this provision would be an abdication by the legislature of its responsibility to draw up laws narrowly crafted to achieve a specific purpose, with attention to harmful consequences.

I would hope that the legislature would set as a minimum requirement that any AIDS bill that it votes into law will unmistakably assist in containing the spread of the human immunodeficiency virus. I think this bill fails that minimal test. The Governor's Task Force on AIDS states that "the greatest public benefit can be achieved by a comprehensive, voluntary program of public health education, together with the highest quality professional testing and counseling services." Anonymous testing and counseling would be most helpful in this regard, together with legislation prohibiting discrimination on the basis of HIV status or presence of the disease. These measures would encourage individuals to test themselves and be most helpful in controlling the spread of the disease.