Approved: 3-25-96
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on March 11, 1996 in Room 526-S of the Capitol.

All members were present except:

Committee staff present:
Bill Wolff, Legislative Research Department
Norman Furse, Revisor of Statutes
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Terry Humphrey, Executive Director, Kansas Trial Lawyers Association
Wendy McFarland, American Civil Liberties Union
Cynthia Breitenbach, Women's Recovery Center
Cherie Price, recovering addict and alcoholic
Monica Neff, Kansas National Organization for Women

Others attending: See attached list

Continued Hearing on HB 2423 - Alcohol and drug screening program for welfare recipients

Terry Humphrey, KTLA, testified in support of Section 2 of the bill which would put current KDHE drug testing regulations (K.A.R. 28-33-13) into statute. She noted that KDHE has promulgated new regulations that delete the most important components of the current regulations which would eliminate procedures that assure the source of the sample tested; eliminate the requirement for education, training and experience to supervise the laboratory; eliminate the requirement of a second test to verify a positive test; and eliminate the most clinically reliable test, gas chromatography, as the confirming procedure. KTLA also provided a copy of a spreadsheet prepared by Dr. Jack Zahn of Salina's Weber Palmer & Macy Laboratories which Ms. Humphrey noted would clarify the issues raised on testing at the previous hearing on the bill. (Attachment 1)

Wendy McFarland, ACLU, also testified in support of Section 2 of the bill and requested the bill be amended by striking Section 1. (Attachment 2)

Cynthia Breitenbach, Women's Recover Center, spoke in support of the concept of **HB 2423**, but noted that her concerns with the bill are about implementation and sufficient staffing to care for those children of mothers in the drug program. Ms. Breitenbach felt the bill would impact the foster care system. (Attachment 3)

Cherie Price, who labeled herself as a recovering addict and alcoholic, told the Committee she is very much in support of drug and alcohol screening for welfare recipients, and that it is not a waste of money to help those who enter the drug and alcohol programs. Ms. Price noted that there are too many welfare recipients taking advantage of the system, and as long as an SRS check continues to come in, they will continue to use drugs and alcohol. (Attachment 4)

Written testimony in support of Section 2 of the bill was received from Wayne Maichel, Kansas AFL-CIO. (Attachment 5)

Speaking in opposition to Section 1 of the bill was Monica Neff, representing NOW, who noted that she supports early intervention and treatment but has concerns with the fact that assistance offered is directly tied to the continuance of a family's or individual's subsistence level cash grant. Ms. Neff also questioned the fiscal impact of the bill. (Attachment 6)

Written testimony in support of Section 2 of the bill was received from Roland E. Smith, Wichita Independent Business Association. (Attachment 7)

The Chair noted that because the bill addresses two separate issues, a subcommittee would be appointed and members announced at the next meeting.

Adjournment
The meeting was adjourned at 10:55 a.m.

The next meeting is scheduled for March 12, 1996.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 3-11-96

NAME	REPRESENTING
Jim Klethoff	KS AFL-CIO
[illegible]	Ally
Dr Jack Gauer	WPM Laboratories
Robyn H. Carlson	KDHE
[illegible]	KDHE
Terry Humphrey	KTLA
Kelly Kultala	KTLA
Cassidy Shively	SRS
Gene Johnson	KS ASAP Assn + D.C.C.C.A
Kelly Jennings	KAPE
CAROL PRATT	STUDENT
Cindy Johnson	STUDENT
Marlene Rich	STUDENT
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Deborah Scheff	Student (Washburn)
Barbara Sims	STUDENT
Connie Byrne	KAPACA / Ks. Alliance on D/A Svcs
Rick Mann	Kansas Health Institute
Melissa Wangemann	Hein Ebert & Weir

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: _____

NAME	REPRESENTING
Kenny Humphrey	KTLA
Cherie Price	Women Recovery
Cynthia Bretenbach	Women's Recovery Ctr.
Erica Graff	Ks. N.O.W.
Shirley Sutton Attorney	V Sutton Lab Improvement / KHEL-HOME
Meg Henson	ICMS
JASON PITSENBERGER	BRAD SMOOT

KANSAS TRIAL LAWYERS ASSOCIATION

Lawyers Representing Consumers

Kansas Trial Lawyers Association
Legislative Testimony
House Bill 2423
Presented by: Terry Humphrey
March 11, 1996

Madame Chair and Members of the Committee, I am Terry Humphrey, Executive Director of the Kansas Trial Lawyers Association. I am here today to support Section II of HB 2423. KTLA attorneys represent both employers and employees in employment disputes. Often those disputes involve drug testing. KTLA's interest in this bill is to protect the integrity of drug testing in Kansas through continued reliance on strict clinical standards for laboratories. If enacted into law, this bill would accomplish that goal.

Attached to this testimony is a copy of a spreadsheet prepared by Dr. Jack Zahn of Salina's Weber Palmer & Macy Laboratories. The document was prepared to clarify the issues raised in the previous hearing on this bill. As you know, HB 2423 puts current KDHE regulations (K.A.R. 28-33-13) into statute. The spreadsheet compares current regulations to the proposed regulations and to the bill before you. The final column explains Dr. Zahn's justification for the bill.

As you can see, KDHE has promulgated new regulations that **delete** the most important components of the current regulations. The **deletions** are:

- **Eliminate** procedures that assure the source of the sample tested (chain of custody).
- **Eliminate** the requirement for education, training and experience to supervise the laboratory.
- **Eliminate** the requirement of a second test to verify a positive test (confirmation testing).
- **Eliminate** the most clinically reliable test, gas chromatography[1], as the confirming procedure.

[1] Gas chromatography, the most clinically reliable test, is specifically referred to in the Kansas Employment Security statute, KSA 44-706 and the Workers Compensation statute, KSA 544-501 subsection (d) (2) (E). Kansas Administrative Regulations governing drug and alcohol testing for truck truck drivers is found in CAR 84-2-1 which references the federal standard for use of gas chromatography in 49 CFI 40 and 49 CFI 391.

Terry Humphrey, Executive Director

Jayhawk Tower • 700 SW Jackson, Suite 706 • Topeka, Kansas 66603–3758 •

Senate Public Health & Welfare
Date: 3-11-96
Attachment No. 1

Everyone can agree that having "a positive drug test" as part of your permanent work record would be devastating. Drug testing is serious business. We should not take chances with drug testing procedures. Any one of us, our sons, our daughters and our neighbors could fall victim to a "**false positive**" test.

KTLA suggests three possible solutions to this problem.

- **The first option is that you direct the Secretary to withdraw his proposed regulations and allow this issue to be further studied in interim committee.**
- **The second option is to address in statute the four major concerns outlined above which constitute the heart and soul of drug testing.**
- **The third option is to pass Section II of HB 2423 to codify current regulations in statute.**

Please consider these options and take action to preserve strict clinical standards. Thank you.

K.A.R. 28-33-12 OLD KDHE REQULATION	AMENDED KDHE K.A.R. 28-33.12	HOUSE BILL NO. 2423 NEW SEC. 2	REASON FOR RECOMMENDATION
28-33-12 Section:			
1.. Defines Department	1.. No change	1.. Same as 28-33-12	
2.. Defines Division	2.. No major change	2.. Same as 28-33-12	
3.. Defines Director	3.. Deleted	3.. Same as 28-33-12	Kit as listed by KDHE falls under CLIA moderate complexity lab. Laboratory Director Qualifications for moderate complexity testing: MD, DO or podiatrist with current KS license. Minimum qualifications bachelor's + 2 yr supervisory exp.
4.. Defines controlled substance	4.. Deleted	4.. Same as 28-33-12	No applicable CLIA definition.
5.. Defines screening test	5.. No change	5.. Same as 28-33-12	
6.. Defines positive screening test	6.. Deleted	6.. Same as 28-33-12	No applicable CLIA definition.
7.. Defines threshold - level above which is considered positive	7.. Deleted	7.. Same as 28-33-12	Defining a threshold helps prevent reporting false positive results. No applicable CLIA definition.
8.. Defines lowest level a drug can be detected	8.. Deleted	8.. Same as 28-33-12	Defining lower limit of detection assures proper sensitivity. No applicable CLIA definition.
9.. Defines confirmatory test or a second test performed to make sure the drug test is positive	9.. Deleted	9.. Same as 28-33-12	Amended version does not require a SECOND ACCURATE test to positively identify the drug. No applicable CLIA definition.
9b. Defines approval procedure	9b. No major change	9b. Same as 28-33-12	
9b1. Defines application process	9b1. No major change	9b1. Same as 28-33-12	
9b2. Must have a successful inspection	9b2. Submit copy of on-site evaluation of federal agency	9b2. Same as 28-33-12	CLIA does not apply (493.3(2)(b)(1) to pre-employment drug testing.
9b3. Successful participate in proficiency program	9b3. Deleted proficiency	9b3. Same as 28-33-12	Accuracy of testing procedures for drugs of abuse are not required. (refers to proficiency testing) CLIA Subpart I 493.937.

9b4. Must identify lab doing confirmation testing, if not done by lab	9b4. Same as 28-23-12	9b4. Same as 28-33-12	Amended does not require confirmation testing. Confirmation helps illiminate the possibility of reporting FALSE POSITIVE results.
9c. Application process and follow-up inspection	9c. Refers to CLIA	9c. Same as 28-33-12	CLIA does not apply (493.3(2)(b)(1) to employment based testing (pre-employment, post-accident, etc.)
9c1. Defines the screening test methodology for the 5 drugs of abuse	9c1. Deleted	9c1. Employs a sensitive, rapid test to eliminate TRUE negative patients.	CLIA DOES NOT address this critical issue of test methodology. No applicable CLIA regulation.
9c2. Requires testing samples of known concentration with each test batch to assure precision and accuracy.	9c2. Deleted	9c2. Same as 28-33-12	The test procedure must be perfomed accurately at the level, above which, employees will be reported out as POSITIVE. Minimum CLIA requirement is 2 samples of calibration/control materials at different concentrations.
9c3. Requires a quality assurance program for laboratory.	9c3. Deleted	9c3. Same as 28-33-12	CLIA DOES NOT specifically address quality assurance for employment based drug testing.
9c3a. Requires sample collection criteria be followed and signed.	9c3a. Deleted	9c3a. Same as 28-33-12	Important in cases of litigation. No applicable CLIA regulations.
9c3b. Requires a chain of custody for the urine sample.	9c3b. Deleted	9c3b. Same as 28-33-12	No applicable CLIA regulations. Chain of custody is a must for litigation.
9c3c. Requires security in testing area.	9c3c. Deleted	9c3c. Same as 28-33-12	CLIA does not require. The lab where the test is performed must be accessible only to properly assigned personnel in order to protect the security of the urine sample and the confidentiality of the test results.
9c3d. Confirmation of all positive screening tests	9c3d. Deleted	9c3d. Same as 28-33-12	No applicable CLIA requirements. Confirmation by GC/MS must be performed to prevent the false positive results, which do occur frequently with screening tests. Positive results can mean loss of work, liberty, or not getting a job.

9c3e. Requires that ONLY a confirmed positive be reported as POSITIVE.	9c3e. Deleted	9c3e. Same as 28-33-12	Only CONFIRMED POSITIVE results must be reported to the employer, else would present prejudicial information.
9c3f. Quality control program	9c3f. Deleted, but covered by CLIA	9c3f. Same as 28-33-12	No applicable CLIA requirement. CLIA 493.1201-493.1249
9c3g. Instrument maintenance	9c3g. Deleted, but covered by CLIA	9c3g. Same as 28-33-12	CLIA 493.1215
9c3h. Requires retention of all positive specimens for 1 year.	9c3h. Deleted	9c3h. Same as 28-33-12	No applicable CLIA requirement. Very important for retesting at request of employee and for litigation purposes.
9c3i. Waste disposal	9c3i. Deleted, but covered by CLIA	9c3i. Same as 28-33-12	Not covered by CLIA. Covered under KAR 28-29-27.
9c3j. Documentation of foregoing procedures (3a-3i).	9c3j. Deleted, but covered by CLIA	9c3j. Same as 28-33-12	
9c4. Equipment requirement	9c4. Deleted, but covered by CLIA	9c4. Same as 28-33-12	CLIA 493.1205
9c5. Reagent storage requirement	9c5. Deleted, but covered by CLIA	9c5. Same as 28-33-12	CLIA 493.1205
9c6. Sufficient work space	9c6. Deleted, but covered by CLIA	9c6. Same as 28-33-12	CLIA 493.1204
9c6d. Observe testing by inspector	9c6d. Deleted	9c6d. Same as 28-33-12	
9c6e. Follow up inspection at any time.	9c6e. Included + routine CLIA inspections.	9c6e. Same as 28-33-12	
9c6f. Defines laboratory personnel	9c6f. Deleted	9c6f. Same as 28-33-12	
9c6f1. Lab must have director	9c6f1. Deleted	9c6f1. Same as 28-33-12	Laboratory Director Qualifications for moderate complexity testing: MD, DO or podiatrist with current KS license. Minimum qualifications bachelor's + 2 yr supervisory exp.
9c6f1a,b. Defines director as physician, or Phd with pharmacology training.	9c6f1a,b. Deleted	9c6f1a,b. Same as 28-33-12	A physician or Phd. with pharmacology training is a must to correctly instruct employers, personnel officers, etc. on drug testing results. CLIA does not specify pharmacology trainin only laboratory training or experience.

9c6f2. Supervision of testing by a bachelors degree in sciences and 6 years experience in toxicology or chemistry.	9c6f2. Deleted	9c6f2. Same as 28-33-12	Due to the potential litigation and complexity of record keeping and documentation, this is necessary. No CLIA requirements for direct supervision of moderate complexity testing.
9c6f3. Requires Director to assure and document the adequate training of personnel.	9c6f3. Deleted	9c6f3. Same as 28-33-12	Covered by CLIA
9c6g. Maintain records for 2 years.	9c6g. Deleted	9c6g. Same as 28-33-12	Covered by CLIA
9c6h. Proficiency testing. Must participate in an external program to test samples of known concentration to verify accuracy	9c6h. Deleted	9c6h. Same as 28-33-12	Accuracy of testing procedures for drugs of abuse are not required. (refers to proficiency testing) CLIA Subpart I 493.937.
9c6h1,2,3. These deal with proficiency testing (9c6h) in more detail.	9c6h1,2,3. Deleted	9c6h1,2,3. Same as 28-33-12	Refer to 9c6h comments.
9c6i. Laboratories located inside & outside Kansas shall be added to approved list provided they meet or exceed all requirements of vol 59 no 110 June 9, 1994 pages 29916-29931..	9c6i. Included	9c6i. Same as 28-33-12	
	Not included.	Section 3 Ammendments. See attached Bill 2423.	

Summary:

1. Amended K.A.R. 28-33-12 does away with the confirmation of positive screens allowing for false positive test reporting.
2. CLIA does not address employee based drug testing.
3. Amended K.A.R. 28-33-12 does not address chain of custody:
   - Who had possession of my urine sample for testing?
   - Why did they have possession of my urine sample?
   - When did they have possession of my urine sample?
4. Amended K.A.R. 28-33-12 does not address security of testing area, sample shipment, or specimen storage area.
5. Since the screen test is of moderate complexity, about anyone would be allowed to run the test.
6. Many of the common over the counter medications, as well as prescription medications, would give a positive screen test.
   This could prevent people from working or holding a job....
7. The Federal Goverment addressed this problem through the D.O.T. Guidelines for Drug Testing as well as the College of American Pathologists though their Federal program.

Definition of CLIA:

Final Clinical Laboratory Improvement Act of 1998 (CLIA '88) rules governing the classification of laboratory tests, personnel, quality standards, proficiency testing, fees, and certification were published on February 28, 1992. These new rules represented a major change from the previously proposed and largely unworkable rules of March 14, 1991. **The final regulations apply to all testing of human specimens for healthcare purposes.**

CLIA regulations as published in the Federal Register (42 CFR part 493) specifically state these regulations apply to laboratories (493.1) which is defined as a facility providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings (493.2).

These regulations do NOT apply to any facility or component of a facility that only performs testing for forensic purposes [493.3.(2)(b)(1)]. "In the forensic testing context, laboratory results are generated purely for the purpose of detecting illegal substances or illegal amounts of certain substances in the body that may be relevant to legal proceedings" (Federal Register, Vol. 57, No. 40/ February 28, 1992, page 7014). This is applicable to urine drug of abuse testing for employment sectors. (SEE ATTACHED)

American Civil Liberties Union
of Kansas and Western Missouri
706 West 42nd Street, Suite 108
Kansas City, Missouri 64111
(816) 756-3113

Wendy McFarland, Lobbyist
575-5749

TESTIMONY ON HOUSE BILL 2423
DELIVERED MARCH 5, 1996 TO THE
SENATE PUBLIC HEALTH AND WELFARE
COMMITTEE.

GOOD MORNING SEN. PRAEGER AND MEMBERS OF THE COMMITTEE. MY NAME IS WENDY MCFARLAND AND I REPRESENT THE ACLU OF KANSAS AND WESTERN MISSOURI. I AM HERE TODAY TO OFFER STRONG SUPPORT TO SECTION 2 OF HB 2423 AND TO OFFER EQUALLY STRONG OPPOSITION TO SECTION 1 OF THIS BILL.

AS TO SEC. 2, THIS WILL BE THE THIRD TIME I HAVE APPEARED IN PUBLIC HEARINGS TO TESTIFY ON THE IMPORTANCE OF HOLDING LABORATORIES ACCOUNTABLE TO THE STRICTEST STANDARDS TO INSURE ACCURATE TEST RESULTS IN DRUG TESTING.

ON JAN. 11TH OF THIS YEAR, I APPEARED AT A REGULATORY HEARING OF HEALTH AND ENVIRONMENT WHERE I WAS JOINED BY SEVERAL DISTINGUISHED MEMBERS OF THE KANSAS MEDICAL COMMUNITY IN OPPOSING HEALTH AND ENVIRONMENTS PROPOSED CHANGES IN REGULATIONS THAT WOULD GREATLY RELAX THE STANDARDS OUR STATE CURRENTLY HOLDS MEDICAL LABORATORIES ACCOUNTABLE TO.

THE DEPT. OF HEALTH AND ENVIRONMENT WAS NOT REQUIRED TO PROVIDE ANY INFORMATION THAT DAY TO JUSTIFY THEIR PROPOSED CHANGES AND SUBSEQUENT ATTEMPTS BY MYSELF AND A LEGISLATOR TO DETERMINE THEIR INTENT HAVE BEEN MET WITH NO INFORMATION AT ALL. MY PURPOSE IN SAYING THIS IS NOT TO ACCUSE THE AGENCY OF OBSTRUCTING OPEN AND FAIR DISCUSSION BY THEIR NON-COMMITTAL REPLIES, BUT TO QUALIFY AND DEFEND MY OWN TESTIMONY TODAY.

WITHOUT KNOWING WHY THEY ARE ATTEMPTING TO WEAKEN THESE REGULATIONS, I AM NOT ALLOWED TO EFFECTIVELY ARGUE AGAINST THEIR REASONS. THEREFORE I WILL ARGUE AGAINST THE ULTIMATE RAMIFICATIONS.

I WANT TO TAKE THIS OPPORTUNITY TO THANK REP. DALE SWENSON FOR INTRODUCING A VERY GOOD BILL DESIGNED TO BLOCK THOSE CHANGES NOW PROPOSED BY H & E. IF SEC. 2 BECOMES LAW, THEN EVERY SINGLE GOVERNMENT OR PRIVATE EMPLOYEE WHO FACES THE PROSPECT OF DRUG TESTING IN THE WORKPLACE OWES HIM A DEBT OF GRATITUDE AS WELL. HE CARED ENOUGH TO LEAVE THIS BUILDING ONE AFTERNOON DURING THE FIRST HECTIC WEEK OF SESSION AND ATTEND AN IMPORTANT HEARING THAT WENT UNNOTICED BY EVERY OTHER LEGISLATOR AND I WOULD VENTURE TO SAY THAT THE DEPT. OF HEALTH AND ENVIRONMENT WOULD HAVE PREFERRED IT TO HAVE GONE UNNOTICED.

*REFER TO JAN. 11, 1996 TESTIMONY

Senate Public Health & Welfare
Date: 3-11-96
Attachment No. 2

American Civil Liberties Union
of Kansas and Western Missouri
706 West 42nd Street, Suite 108
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(816) 756-3113

Wendy McFarland, Lobbyist
575-5749

TESTIMONY
Changes in KAR 28-33-12 and KAR 28-34-11
January 11, 1996

Good afternoon. I represent the American Civil Liberties Union of Kansas and Western Missouri, a private not-for-profit membership organization which advocates for constitutional rights and civil liberties. Thank you for this opportunity to voice our concerns about the revisions to KAR 28-33-12 and KAR 28-34-11 that are before you today.

The ACLU has often testified before the state legislature regarding our opposition to mandatory pre-employment drug testing and random or mandatory post-employment testing. We believe such testing violates Fourth Amendment protections against unwarranted search and seizure, because employees who have shown no evidence of drug- or alcohol-related impairment are required to submit to urinalysis. We find that the very process of testing an individual without reasonable suspicion of drug or alcohol impairment violates their right to privacy, no matter the outcome of the test.

However, constitutional arguments notwithstanding, it is the outcome of the testing that concerns us today, as well as other procedural issues addressed in these revisions. Taken together, we feel these changes would result in the erosion of the few protections now provided to employees in Kansas who are required to submit to urinalysis.

First, false positives can, and do, result in the wrongful termination of employees whose only fault may have been to ingest cough syrup with codeine or a poppy seed bagel, or one of a variety of over-the-counter cold medications which can show up in a drug screen as an amphetamine. Second, the results of testing should remain confidential, but that confidentiality may be breached easily if the results are revealed to unauthorized personnel. Third, there is a likelihood that specimens may be switched or altered unless there are strict safeguards to prevent this. An individual with a drug problem may be able to switch his or her specimen with a "clean" specimen, quite possibly resulting in the termination of the innocent employee.

No drug testing policy will completely and perfectly forestall the occasional occurrence of these three problems. However, the state of Kansas is to be congratulated for implementing the best safeguards possible, prior to the proposed administrative regulations revisions.

The following is a summary of the specific problems in the proposed regulations which are likely to compromise the integrity of employee drug tests:

a. These changes would revoke the requirement for high quality control (relying on the minimal CLIA standard rather than the more rigorous SAMSA standard)

-- CLIA regulations do not call for controls "at or near the cutoff" in the case of a close call.
-- Internal controls such as those used in hand-held screening tests) would now be acceptable (such as Triage, a test intended for emergency room use only).
-- As a result, the incidence of false positives would increase.

b. Confirmation by a different, secondary procedure would no longer be required.

--There is an inevitable high false positive rate in screening methods due to legal, over-the-counter medications as described previously in this testimony.
--This proposal would allow many false positives to stand without correction.

c. A secure chain of custody of specimens would no longer be required.

-- This would open the door for the alteration of specimens.
-- The accurate identification of specimens would not be guaranteed.

d. Only minimal standards would be observed for personnel performing the testing.

--Advanced training and certification would no longer be required for supervisory positions.
-- On-site supervision would no longer be required for many High School graduates performing tests ~~(if they were hired before 4/24/95).~~

WOMEN'S RECOVERY CENTER

"A Program of DCCCA Inc."

Testimony in Support of HB 2423

Provided by Cynthia Breitenbach

March 5, 1996

I would like to offer my support for the passage of House Bill 2423. As the director of an alcohol and drug addiction treatment center for indigent women and their children, I am familiar with the population that this bill will impact.

Women's Recovery Center provides residential treatment services to addicted women and their children. Our program is unique because mothers can bring their dependent children to live with them at the treatment center. At least 50% of our clients are recipients of AFDC. Another 25% are recipients of general assistance. We serve approximately 200 women each year, many of them referred by SRS area offices across the state.

Research tells us that the earlier the intervention in the disease process, the better the chances for recovery. The screening process proposed in the legislation is a means of intervention. However, if we impose interventions as outlined in the bill, we must be prepared for a major increase in the number of clients entering state supported treatment programs.

My concerns with the bill are around implementation issues. The bill indicates that, with appropriate federal waivers, AFDC applicants and recipients will also be included in this process. Because our society still believes that addiction is a moral weakness, we will be quick to believe that women who are addicts are also unfit mothers. The result could be an overly burdened foster care system, which will be more costly. If, instead, these women enter the treatment system with their children, we will need increased funding to have these children in our programs. There are several addiction treatment programs for women designed to allow women to bring their children to treatment. All of us have been very vocal about the lack of funding to have these children in our programs. The only funding that we receive for their care is an hourly reimbursement for the time they are in day care. No one has yet responded to our numerous requests for sufficient staffing to care for these children 24 hours a day. Many of these children have been diagnosed with behavioral and developmental problems.

In summary, I believe the intent of the legislation is good. However, I believe the ramifications of it being passed and implemented needs careful consideration and planning.

1324 SW Western Ave. • Topeka, Kansas 66604-2957 • (913) 233-

Hello Ladies and Gentlemen:

My name is Cherie Price, and I am a recovering addict and alcoholic. Thanks to myself, God, Women's Recovery and SRS for believing in me as an addict and alcoholic by giving me the chance to be reborn again. I have one year and 7 months clean. I have been going to Women's Recovery for aftercare for 2 1/2 years.

Today I am here to express my opinion on how I feel about screening people trying to get assistance from SRS. I feel that anyone who is on SRS assistance now and those applying for future benefits should be screened for drugs and alcohol. There are more addicts and alcoholics on assistance than anyone else; people who have kids in their homes without food, utilities cut off, no clothes or shoes, sick with colds and mama can't go to the store to get medicine (and it only costs $1.00 with a medical card). All because the check went to the drug man or liquor store when the mailman delivered it. Or you have those who have kids and are kids themselves -- and I am talking about these young teenage girls giving their money to those gang boys to buy drugs.

In the last 5 months I have seen more young girls with kids smoking weed or buying it to sell. My opinion is that there are too many out there taking advantage of getting an SRS check once a month and we need to get them to recognize that they will not get a check unless they are screened. And if the screening shows that they are on drugs or alcohol, they have to go to treatment -- and not for just 30 days. Thirty days is not for everyone like me. You have to be willing to be clean for yourself and not to just get a check. And they will recognize that they have a problem because to me they are depending on those checks so they can feed their addiction. I know I have been there, and I have seen a lot of others and what they do.

One thing I have learned by being clean is that as long as the money is there and no one cares, they will keep using drugs and alcohol -- because no one really knows what they are spending it on. And the longer the State keeps doing it (and when I say that, I mean keep handing out checks), they are enabling them to continue. Because they know as long as the check is coming, they will get high on drugs and alcohol -- when the money runs out, drugs and alcohol do, too.

I would like for each and every one of you to understand that we, as addicts and alcoholics, do not ask for this sickness. A lot of us don't have self-esteem, love ourselves, or care about ourselves.

And we have to learn all those things before we can recognize how bad our addiction really is. So, the more people we have supporting this Bill, the more addicts and alcoholics we can try and save. And more money will be saved for helping recovering addicts and alcoholics and kids so they can learn more about the sickness behind using drugs and alcohol. And that the money the State is spending for welfare will be used for the purposes intended.

So, I support the drug and alcohol screening program, but please make sure that there are enough treatment programs so everyone can get help.

Thank you for listening.

Senate Public Health and Welfare
Date: 3-11-96
Attachment No. 4

Kansas AFL-CIO

2131 S.W. 36th St. Topeka, KS 66611 913/267-0100

Testimony Presented to
Senate Public Health and Welfare Committee
House Bill 2423
By
Wayne Maichel
March 5, 1996

Madam Chair and members of the committee, I thank you for the opportunity to appear before you today in support of the sections of House Bill 2423 which place in the statute the present Department of Health and Environment rules and regulations regarding drug testing.

We believe this bill is necessary due to the massive changes in the rules and regulations recommended by the department. We feel these changes will severely compromise the integrity of employee drug tests. Under the recommended new rules and regulations, the possibility of false positives resulting in wrongful termination is greatly increased.

Employees subjected to drug testing have a right to guarantees under the law that those tests will be done with high quality control, confidentiality and security. The planned changes by the Department seriously undermines that right.

These recommended changes would, in our opinion, enable sub-standard laboratories to be certified. This would be possible because laboratories would no longer be required to meet high standards of quality control. Confirmation by a different, secondary procedure in the case of positive tests would no longer be required. A secure chain of custody of specimens would not be required, and only minimal standards will be required for personnel performing the testing.

Because of these changes and others, we feel inaccurate results are far more likely to occur. We also believe that the changes will ultimately subject employers to the possibility of higher liability due to legal actions by wrongfully terminated employees.

We strongly urge you to vote in favor of HB 2423 and keep these high standards which protect Kansas workers.

Senate Public Health and Welfare
Date: 3-11-96
Attachment No. 5

Kansas National Organization for Women

P.O. Box 15531, Lenexa, KS 66285-5531

Senate Public Health & Welfare Committee
Testimony in Opposition to HB 2423

March 11, 1996

Submitted By: Monica Neff
Kansas National Organization for Women
(913)-842-6496

Honorable Chair and Distinguished Members of this Committee:

My name is Monica Neff, and I am here on behalf of the Kansas Chapter of the National Organization for Women. I would like to thank you for the opportunity to testify before you today regarding HB 2423. Although I have great respect for those who introduced and sponsored this bill and understand its good intent, I am here today to testify in opposition to HB 2423.

I fully support early intervention and treatment for those who have drug and/or alcohol addictions. These addictions are insidious diseases that plague many in our society. However, what I have grave concerns over and am in particular opposition to in this bill, is the fact that this assistance offered is directly tied to the continuance of a family's or individual's subsistence level cash grant they were deemed eligible for due to dire financial need.

Offering assistance to those who receive public financial assistance and are struggling with addiction could be helpful for some. Yet, as you know, addiction is a very complex and powerful disease with physiological and psychological effects that can not be easily overcome. With the symptoms of denial, and even with voluntary attempts to break the hold of addiction, recovery does not often occur on the first attempt. And relapses are common to even voluntary serious attempts at treatment towards recovery.

Given these realities, however, this bill stipulates that if one does not complete a treatment program after being referred, they "shall have a portion or all of their cash assistance terminated". Even with the best of intentions, this would be extremely harsh and punitive to those with addictions and most definitely their children.

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Are we really concerned for options and efforts of recovery to these individuals and families? And how can we be if we know that by enforcing such punitive financial consequences, this inherently will create a more acute situation for the children and their caretakers.

We know that these welfare cash grants range from approximately $120 per month for disabled single adults to an average grant of $320 per month for AFDC families which is far below the federal poverty guidelines.

For most on public assistance, the cash grant they receive is needed and used entirely for their shelter expenses of rent and utilities. Those on General Public Assistance have been screened according to social security guidelines as unable to work due to a temporary or long term disability. Cutting their meager cash grant would condemn them to displacement or actual homelessness and further deterioration physically, mentally and emotionally.

If a federal waiver is received for mandating this requirement to Kansas families on AFDC, they too, would face punitive cuts to their meager subsistence level cash grant. In turn, this would further destabilize the children's environmental needs and the tenuous survival from the streets that the family is already hinging on.

I do not understand the rationale for this type of legislation if we care about the children that are still going to be under the care and responsibility of those struggling with addiction. This bill would allow for cuts to the basic subsistence level grants that are not even presently cut for those families on public assistance where there has been child abuse. For it is known that such punitive financial cuts would further destabilize the children's environmental situation and deteriorate real options for therapeutic intervention and assistance to help these children and there parent or parents.

In fact, with Intensive Family Preservation Service Programs offered to these families, more resources, not less, are provided to these families. Social workers know and have found that to assist many of these families in safety, accessing more services and resources are needed for treatment and stabilization.

Why are we risking a mandate whose enforcement could exacerbate the needs and risks to the children involved?

By enacting such harsh financial consequences regarding the screening and treatment requirements for welfare recipients, HB 2423 will in fact allow the justification and elimination of the final safety net of cash assistance these families had been eligible for. Their only funds available to prevent homelessness.

In light of wanting to help the children of those with an addiction and who may not be using all of their cash grant appropriately for their children, its seems odd to me that the mechanism of enforcement chosen in this bill is to in fact cut off the very funds we were so concerned were being misused. By this, we are assuring and enforcing that such funds won't be going to meet the needs of the children in these families.

Even if these families and individuals aren't as functional as we would have them to be, aren't they still entitled to meeting their basics needs?

Also, I fear for the implications this bill could have in the future on who is and who is not deemed worthy and eligible for basic survival level resources in our society.

In addition to the very destabilizing ramifications I've just described if this bill was enacted into law, there are other important questions needing answered. For instance:

(1.) The said reason this bill was drawn up was to address concerns of children's needs within AFDC families who may have parents with an addiction. Why is this committee being asked to make a decision on this bill, prior to knowing if a federal waiver will even be granted?

(2.) There presently are not enough alcohol and drug treatment centers that can adequately serve all the Kansans seeking treatment. How can the state of Kansas provide for mandatory treatment given these realities?

(3.) Social workers presently working with at risk families and/or where child abuse has been indicated often make alcohol and drug treatment referrals. However, because there had been such long waiting lists and lack of available treatment placements, Central Assessment and Outreach Centers were developed throughout the state. These centralized screening, testing and treatment referral programs were set up to streamline and triage services through a managed care system. However, there continues to be waiting lists at many facilities and only three facilities where child care can be provided during treatment.

(4.) Also, what is the fiscal note for HB 2423? Wouldn't any additional monies be better spent in creating more treatment centers available to those presently seeking or mandated through the courts to receive treatment, rather than S.R.S. establishing and implementing another alcohol and drug screening program?

If no fiscal note has been submitted, where will the funds come from for testing, outpatient or inpatient treatment which definitely does cost money and is the reason many of the people are limited in which treatment programs will even accept them if they do not have the resources to pay for them.

(5.) Who is going to decide and what criteria is going to be used in deciding who is even to be screened with the eight question questionnaire? Who then decides if testing is required and if treatment is mandated? Are there presently established professional guidelines to safeguard against inappropriate referrals and appeal procedures if concerns arise on the criteria used and mandates given?

(6.) Another question is who decides what constitutes adequate "completion" of a treatment program? Are there provisions for mitigating circumstances beyond ones control such as availability of treatment, lack of transportation, child care needs, or illness that could hinder the completion of a treatment program?

(7.) If this bill is really concerned regarding the therapeutic needs of those with an alcohol and/or drug addiction, is there also a provision for follow-up, supportive outpatient services, and assistance after a relapse?

(8.) Finally, who will decide when a family's or individual's cash grant will be cut and under what criteria and circumstances?

Who will decide by how much the cash grant will be cut?

And how long would these cuts be enforced?

Because of my concern and opposition to this bill, representatives of the media have contacted me. I was asked if this bill wasn't really about treatment, but rather a way to cut families off of welfare and save money? Quite frankly, I really didn't know how to answer this? Is this going to be the public's perception? And is this ultimately going to be the result of this legislation?

I do have very serious concerns for the harsh, destabilizing and punitive effects HB 2423 would have on children and their caretakers. And for these reasons and all the questions listed above, I remain in opposition to HB 2423. I ask that you vote against this bill, or at the very least, seek concrete answers to these questions before deciding whether to proceed further HB 2423.

Thank you for your time and consideration.

WICHITA INDEPENDENT BUSINESS ASSOCIATION
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ROLAND E. SMITH, *Executive Director*

March 11, 1996

STATEMENT TO: Chairperson Senator Sandy Praeger and members of the Senate Public Health and Welfare Committee

FROM: Roland E. Smith, WIBA Executive Director

SUBJECT: Support for H.B.2423

WIBA is bringing this statement in support of H.B.2423 because of the experience and knowledge WIBA has had in setting up at drug testing program that received national attention and also from the U.S. Department of Labor. In February of 1990 WIBA introduced a Drug-Free Workplace Program for WIBA member businesses. The need was great because of the serious need for small businesses to have a program that would identify the drug users. It has been stated by authorities on the subject that four out of five users of illegal drugs are recreational drug users employed by businesses. In researching the proposed Drug-Free Workplace Program, we became very aware for the need to have the "Chain of Custody" in drug testing very tightly controlled or it would have little creditability for the employer or the employee. Having the second test required when a person is tested positive is also very important as prescription drugs and other things like poppy seeds on bread can throw a test off and retesting is necessary to verify the results. It is also essential that a qualified physician review a positive test with the person being tested to help determine if there are factors other than illegal drugs may be the cause.

It is my understanding there are proposed changes in the rules for drug testing by the Kansas Department of Health and Environment that would lessen the current standards that are absolutely essential in my opinion. It is inconceivable to me that this would be the case for any responsible person or any state governmental department to do.

H.B.2423, as I read and understand it, would keep the rules tight and creditable. Anything less would leave the door open for legal action by employees, employee applicants, and the employer with undesirable and expensive results, therefore, I urge you to please give this bill careful consideration and recommend it for passage and support it with your vote when it reaches the Senate floor for passage..

THANK YOU! I am sorry I am unable to be in Topeka today to present this statement before you in person.

"The MISSION of the Wichita Independent Business Association is to be the leading resource for the success and growth of independent business."

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