

Chairperson Vickie Schmidt  
Senate Public Health and Welfare Committee  
State Capitol Building  
Topeka, Kansas

Re: HB2205

My name is William D. Mize. I am a resident of Overland Park and an attorney practicing in Overland Park. I am testifying in opposition to HB 2205 now before this committee because the bill does not clearly ensure the religious exemption guaranteed to all Kansans opposed to mandatory vaccinations.

K.S.A. 72-5209 requires that all school children, including those attending schools that operate preschools and daycares, obtain vaccinations as required by the Secretary of Health. However, contained in the statute at K.S.A. 72-5209(b) is a provision for a religious exemption for those opposed to taking the vaccine. K.S.A. 65-508 requires that every child cared for in a day care have the immunizations as required by the Secretary of Health contained in the same statute, K.S.A. 65-508(e)(2) provides specifically for a religious exemption for the vaccinations. K.S.A. 76-761(a) requires that incoming college and university students residing in student housing be vaccinated for meningitis. Within this statute is the provision that the school provide an "appropriate waiver for those who refuse to take the vaccine."

The proposed statute we are addressing, H.B. 2205, requires vaccinations for meningitis for school children between ages 11 and 16 be added to the list of vaccinations specified in K.A.R. 28-1-20(b). No reference is made to an exemption for religious or medical reasons.

While a Supplemental Note prepared by the Legislative Research Department states that "A religious exemption for a child whose physical condition is such that tests or inoculations would seriously endanger the life or health of the child are specified under current law (KSA 72-5209(b))", the notes also concede that they "do not express legislative intent". Moreover, K.A.R. 28-1-20(b) only references the vaccines specified by the Secretary of Health with no mention of K.S.A. 72-5909, the statutes that contains the religious and medical exemptions. Given the fact that every one of the three statute relating to mandatory vaccinations contain a specific reference to a religious exemption while this proposed this statute makes no mention of an exemption, it is certainly an arguable inference that the legislature did not intend for there be such an exemption. In addition, K.S.A. 72-5209 predated the proposed statute and one might argue that the legislature did not expect that additional vaccines would be added to the list or that a new addition would not necessarily be subject to exemptions unless it was specifically stated in the additional legislation In any event, why should this Legislature leave the availability of the religious exemption to the argument that it did not wish to provide for one in this instance?

Additionally, this legislation will be initially be confronted by parents weighing their vaccination options according to this new mandate. Should the legislature expect these families to go beyond the specific language of HB 2205 to determine whether the exemption specified in K.S.A. 72-5209(b), while never referenced in HB 2205, actually applies to this situation?

For the foregoing reasons this committee should reject HB 2205 for its omission of a provision to expressly guarantee a religious exemption for the children affected by the meningitis mandate.