

MINUTES OF THE HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE.

The meeting was called to order by Chairperson Al Lane at 9:10 a.m. on February 27, 2002 in Room 521-S of the Capitol.

All members were present except: Rep. Jerry Aday - excused
Rep. John Ballou - excused
Rep. Broderick Henderson - excused
Rep. Mary Kauffman - excused
Rep. Dale Swenson - excused

Committee staff present: Jerry Donaldson, Legislative Research
Bob Nugent, Revisor of Statutes
Renaë Jeffries, Revisor of Statutes
Bev Adams, Secretary

Conferees appearing before the committee: Bobbi Mariani, Department of Administration
George Vega, SRS
Judy Rickerson, Department of Corrections
Andy Sanchez, KAPE

Others attending: See attached list

Hearing on: HB 2933 - State employee drug screening program amendments.

Bobbi Mariani, Director of the Division of Personnel, Department of Administration, appeared as a proponent of the bill. **HB 2933** would expand the current drug screening program for the state of Kansas to allow for the testing of more employees in specified positions. Her attachment contained an outline of positions currently included in the drug screening program as well as the positions that would be added should this bill be adopted. (Attachment 1) She concluded her testimony by answering questions from the committee.

A balloon amendment from Revisor Bob Nugent was handed out to add all the state veterans' homes. The original bill only included one of the three homes. (Attachment 2)

George Vega, Executive Director of Human Resources, Social and Rehabilitation Services, appeared before the committee on behalf of Secretary Janet Schalansky in support of the bill. He read his testimony and answered questions from the committee. One question was whether foster parents and employees of group homes would be covered under the bill. He will find out and let the committee know. (Attachment 3)

Judy Rickerson, Director of Human Resources, Department of Corrections, appeared on behalf of Secretary Simmons in support of the bill. The bill would include state parole officers and all correctional facility staff within the definition of "safety sensitive positions" for the purposes of the state drug screening program. (Attachment 4) She concluded her testimony by answering questions.

Chairman Lane received a letter from Betty M. Vines, President of Kansas Association of Public Employees, (KAPE) stating that they are not opposed to the expansion of the group of employees **HB 2933** seeks to include for pre-employment and reasonable suspicion drug screening. A copy of the letter will be sent to all members of the committee. (Attachment 5)

Rep. Lane called on Andy Sanchez, Executive Director of KAPE, to see if he had any remarks for the committee. He said that KAPE has no real problems with the bill. It will affect many of their members, some who are already tested and others who are on the expanded list.

No others were present that wanted to testify for or against the bill and Chairman Lane closed the hearing on **HB 2933.**

Chairman Lane adjourned the meeting at 9:50 a.m.

The next committee meeting will be announced.

**HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE
GUEST LIST**

DATE: February 27, 2002

NAME	REPRESENTING
Sharon Carlson	New Directions EAP
Jim Gardner	DPS
Peter A. Lind	DPS
Spud Kent	DPS
Craig Knowlton	DPS
George Vez	SRS
Jack Dickerson	SRS
Judy Dickerson	DOC
B. Mariani	DofA
D. KEITH MEYERS	DofA
Andy Sanchez	K-APPE
SUE PETERSON	K-STATE

**Testimony to the
House Business, Commerce and Labor Committee**

By

Bobbi Mariani, Division of Personnel Services

February 27, 2002

HB 2933 -Drug Screening Program

Thank you Mr. Chairman and members of the committee for the opportunity to speak to you in support of House Bill 2933. This bill would expand the current drug screening program for the state of Kansas to allow for the testing of more employees in specified positions. The drug screening program for the state of Kansas encompasses two different types of testing. The first type of test is the pre-employment test. Due to case law and interpretations of the 4th Amendment, this type of testing can only be required of employees who are designated as "safety sensitive" employees. The other type of testing provided for under the drug screening program is drug testing based on reasonable suspicion. All employees designated as "safety sensitive" are also subject to reasonable suspicion testing, but other groups of employees that are specifically identified in this bill, can also be subject to drug tests based on reasonable suspicion as well.

In order to ensure the safety of employees, the public and our most vulnerable of populations, a number of agencies have requested expansion of the drug screening program. Last year, the Department of Corrections (KDOC) introduced legislation proposing the inclusion of all employees in correctional facilities and state parole officers in the definition of safety sensitive employees as well as a change in policy regarding to disciplinary action of employees who receive a positive drug test. KDOC's legislation did not pass. As a result, the Division of Personnel Services worked with representatives of the Department of Social and Rehabilitative Services, KDOC, Department of Human Resources and Wichita State University to develop a compromise legislative proposal.

Although it was not possible to propose all of the changes that were requested from the agencies that participated, House Bill 2933 represents a compromise between those requests and the current legal and administrative requirements associated with this program. The following is an outline of positions currently included in the drug screening program as well as the positions that would be added should this bill be adopted.

K.S.A. 75-4362 currently defines safety sensitive for pre-employment testing to include:

- State law enforcement officers who are authorized to carry firearms
- State corrections officers
- Juvenile correctional facility staff
- Heads of state agencies who are appointed by the governor and employees on the governor's staff

Proposal expands safety sensitive for pre-employment testing to include:

- All employees with access to secure facilities of correctional institutions
- All employees with access to a juvenile correctional facility
- State parole officers
- All employees in an institution of mental health who provide clinical, therapeutic or rehabilitative services to clients and patients
- Regents employees who provide clinical, psychological, or therapeutic services to students or staff

K.S.A. 75-4362 currently includes the following employees covered under reasonable suspicion:

- All persons employed within a correctional institution
- All persons employed within a juvenile correctional facility

Proposal expands those employees covered under reasonable suspicion to include:

- All employees of institutions of mental health
- Employees of the Kansas State School for the Blind
- Employees of the Kansas State School for the Deaf
- Employees of the Kansas Soldier's Home

This bill does not change the existing disciplinary process for a positive test. In addition, this bill will not change any of the current regulations or procedures concerning the commercial driving license (CDL) drug screening program.

Thank you for your time. We would appreciate your favorable consideration of House Bill 2933. I will be happy to answer any questions you may have

Session of 2002

HOUSE BILL No. 2933

By Committee on Business, Commerce and Labor

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AN ACT concerning state officers and employees; relating to the drug screening program for certain state officers and employees and certain applicants for state employment; amending K.S.A. 2001 Supp. 75-4362 and repealing the existing section; also repealing K.S.A. 75-4363.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2001 Supp. 75-4362 is hereby amended to read as follows: 75-4362. (a) The director of the division of personnel services of the department of administration shall have the authority to establish and implement a drug screening program for persons taking office as governor, lieutenant governor or attorney general and for applicants for safety sensitive positions in state government, but no applicant for such a safety sensitive position shall be required to submit to a test as a part of such this program unless the applicant is first given a conditional offer of employment.

(b) The director also shall have the authority to establish and implement a drug screening program for persons currently holding based upon a reasonable suspicion of illegal drug use by any person currently holding one of the following positions or offices:

(1) The office of governor, lieutenant governor or attorney general or;

(2) any safety sensitive positions in state government, based upon reasonable suspicion of illegal drug use by any such person; position;

(3) any position in an institution of mental health, as defined in K.S.A. 76-12a01, and amendments thereto, and that is not a safety sensitive position;

(4) any position in the Kansas state school for the blind, as established under K.S.A. 76-1101 et seq., and amendments thereto;

(5) any position in the Kansas state school for the deaf, as established under K.S.A. 76-1001 et seq., and amendments thereto; or

(6) any position in the Kansas soldiers' home, as established under K.S.A. 76-1001 et seq., and amendments thereto.

(c) Any public announcement or advertisement soliciting applications for employment in a safety sensitive position in state government shall include a statement of the requirements of the drug screening pro-

employee of a state veteran's home operated by the Kansas Commission on Veteran's Affairs as described in K.S.A. 76-1901 et seq, and amendments thereto, and K.S.A. 76-1951 et seq.

Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary



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Business Commerce and Labor Committee 115-S
February 27, 2002 9:00 a.m.

HB 2933 (Drug Screening)

Human Resources
George Vega
296-2387

Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary

Business Commerce and Labor Committee
February 27, 2002 9:00 a.m.

HB 2933 (Drug Screening)

Mr. Chairman, members of the Committee, my name is George Vega. I am the Director of Human Resources for the Department of Social and Rehabilitation Services. I am appearing today on behalf of Secretary Janet Schalansky in support of House Bill No. 2933, a bill that would amend K.S.A. 75-4362 to include a number of additional job classifications under the provisions of the State of Kansas drug screening program.

SRS has worked with the Department of Administration in drafting this proposed change in law. Passage of the bill would include in the program's pre-employment drug testing coverage an additional 53 job classes, 48 classified and 5 unclassified, utilized by SRS. Currently, 7 SRS specific job classes are covered by the program. Additionally, the bill would create the capability to test any employee in our mental health and developmental disabilities facilities in the event of a circumstance of reasonable suspicion.

SRS supports this bill for the additional protection it provides to citizens of Kansas who are clients or patients in our facilities. Along with our notice of employment opportunity, we would be able to include the notice "we test."

Attached is a listing of job classifications for which we have tentative agreement with the Director, Division of Personnel Services to conduct pre-employment drug testing if this bill passes. The 7 job classes, for which we currently have authority to test, are listed in bold and asterisked.

We ask for favorable action on HB 2933. I welcome the opportunity to answer questions the Committee may have.

SRS Job Classes Covered by HB 2933

Activity Specialist I & II
Activity Therapist I & II
Activity Therapy Technician
Adult Training Center Manager
Certified Occupational Therapy Assistant
Chemical Dependency Counselor
Client Training Supervisor
Clinical Chaplain
Clinical Pastoral Trainee
Cosmetologist
Dental Assistant
Dental Hygienist (Unclassified)
Dentist (Unclassified)
Foster Grandparent (Federal) & (State)
Health Care Assistant
Health Care Technician II
Laboratory Technician II
Licensed Mental Health Specialist
Licensed Mental Health Technician I & II*
Licensed Practical Nurse & Licensed Practical Nurse, Senior
Medical Technologist (Unclassified)
Mental Health Aide*
Mental Health Trainee*
Mental Retardation Specialist
Mental Retardation Technician I & II & Mental Retardation Trainee*
Occupational Therapist I & II
Orthotic/Prosthetic Technician I & II
Pharmacist (Unclassified)
Physical Therapy Aide & Physical Therapy Assistant
Physician Specialist (Unclassified)
Psychologist I, II, III & IV
Psychology Trainee
Psychometric Technician
Qualified Mental Retardation Professional
Radiologic Technologist I & II
Registered Nurse I, II, III, IV & V
Social Worker, Social Worker Specialist, Social Work Supervisor & Social Work Director
Speech Pathologist/Audiologist I, II & III

* Classes now covered by the State of Kansas Drug Testing Program.

STATE OF KANSAS



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Bill Graves
Governor

Charles E. Simmons
Secretary

MEMORANDUM

To: House Committee on Business, Commerce & Labor

From: Charles E. Simmons, Secretary

Subject: HB 2933

Date: February 27, 2002

HB 2933 amends KSA 75-4362 to include state parole officers and all correctional facility staff within the definition of "safety sensitive positions" for the purposes of the state drug screening program. Under current law, the definition of safety sensitive positions regarding employees of the Department of Corrections is currently limited to law enforcement officers authorized to carry firearms, corrections officers, and the Secretary of Corrections. In contrast, all juvenile correctional facility staff positions are designated as safety sensitive positions. During FY 2001, the Department of Corrections hired 110 employees in positions that would be added to the definition of safety sensitive under the bill's provisions.

Expanding the definition of safety sensitive positions recognizes that all employees within a correctional facility are involved in the maintenance of security and supervision of inmates, and that illegal drug use by any employee represents a security risk to other staff and the inmate population. Additionally, parole officers are law enforcement officers charged with the enforcement of release supervision conditions imposed on offenders, including prohibitions against illegal drug usage. The inclusion of these two classes of employees within the definition of safety sensitive recognizes their role regarding the department's safety and law enforcement mission

The department requests favorable consideration of HB 2933.

House Business, Commerce & Labor Committee
2-27-2002
Attachment 4



February 25, 2002

The Honorable Al Lane
Kansas House of Representatives
Statehouse, Room 115-S
Topeka, Kansas 66612

Dear Representative Lane,

The Department of Administration, Division of Personnel Services has proposed legislation that would expand the current drug-screening program for the state of Kansas to allow for testing of more employees in certain positions. Specifically, House Bill 2933 would amend K.S.A. 75-4362 to include all employees of correctional facilities, state parole officers, direct care staff at institutions of mental health and employees at regents institutions who provide clinical, psychological or therapeutic services to students or staff in the definition of safety sensitive employees, and therefore subject to a pre-employment drug test. HB 2933 would also amend the statute to allow all employees of institutions of mental health, Kansas School for the Blind, Kansas School for the Deaf and Kansas Soldiers Home to be tested based on reasonable suspicion. The proposal does not change the disciplinary process for a positive test.

The Kansas Association of Public Employees (KAPE) is not opposed to the expansion of the group of employees HB 2933 seeks to include for pre-employment and reasonable suspicion drug screening. KAPE values the protection of the public and realizes the need to keep drugs out of our correctional institutions, and therefore has no objections to this bill as amended as of this date. Please let us know if we can be of any further assistance.

Sincerely,

Betty M. Vines, President
Kansas Association of Public Employees

The Kansas Association of Public Employees

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Joe Gonzalez, Technical Unit
Jimmie Stark, KDOC Unit
Darrin Moege, KSU
Kenneth McKenzie, KDOT
Judy Napier, SRS

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Marty Vines, Director of Negotiations
Scott Stone, Association Attorney
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Bill Gonzalez, Service/Grievance Rep.
Dawn Fiedler, KAPE Account Specialist
Monica Shane, AFT Account Specialist
Cindy Lovell, Data Control

Working Together,
We Make A Difference!

House Business, Commerce & Labor Committee
2-27-2002
Attachment 5