

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Tim Owens at 9:30 a.m. on January 22, 2010, in Room 548-S of the Capitol.

All members were present.

Committee staff present:

Doug Taylor, Office of the Revisor of Statutes
Jason Thompson, Office of the Revisor of Statutes
Athena Andaya, Kansas Legislative Research Department
Jerry Donaldson, Kansas Legislative Research Department
Karen Clowers, Committee Assistant

Conferees appearing before the Committee:

Sen. Jay Emler, Municipal Court Advisor Committee, Kansas Judicial Council
Rick Cagen, Executive Director, National Alliance on Mental Illness
Rocky Nichols, Disability Rights Center of Kansas
Amy Campbell, Kansas Mental Health Coalition
Michelle Sweeney, Policy Analyst, Association Community Mental Health Centers of Kansas, Inc.

Others attending:

See attached list.

Chairman Owens opened the hearing on **SB 373 - Clarifying which municipal ordinance violations require the payment of an assessment.** Jason Thompson, staff revisor, reviewed the bill.

Senator Jay Emler provided the Committee with a review of the bill proposed by Kansas Judicial Municipal Court Advisory Committee following a review requested by Attorney General's Office. The proposed amendment to K.S.A. 12-4117 will further clarify and support the intent of the statute which is to require an assessment in any case charging a municipal ordinance violation except those charging nonmoving traffic violations such as parking violations. (Attachment 1)

There being no further conferees, the hearing on **SB 373** was closed.

The hearing on **SB 376 - Changing the name of the act for judicial review and civil enforcement of agency actions to the Kansas judicial review act.**

Jason Thompson reviewed the bill indicating it was requested by the Office of the Revisor of Statutes to insert the correct language "*Kansas judicial review*" in place of "*Act for judicial reform and civil enforcement of agency actions*" in all places that it appears in the statutes.

There being no further conferees, the hearing on **SB 376** was closed.

Chairman Owens opened the hearing on **SCR 1622 - State constitutional amendment; repealing legislative authority to exclude persons with mental illness from voting.**

Senator Derek Schmidt indicated that following the hearing on **SCR 1605** last session there was overall support for the bill but, there were some differences among proponents regarding the explanatory statement language in the bill. Interested parties met during the interim to clarify language and **SCR 1622** is a result of those meetings.

Rick Cagen appeared in support stating questions have been raised as to whether individuals with mental illness can exercise the proper judgment to fulfill their constitutional right to vote. Singling out person with mental illness is flagrantly discriminatory and current constitutional language impinges on a large class of persons who living with a serious disability. It is unfair to place these people on a different and separate footing from Kansans living with other disabilities. (Attachment 2)

Nick Wood spoke in favor, stating mental illness is an extremely broad category and the existing language



CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:30 a.m. on January 22, 2010, in Room 548-S of the Capitol.

in the Kansas Constitution would potentially allow the Legislature to disenfranchise a group of voters solely based on prejudices and ignorance of mental illness. This antiquated provision in the Kansas Constitution is in violation of the United States Constitution, federal law and the fundamental right of all Kansans to vote. (Attachment 3)

Amy Campbell testified in support stating although the Kansas Legislature has not exercised the authority give them in Article V of the Kansas Constitution, the option is discriminatory and unacceptable. Voting is the most fundamental of all rights and the Kansas Legislature should not have the power to take away the right to vote based on disability. (Attachment 4)

Michelle Sweeney appeared in favor informing the Committee that one in four adults experience a mental health disorder in a given year. The causes are diverse such as, depression, bipolar disorders, schizophrenia, alcohol abuse, and obsessive disorders. Mental illness can happen to anyone and with treatment recovery is possible. The diagnosis should not automatically lump individuals into the same category as felons when it comes to voting rights. Discrimination against those with mental illness is against the law enactment of this will ensure the people's right to participate in elections. (Attachment 5)

Written testimony in support of **SCR 1622** was submitted by:

Sally Fronsman-Cecil (Attachment 6)

Martha Grabhart, Executive Director, Kansas Commission on Disability Concerns (Attachment 7)

The next meeting is scheduled for January 23, 2010.

The meeting was adjourned at 10:30 a.m.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: Jan 22, 2010

NAME	REPRESENTING
Natalie Gibson	KS Judicial Council
Sandy Jacquot	LKM
Kendra Hanson	Hein Law Firm
Martha Gabehart	KS. Com on Disability Concerns
Rui CABAN	NAMI Kansas
TOM DAY	KCC
ROB MEALY	KENNEDY & ASSOC.
Joseph W. Ember	Judicial Council
BEAN MURPHY	CAPITOL STRATEGIES
Brad Bryant	Sec. of State
Amy Gimpel	KMHCO
Ray Dalton	SPS



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TESTIMONY OF THE JUDICIAL COUNCIL MUNICIPAL COURT ADVISORY COMMITTEE ON 2010 Senate Bill 373.

While preparing the 2009 supplement to the *Kansas Municipal Court Manual*, the Judicial Council Municipal Court Manual (MCM) Committee was asked by Mary Feighny, Attorney General's office, to review K.S.A. 12-4117 which requires an assessment in any municipal court case "charging a crime other than a nonmoving traffic violation, where there is a finding of guilty, a plea of guilty, a plea of no contest, forfeiture of bond or a diversion". In 2000, the MCM Committee proposed an amendment to this statute which resulted in the current language. That amendment was intended to clarify whether offenses such as parking violations or nonmoving traffic violations require payment of an assessment. However, there still seems to be some confusion as to which municipal ordinance violations require the payment of an assessment and Ms. Feighny asked the MCM Committee to see if it could further clarify the statute.

Since there is not a definition of "crime" in the municipal code, some jurisdictions have interpreted the term broadly to include all municipal ordinance violations while others have sought a definition elsewhere. The jurisdictions looking elsewhere have typically referred to the definition of "crime" in K.S.A. 21-3105 to determine whether the assessment should apply to the particular ordinance violated. K.S.A. 21-3105 defines a crime as "an act or omission defined by law and for which, upon conviction, a sentence of death, imprisonment or fine, or both imprisonment and fine, is authorized or, in the case of a traffic infraction or a cigarette or tobacco infraction, a fine is authorized." Although most, if not all, municipal ordinance violations result in a fine and/or jail time, an Attorney General opinion issued in 1997 stated that municipal ordinances are not laws, and since they are not laws, violations of ordinances without a statutory counterpart are not crimes. See Ag. Op. 97-31. Therefore, under the logic of that opinion, an ordinance violation for which there is no statutory counterpart would not require an assessment.

While the jurisdictions who interpret the word "crime" broadly have been charging the assessment on all ordinance violations, the jurisdictions following the statutory definition in K.S.A.

21-3105 in conjunction with the Attorney General's opinion have only been charging the assessment on ordinance violations that have a statutory counterpart. Therefore, the MCM Committee once again reviewed and considered the text of K.S.A. 12-4117. The MCM Committee believes that the proposed amendment in 2010 Senate Bill 373 will further clarify and support the intent of the statute which is to require an assessment in any case charging a municipal ordinance violation except those charging nonmoving traffic violations such as parking violations.



Senate Judiciary Committee

Testimony on SCR 1622

January 22, 2010

Presented by:
Rick Cagan
Executive Director

Mr. Chairman and members of the Committee, my name is Rick Cagan. I am the Executive Director of NAMI Kansas, the state organization of the National Alliance on Mental Illness. NAMI Kansas is a statewide grassroots membership organization dedicated to improving the lives of individuals with mental illness. We provide peer support, education and advocacy for our members who are individuals living with mental illnesses as well as their family members who provide care and support.

The current language in Article 5, Section 2 of the Kansas Constitution which provides for limiting the right to vote for persons living with mental illnesses represents an historical blemish tracing back to the original Constitution. This stigmatizing language, which lumps persons with mental illness and offenders into the same group, also reflects a terribly dated view of persons with mental illness, long before our understanding of the biological foundations of mental illness and long before the development of recovery-based treatment methods. The offending language reinforces unfounded fears about persons with mental illness and establishes a significant number of Kansans as second-class citizens, subject to having their voting rights removed. The time has come to repeal three simple words from the Kansas Constitution.

We don't believe that the legislature is interested in wielding its authority granted by Article 5, Section 2 and we don't believe that in recent times that the legislature has taken up this issue. We also do not believe that it would be practical for you to do so. How would you go about identifying more than 95,000 Kansas who are affected by serious mental illness according to a 2007 report? As we all know, there is currently no litmus test related to mental illness for those seeking to register to vote and there is no practical way to identify such persons at the point of registration.

Prior to 1974 when this Constitutional language was last amended, the legislature removed earlier language referring to persons as insane, incompetent, and under guardianship. The legislature also eliminated the absolute prohibition to voting for these persons but retained its authority to continue

to deny the right to vote for persons with mental illness. Now is the time to complete the process and to eliminate the conditional voting rights for a large segment of our population.

Questions have been raised as to whether individuals with mental illness can exercise the proper judgment to fulfill their constitutional right to vote. All of us, regardless of mental illness, are subject to lapses in judgment for a host of reasons including but not limited to other illnesses and disabilities, being under the influence of alcohol or drugs, including prescription medications, or even ignorance about the issues or the candidates' stands on the issues. However, there are no constitutional provisions that permit the legislature or anyone else to deny the right to vote to persons whose judgment may be impaired due to these and other factors.

The current language singling out persons with mental illness is flagrantly discriminatory. I am quite certain that this legislature or any future legislature in the state of Kansas would not think for a minute about placing any condition on a person's right to vote based on race, ethnicity, gender, or disability status. However, the current constitutional language does impinge on a large class of persons who are living with a serious disability whose recognition as citizens of the state of Kansas is placed on a different and separate footing from large numbers of other Kansans living with disabilities. We cannot continue to justify this discriminatory language.

At a time when so few resources are available to address the pressing and unmet needs for treatment of a growing number of individuals living with mental illness, the passage of SCR 1622 would offer a token of good will from a legislature which in turn will send an important message to these Kansas citizens and their family members that they are indeed full-fledged citizens of this great state.

We recognize and accept the challenge to educate Kansas voters about the issues involved in this proposed amendment should it be adopted by the legislature and placed on the ballot in November. It will be a great opportunity for mental health advocates to reach out to communities all over the state to expand the dialogue about mental illness and the potential to live in recovery for those who seek treatment.

Thank you for the opportunity to register our comments on SCR 1622.



EQUALITY ♦ LAW ♦ JUSTICE

Disability Rights Center of Kansas

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Testimony to the Senate Judiciary Committee Senate Concurrent Resolution NO. 1622 January 22, 2010

The Disability Rights Center of Kansas (DRC) is a public interest legal advocacy agency, part of a national network of federally mandated and funded organizations legally empowered to advocate for Kansans with disabilities. As such, DRC is the officially designated protection and advocacy organization for Kansans with disabilities. DRC is a private, 501(c)(3) nonprofit corporation, organizationally independent of state government and whose sole interest is the protection of the legal rights of Kansans with disabilities. I am here today to present testimony on SCR No. 1622 on behalf of DRC and the Kansans with disabilities that we serve.

Section 2 of Article 5 of the Kansas Constitution applies, without limitation, to any mental illness or mental disorder. Mental illness is an extremely broad category and allowing this part of the Kansas Constitution to stand would potentially allow the legislature to disenfranchise a group of voters solely based on age old prejudices and ignorance about mental illness. Such legislative enactments would have the effect of excluding at least 26.6 percent of people ages 18 and older—this is one in four adults.¹

In SCR No. 1622, this Committee has before it the opportunity to eliminate broad and sweeping discrimination from the Kansas Constitution. As it currently stands, Section 2 of Article 5 of the Kansas Constitution permits the legislature to enact laws that would exclude any Kansan with a mental illness from voting in any election. It is our position that this antiquated provision in the Kansas Constitution is in violation of the United States Constitution, federal law and the fundamental right of all Kansans to vote.

¹ National Institutes of Health, The Numbers Count: Mental Disorders in America, <http://www.nimh.nih.gov/health/publications/the-numbers-count-mental-disorders-in-america>.

The Americans with Disabilities Act (ADA) and the Rehabilitation Act

Any voting ban targeting individuals with mental illness would violate the ADA and the Rehabilitation Act as such laws single out a group of people with disabilities and excludes them from participation in an important activity of state government.

Under ADA, Title II,

no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.” 28 C.F.R. 35.130(a) (see also 42 U.S.C. 12132).

Section 504 provides, in relevant part:

No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance
29 U.S.C. § 794(a).

There is no doubt that the State of Kansas is subject to the requirements of the ADA and the Rehabilitation Act. Public entities for purposes of the ADA include any state government or department or agency of state government. The State of Kansas also receives federal funds and is therefore covered by Section 504 of the Rehabilitation Act. Thus, the ADA and Rehabilitation Act prohibit the state from excluding individuals with disabilities from voting based on presumptions or prejudices about what a class of persons with disabilities can or cannot do. Under federal law, the legislature cannot use voter eligibility criteria that screen out people with disabilities simply because they have a disability.

Fourteenth Amendment: Equal Protection and Due Process

The right to vote is a fundamental right. See *Reynolds v. Sims*, 377U.S. 533, 562 (1964). As the *Reynolds* Court explained:

No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most

basic, are illusory if the right to vote is undermined. Our Constitution leaves no room for classification of people in a way that unnecessarily abridges this right. *Id.* at 560.

Under the Equal Protection Clause, classifications that might interfere with the right to vote must be “closely scrutinized and carefully confined.” *Harper v. Virginia State Bd. of Elections*, 383 U.S. 663, 670 (1966). When a state subjects individuals’ voting rights to “severe” restrictions rather than “reasonable, nondiscriminatory” ones, the state must prove that its election laws are “narrowly drawn to advance a state interest of compelling importance.” *Burdick v. Takushi*, 504 U.S. 428, 434 (1992). *See also, Dunn v. Blumstein*, 405 U.S. 330, 337 (1972) (*where the state grants the right to vote to some citizens and denies the franchise to others, the exclusions must be narrowly tailored to promote a compelling state interest*); *cf. Bush v. Gore*, 531 U.S. 98, 104-105 (2000) (once a state grants the franchise, it may not draw arbitrary lines). Any law that categorically prohibits voting by people with mental illnesses would likely fail the strict scrutiny test to which the courts subject severe voting restrictions.

In addition to the Equal Protection Clause, the Due Process Clause “forbids the government to infringe certain ‘fundamental’ liberty interests *at all*, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest”. *Reno v. Flores*, 507 U.S. 292, 302 (1993). What would be the state’s compelling interest in disenfranchising people with mental illnesses? The state cannot rely on asserting that a ban on voting by people with mental illness serves the interest in assuring that participants in elections be able to understand the electoral choices they make. As the United States Supreme Court has noted, “the criterion of ‘intelligent’ voting is an elusive one, and susceptible of abuse.” *Dunn*, 405 U.S. at 356. Even if “intelligent” voting is a compelling state interest, it must be narrowly tailored to that interest or otherwise it is both over- and under-inclusive. Banning all individuals with a mental illness, regardless of their capacity to vote, is over inclusive and would directly result in the disenfranchisement of many individuals who have the capacity to vote. At the same time, it is under inclusive as it subjects only individuals with mental illness to an “intelligence” test, meaning that it would be discriminatory not to require that all other voters to be subjected to an “intelligent” voting requirement.

Although up to this point, the legislature has not enacted legislation that takes away the voting rights of people with mental illness, the power to do so remains. We would not tolerate that such language remained in our Constitution if it related

to women or any other minority and we should take every step and every measure to remove this antiquated prejudice from our fundamental laws.

Recommendation

Based on the United States Constitution and federal law, discrimination cannot and should not be tolerated in our laws or in our State Constitution. We recommend that legislature eliminate any constitutional impediment to the right to vote by Kansans with mental illness by approving SCR No. 1622

Thank you for your time and attention, I would stand for any questions.

KANSAS MENTAL HEALTH COALITION

.....*Speaking with one voice to meet the critical needs of people with mental illness*

Voting Discrimination Permitted in Kansas Constitution

Background

Did you know the Kansas Constitution currently allows the Legislature to prevent people with “Mental Illness” from voting? Did you know the founding fathers of our state in the original Kansas Constitution had an absolute prohibition against voting for Kansans who were “insane”, “not competent” or those under guardianship? It is very sad ... but true.

Article V of the Kansas Constitution dealing with “suffrage” contains section 2 under the heading “disqualification to vote: which currently reads as follows:

The legislature may, by law, exclude persons from voting because of **mental illness** or commitment to a jail or penal institution. No person convicted of a felony under the laws of any state or of the United States, unless pardoned or restored to his civil rights, shall be qualified to vote.

Up until 1974, the Kansas Constitution prevented “persons under guardianship,” those who are “not competent,” or those who were “insane” from either voting or holding elected office! It was an absolute prohibition! In 1974 the Constitution was changed in two ways. First it was amended to change the total prohibition from voting to a provision where the Legislature “may” take away the right to vote. The second change was to remove references to persons under guardianship and those “not competent.” Unfortunately, people with mental illness were left on the list of persons for whom the Legislature can deny the right to vote. Though it is shocking, the measure changing the Constitution in 1974 (HCR 1007) did not even get a hearing when it was considered in the House Elections Committee. It was passed on a voice vote! No one was allowed to testify! Why did the 1974 Legislature leave people with mental illness on the list of those who could be discriminated against? Is it because they didn’t want to hear from Kansans with a mental illness?

*Voting is the most fundamental of all rights. The Kansas Legislature should not have the power to take away the right to vote based on disability. It is wrong to target a class of people in the Constitution, like people with mental illness, and to give the legislature *permission to discriminate*. What would the Legislature do if the Kansas Constitution allowed discrimination against any other class of people (women, racial minorities, etc.)? They would change the Constitution! That’s what they should do for people with mental illness.*

Legislative Call to Action

What is the process to get this discriminatory language changed?

In order to amend the Kansas Constitution, a concurrent resolution must pass both the Kansas House and Senate by a two-thirds vote. This requires 84 votes in the House and 27 votes in the Senate. Following action by the legislature, the amendment is put to the voters of Kansas for an up or down vote. The 2010 general election is the earliest opportunity to put this measure before the voters of Kansas.

SCR 1605 - A concurrent resolution to remove the offending language (Senate Concurrent Resolution 1605) has been introduced to remove the three highlighted words from the current provision in the Kansas Constitution: "The legislature may, by law, exclude persons from voting because of *mental illness or* commitment to a jail or penal institution."

SCR 1605 is going to be scheduled for a hearing of the Senate Judiciary Committee. SCR 1605 must pass to eliminate this constitutional discrimination.

What you can do to eliminate this discrimination?

Ask Your Kansas State Representative and Senator to vote for SCR 1605 to change this discriminatory language in the Constitution. This would permanently deny the Legislature the option of denying the right to vote to Kansans who happen to have a mental illness diagnosis.

Let's not allow 2010 to be a repeat of 1974 when the legislation amending the Constitution did not even get a hearing. Make sure that your legislators understand the importance of having a hearing on the Concurrent Resolution and for the public to have the opportunity to testify.

*Prepared by the Kansas Mental Health Coalition –
...speaking with one voice to meet the critical needs of people with mental illness
February 2010*

KANSAS MENTAL HEALTH COALITION

An Organization Dedicated to Improving the Lives of Kansans with Mental Illness

The Kansas Mental Health Coalition is comprised primarily of statewide organizations representing consumers of mental health services, families of consumers, community service providers and dedicated individuals as well as community mental health centers, hospitals, nurses, physicians, psychologists and social workers.

We all share a common goal: improving the lives of Kansans with mental illness.

Testimony to the Senate Judiciary Committee

SCR 1622

January 22, 2010

The Kansas Mental Health Coalition is an Organization Dedicated to Improving the Lives of Kansans with Mental Illnesses and Severe Emotional Disorders. KMHC is a coalition of consumer and family advocacy groups, provider associations, direct services providers, pharmaceutical companies and others, all of whom share this common mission. Within the format of monthly roundtable meetings, participants forge a consensus agenda which provides the basis for legislative advocacy efforts each year. This design enables many groups otherwise unable to participate in the policy making process to have a voice in public policy matters that directly affect the lives of their constituencies. The result of this consensus building is greater success for our common goals. Our current membership includes over 40 organizations which get together once a month to discuss issues of common concern and develop consensus.

The Kansas Mental Health Coalition supports amending the Kansas Constitution to remove language discriminating against Kansans with mental illness.

Article V of the Kansas Constitution dealing with "suffrage" contains section 2 under the heading "disqualification to vote:" which currently reads as follows:

The legislature may, by law, exclude persons from voting because of mental illness or commitment to a jail or penal institution. No person convicted of a felony under the laws of any state or of the United States, unless pardoned or restored to his civil rights, shall be qualified to vote.

Although the Kansas Legislature has not exercised this authority – the option is discriminatory and unacceptable.

Up until 1974, the Kansas Constitution prevented "persons under guardianship," those who are "not competent," or those who were "insane" from either voting or holding elected office. In 1974 the Constitution was amended. It was amended to change the total prohibition from voting to a provision where the Legislature "may" take away the right to vote. It was further amended to remove references to persons under guardianship and those "not competent."

Kansans with mental illness were left on the list of persons for whom the Legislature can deny the right to vote.

Voting is the most fundamental of all rights. The Kansas Legislature should not have the power to take away the right to vote based on disability. It is wrong to target a class of people in the Constitution, like people with mental illness, and to give the legislature permission to discriminate.

For More Information, Contact:

Kansas Mental Health Coalition

c/o Amy A. Campbell, Lobbyist

P.O. Box 4103, Topeka, KS 66604

785-969-1617; fx: 785-271-8143; campbell525@sbcglobal.net

c/o Roy W. Menninger, MD, Chair

85 SW Pepper Tree Lane, Topeka, KS 66611-2072

785-266-6100, fx: 785-266-9004, roymenn@sbcglobal.net

Senate Judiciary

1-22-10

Attachment 4

**Senate Judiciary Committee
Testimony on SCR 1622
January 22, 2010**

Mister Chairman and members of the Committee, my name is Michelle Sweeney, the Policy Analyst for the Association Community Mental Health Centers of Kansas, Inc. The Association represents the 27 licensed Community Mental Health Centers (CMHCs) in Kansas who provide home and community-based, as well as outpatient mental health services in all 105 counties in Kansas, with help available via phone 24-hours a day, seven days a week. In Kansas, CMHCs are the local Mental Health Authorities coordinating the delivery of publicly funded community-based mental health services. The CMHC system is state and county funded and locally administered. Consequently, service delivery decisions are made at the community level, closest to the residents that require mental health treatment. Together, this system of 27 licensed CMHCs form an integral part of the total mental health system in Kansas. As part of licensing regulations, CMHCs are required to provide services to all Kansans needing them, regardless of their ability to pay. This makes the community mental health system the "safety net" for Kansans with mental health needs, annually serving over 125,000 Kansans with mental illness.

It is important to note that one in four adults—approximately 57.7 million Americans—experience a mental health disorder in a given year.¹ Five of the top ten leading causes of disability world wide are mental disorders --such as depression, schizophrenia, bipolar disorders, alcohol use and obsessive compulsive disorders.² Of the non-communicable diseases, neuropsychiatric disorders (which include mental illness and substance use disorders) contribute the most to disease burden worldwide - more than heart disease and cancer.³

As it is currently written, even though the Kansas Constitution guarantees citizens the right to vote⁴, it also allows the Legislature to restrict those with mental illness from voting. The truth is, this section was adopted before there were aggressive and evidence-based treatments for mental illness. This was written when people with depression and other mental illnesses were automatically remanded to state institutions and hospitals.

The truth is, mental illness can happen to anyone. With treatment, medication and other services and care, recovery is possible for those who have been diagnosed with mental illness. The onset of a mental illness should not make an individual ineligible or unable to vote.

Voting is the most fundamental of all rights. If this article were ever implemented by the Legislature in Kansas, many Kansans could potentially be excluded from voting. Additionally, it is discriminatory to "lump" those with mental illness in with felons as a constituency--which this article now does. Someone who suffers from mental illness should not be placed in the same category as felons when it comes to voting rights. The U.S. Constitution, the Americans with Disabilities Act and the U.S. Voting Rights Act already protect people's right to participate in elections⁵, shouldn't the Kansas Constitution be amended to reflect these rights?

The Association supports the inalienable right of citizens to elect their own representation. Discrimination against those with mental illness is against the law. A vote for this amendment would eliminate any state constitutional impediment for persons with mental illness to vote. Thank you for your support of mental health care and treatment for all Kansas, and the adoption of Senate Concurrent Resolution 1622 to eliminate discrimination against those with the disability of mental illness.

For more information, contact Sheli Sweeney, Association of Community Mental Health Centers of Kansas, Inc. at 785 - 234-4773 or ssweeney@acmhck.org.

¹ U.S. Department of Health and Human Services. *Mental Health: A Report of the Surgeon General*. Rockville, MD: U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, 1999, pp. 408, 409, 411.

² *Regional Strategy for Mental Health*, World Health Organization Western Pacific Region, 7 August 2001; Read at <http://www.wpro.who.int/NR/rdonlyres/02421D66-3336-4C76-8D59-6ADA8B53D208/0/RC5214.pdf> on 2-2-09.

³ Prince, M., Patel, V., Saxena, S., Maj, M., Maselko, J., Phillips, M., et al. (2007). No health without mental health. *Lancet*, 370, 859-877.

⁴ Constitution of the State of Kansas; Article 5, Section 1. See <http://www.kslib.info/constitution/art5.html>; Viewed March 19, 2009.

⁵ Bazelon Center for Mental Health Law; Jennifer Mathis, Deputy Legal Director; *Trenton Star Ledger*, January 8, 2007; Washington, D.C.; 20

Testimony in favor of **Senate Concurrent Resolution No. 1622**
Senate Judiciary Committee, January 21, 2010
Sally Fronsman-Cecil

I was shocked and outraged when I learned that the Kansas Legislature could take the right to vote from me and my daughter who both have bipolar disorder along with all Kansas citizens with mental illness. I am offended by the level of generalization and stigma seen in the current wording of the Constitution of the State of Kansas which classes those of us with mental illnesses as incompetent, politically undesirable and to be sanctioned by withdrawal of the vote. in the same way as felons who have acted against the interests of society. To single out a blameless class of people who can be denied as basic of a right in a democracy as voting is wrong and unacceptable. We must be able to assume our right to vote is a given civil right to participate as citizens in the political and civil life of Kansas and the United States.

I urge you to pass Senate Concurrent Resolution No. 1622 and amend the Kansas Constitution to ensure that those in positions of political power in the Kansas Legislature would be unable to withdraw our voting rights.

Sally Fronsman-Cecil
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Testimony in Support of
SCR 1622
By Martha K. Gabehart
Executive Director
Kansas Commission on Disability Concerns (KCDC)

Mr. Chairman and members of the committee, thank you for the opportunity to testify in support of passage of SCR 1622.

Treatment of mental illness has progressed to the point that people with mental illness are capable of working, taking care of themselves and living active lives in their communities. They are capable of understanding the issues and candidates' platforms. The Americans with Disabilities Act (ADA), the Individuals with Disabilities Education Act (IDEA) and the Kansas Act Against Discrimination protect their rights in employment, government services, public accommodations, education and housing. The Help America Vote Act (HAVA) and National Voter Registration Act (NVRA) all protect their rights to register and vote. It is time to update the constitution of the State of Kansas and eliminate mental illness from the disqualification to vote section in Article 5 of the constitution.

The Kansas Commission on Disability Concerns (KCDC) encourages you to support passage of SCR 1622.