

Approved: 3-13-01
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:30 p.m. on February 28, 2001 in Room 231-N of the Capitol.

All members were present except:

Committee staff present: Ms. Emalene Correll, Legislative Research Department
Mr. Norman Furse, Revisor of Statutes
Ms. Lisa Montgomery, Revisor of Statutes
Ms. Rebecca Zapick, Intern for Senator Barnett
Ms. Margaret Cianciarulo, Administrative Assistant

Conferees appearing before the committee: Ms. Maggie Macantire, Sedgwick County District Attorney's Office

Others attending: See attached guest list.

Hearing on SB 305 - Required testing for hepatitis B to persons charged with certain offenses

Upon calling the meeting to order, Chairperson Wagle requested that Ms. Emalene Correll, Legislative Research Department, give a brief overview of SB 305 for the Committee. Part of Ms. Correll's overview included: the key being judication, referred to page one of the bill stating that it applies to juveniles, page 2 refers to AIDS testing and adding Hepatitis B to the test results, and on page 4, the statute amended for this section only.

Chairperson Wagle then asked if the Committee had questions or comments of Ms. Correll. Senators Jordan and Praeger were concerned about a physical note and if the cost was reasonably recovered.

The Chair then introduced Ms. Maggie Macantire from the Sedgwick County District Attorney's office who gave her employment history and stated that there are certain gaps in protection afforded under statutes 38-1692, 65-6009, but that SB 305 seeks to fill these gaps by allowing a clearly designated funding source along with the possibility for the defendant to ultimately bear the cost of such testing and victim counseling. A copy of her written testimony is (Attachment #1) attached hereto and incorporated into the Minutes by reference.

As there were no opponent or neutral testimonies, Chairperson Wagle asked if the Committee had questions or comments. Senators Jordan, Wagle, Barnett, Praeger, Salmans, and Barnett, and Ms. Correll asked questions of Ms. Macantire ranging from testing done on the victim, HB 2127, overkill on suggested language, how effective is the Hepatitis B vaccine, redundancy concerning Hepatitis C, testing the victim, to who pays.

Senator Jordan thought it wise to wait for the Fiscal Note for budgeting purposes. Chairperson Wagle was in agreement as was the rest of the Committee. The Chair said that she looked at House bills the committee had received and felt that they should be able to work with no extra meetings.

Adjournment

As there was no further business, and with none coming forth, the meeting adjourned at 2:05 p.m.

The next meeting will be held March 5, in the regular meeting room at 1:30 p.m.

Senate Public Health & Welfare Committee

Testimony regarding Senate Bill No. 305

Margaret McIntire, Assistant District Attorney, 18th Judicial District of Kansas

Madame Chairperson and members of the Committee, my name is Margaret McIntire. I am here representing Nola Foulston, District Attorney for the 18th Judicial District of Kansas. I am an Assistant District Attorney assigned to the Special Victims Unit which handles all the cases of child sexual abuse, violent sexual assaults, child physical abuse and domestic violence within Sedgwick County.

My office is in full support of SB 305 and I am here to urge you to approve this bill and forward it on to the Senate for their approval.

Historically, the State of Kansas has assisted victims who may have been subjected to disease during the commission of a crime by providing a way for criminal defendants to be tested for AIDS. Currently, Kansas Statutes Annotated (K.S.A.) 38-1692 and 65-6009 address AIDS testing for juvenile defendants and adult defendants respectively. However, there are certain gaps in the protections afforded under these statutes. SB 305 seeks to fill in these gaps. Additionally, as you are aware, K.S.A. 65-6009 is currently set to be repealed through a "sunset" provision effective 7/1/2001.

Dr. Hewitt C. Goodpasture, a specialist in infectious disease and Medical Director for Infection Control at Via Christi Regional Medical Center in Wichita, has provided insight for this committee in a letter you will find attached to my testimony. Dr. Goodpasture applauds the intent of SB 305. He suggests that the language of this bill could be improved by testing for "contagious infectious disease or transmissible infectious disease". This would include a variety of diseases transmitted by contact with bodily fluids not only HIV or Hepatitis B. This change would also be consistent with House Bill 2127 which has passed the House and is currently in the Senate Committee for Federal & State Affairs. HB 2127 calls for testing of offenders for "any" infectious disease when the offender has come in contact with department of corrections employees where there has been a possible contact with bodily fluids. Like the language suggested by Dr. Goodpasture, HB2127 acknowledges the greater arena of infectious disease beyond HIV and Hepatitis B. Any avenue which expands protection for crime victims and lessens the spread of infectious disease would benefit

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Attachment 1-1*

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our communities and would be supported by my office.

The current versions of K.S.A. 38-1692 and 65-6009 do not address the need for Hepatitis B testing. As you I am sure are aware, Hepatitis B is a highly contagious disease. According to the National Center for Infectious Disease, there are an estimated 140,000 - 320,000 incidences of Hepatitis B per year in the United States. This disease carries widespread potential community health risks. Any testing which can be done to limit the spread of Hepatitis B is beneficial to the citizens of this State, as well as, benefiting individual victims of crime. Additionally, the Kansas Crimes Victim's Bill of Rights is further served by additional testing and counseling provided by this expanded legislation.

Prior to 1996, HIV testing in adult cases was funded by the Kansas Department of Health & Environment. Comparing the current juvenile and adult statutes for infectious disease testing and counseling it is clear that no funding source was set forth for adult defendant testing or victim counseling in K.S.A. 65-6009. Whereas, the funding for juvenile testing and counseling has remained intact throughout the legislative changes since 1996. The message cannot be sent that victims of adult offenders are less protected by the State of Kansas than those victims who fall prey at the hands of a juvenile offender. This gap in funding has made it difficult to find local monies for these tests since the statutes make it unclear who is responsible for such testing costs. Passage of SB 305 would allow a clearly designated funding source along with the possibility for the defendant to ultimately bear the cost of such testing and victim counseling.

It is essential that both the adult and juvenile laws provide for like treatment in the area of testing and counseling for crime victims. The legislation before you now will synchronize the statutes and provide a more expansive protection for crime victims. Further, the benefit to the citizens of this State in the area of health, community safety and infectious disease control are great.

Facsimile Cover Sheet

To: Nola Faulston
 Company: _____
 Phone: _____
 Fax: 383-7266

From: Dr. Goodpasture
 Company: CENTER FOR INFECTIOUS
 DISEASE
 1100 N. ST. FRANCIS SUITE 130
 WICHITA, KS 67214
 Phone: (316) 264-3505
 (316) 264-5384-Business office
 Fax: (316) 264-0908

Date: 2/27/01
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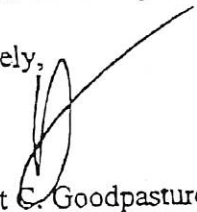
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February 27, 2001

I am Hewitt C. Goodpasture, M.D., specialist in Infectious Disease and Medical Director for Infection Control at Via Christi Regional Medical Center in Wichita, Kansas.

I have reviewed Bill 305 and I am fully in support of this legislation. Victims of sexual assault are extensively exposed to the body fluids of the perpetrators, leading to potential transmission of a number of infectious agents including, but not limited to, Mycobacterium tuberculosis, group A streptococcus, and sexually transmitted organisms such as gonococcus, chlamydia, herpes simplex, hepatitis B, hepatitis C and human immunodeficiency virus. Evaluation of the risks for the victim may require a medical evaluation of the perpetrator. The wording of this bill could be improved to state contagious infectious disease or transmissible infectious disease, but the intent is clearly on target.

Sincerely,



Hewitt C. Goodpasture, M.D.
HCG/dmk