



Our mission is to end discrimination based on sexual orientation and gender identity, and to ensure the dignity, safety, and legal equality of all Kansans.

www.KansasEqualityCoalition.org • 6505 E. Central #219 • Wichita, KS 67206 • (316) 260-4863 • fax (316) 858-7196

Testimony of Thomas Witt, Executive Director
Kansas Equality Coalition
Senate Committee on Elections
In Opposition to HB2437
March 15, 2012

Good morning Madame Chair and members of the committee. I am here today to speak in opposition to HB2437, and I thank you for the opportunity to do so.

The Kansas Equality Coalition works to eliminate discrimination based on sexual orientation and gender identity. In the six years since we formed, we have organized eleven chapters around the state and have nearly 2000 members.

On January 24, I appeared before the Secretary of State at the public hearing on the proposed rules and regulations needed for implementation of the new statutes governing citizenship documents and voter identification. We raised a number of issues with the then-proposed rules (see attachment). Relevant to today's discussion about HB2437 are K.A.R. 7-23-14(a)(2)(A), 7-23-14(a)(2)(B) and 7-23-14(a)(5)(B), which regulate the presentation and interpretation of documents used to prove citizenship. The types of documents are poorly defined in statute or by the regulations, and will grant wide discretionary authority to county officials in determining the validity of documents. We are also concerned about a lack of adequate protections given to private information submitted by certain voters.

In later conversation with an official from the Secretary of State's office, I was informed that our concerns would not be addressed, and not because they lacked merit. Instead, according to the official, amending the proposed rules and regs would be too time consuming, and would mean that they would not be ready in time for a June effective date.

That June date is what we're here to discuss today. We oppose moving the start date from January 1, 2013 to June 15 of this year, because we believe Kansas 105 counties have not had time to prepare their staff and elections workers for the new statutes and regulations.

What used to be an easy process – fill out the voter registration application, and turn it in – has now become, for many voters, vastly more complicated.

Documents proving citizenship must be evaluated prior to registering new voters. For some voters, this will be a simple and straight-forward process. A new voter, born in Kansas, with a Kansas birth certificate and with current Kansas identification matching that birth certificate, will have documents familiar to most persons working in elections. However, not all Kansas voters have Kansas birth certificates; many Kansas voters were born out of state, and a few, while natural-born United States citizens, were born overseas on US military installations, or to U.S. parents who were abroad at the time of birth. Other voters will have birth certificates and other documents proving citizenship that do not have their current name as shown on their identification. Reasons for this are adoption, marriage, and divorce. These voters may be required to provide a paper-trail proving a link between their current

name and the name shown on their birth certificates. Some voters, under the new statutes, may be required to sign affidavits providing an explanation of discrepancies in documents.

Recent revisions to Kansas election laws, rules, and regulations governing voter registration have increased the complexity of the registration process. Not only is the process more complex, but more people are now involved in that process. Employees at the Division of Motor Vehicles and its local offices, the Department of Social and Rehabilitation Services and its local offices, all Medicaid offices in Kansas, first and second class city clerk offices, the Department of Health and Environment—Women, Infants and Children (WIC) Program and its local offices, deputized voter registration outposts in Kansas, and county and district attorneys, will all play a role in evaluating documents presented for voter registration.

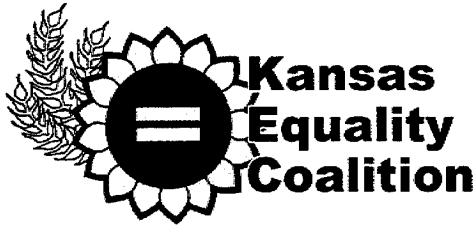
Because of the incredibly wide diversity of documents, including those from out of state, we believe it is imperative that all workers processing voter registration be familiar with this variety, and be trained in how to evaluate those documents with which they are unfamiliar. Not having this type of training in place could put new voters at risk of being disenfranchised, not because they are unqualified to vote, but because an untrained election worker rejected otherwise valid documents proving citizenship.

Workers must also be able to provide accurate information to voters on what documents are needed, and how to acquire documents such as free Kansas birth certificates and free identification for the purpose of voting. There have been recent news reports of confusion in agencies responsible for providing these documents to voters, including voters being turned away from a Wichita driver's license bureau while attempting to apply for free voter identification.

Let's assume HB2437 is enacted. As of today, we're 90 days from the contemplated effective date. The fastest this bill can be passed, enrolled, reach the Governor's desk, be signed, and published in the Kansas Register, would likely be the end of this month, leaving only 75 days to the effective date. However, we all know the process here – the most controversial bills are the slowest to work through the system, and are among the last to be enrolled and presented to the Governor for his signature. This bill could drag into veto session, and not be enrolled, signed, and published until sometime in May. That would leave perhaps a month between enactment and effective date – a month to prepare and train people in 105 counties in the complexities of document interpretation.

Let's not rush this. Let's make sure our election workers, and everyone else in the process, has had time to learn how to handle the requirements of these complex new laws and regulations, and enforce them in a way that doesn't disenfranchise voters or throw our entire election process into chaos.

Thank you for your time and attention. I am happy to answer your questions.



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Hon. Kris W. Kobach
Secretary of State
120 SW 10th Ave.
Topeka, KS 66612-1594

January 24, 2012

Dear Secretary Kobach:

Upon full review of the proposed Kansas Administrative Regulations regarding new statutes governing voter registration and identification, we have found several areas of concern.

K.A.R. 7-23-14(a)(2)(A) allows a voter to submit government-issued documents, in addition to those defined by statute, confirming a voter's name. The types of documents are undefined by statute or by the proposed regulations, and will grant wide discretionary authority to county officials in determining the validity of documents. Many gay and lesbian citizens of Kansas have legally married in another state, yet face obstacles in updating their Kansas identification. The applicability of the state constitutional provision banning same-sex marriage in Kansas is often cited as justification for these refusals. As the right to vote cannot be considered a "right or incident" of marriage, we respectfully urge you to amend the regulations to specify that all documents relating to name changes granted in other states, whether by marriage or any other reason, be accepted under this provision.

K.A.R. 7-23-14(a)(2)(B) and K.A.R. 7-23-14(a)(5)(B) allow a voter to sign an affidavit, pursuant to KSA 25-2309(q), stating the reasons for discrepancy in name and sex shown on documents submitted for proof of citizenship. The proposed regulations are silent about whether such affidavits are public records under the Kansas Open Records Act (KORA). In the case of transgender voters to whom these sections might apply, the affidavits may contain private medical information about the voter. Forty percent (40%) of transgender individuals who presented ID (when it was required in the ordinary course of life) that did not match their gender identity/expression reported being harassed, 3% reported being attacked or assaulted, and 15% reported being asked to leave. We believe affidavits disclosing transgender status will expose those voters to discrimination and potential violence, and we respectfully request that the proposed regulations be amended to clearly state that such affidavits are not considered public records under KORA, and should not be released.

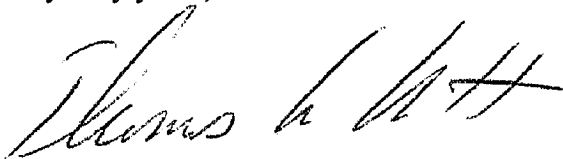
K.A.R. 7-46-1(b) allows post-election submission of photographic identification to their county election office. There is no process defined by which the board of canvassers shall evaluate identification, and no objective standards for considering specific discrepancies in identification. This lack of standards grants a board of canvassers wide latitude to reject otherwise valid identification for no reason. This puts transgender voters, and gay and lesbian voters who have legally married in another state but are unable to have their name changes recognized in Kansas, at high risk of being disenfranchised. We urge you to amend the proposed regulations to include objective criteria by which post-election submission of identification are evaluated.

K.A.R. 7-46-2(a)(2) and K.A.R. 7-46-2(a)(3) directs election board workers to compare voter's photographs to the physical appearance of the voter to determine eligibility to vote. The process by which the election board worker shall evaluate appearance is insufficient, and includes no objective standards for considering specific discrepancies in appearance. This lack of standards grants an election board worker wide latitude to reject otherwise valid identification for no reason. This provision leaves a determination up to the election board worker that will, on occasion, reflect the discrimination that exists against transgender people. Additionally, a transgender person, especially during transition, will often not look like the person in the photograph. This provision will result in transgender persons being turned away at the polling place. We urge you to amend the proposed regulations to include objective criteria by which election board workers evaluate photographic identification.

In section III of your Economic Impact Statement, you state that the implementation of these regulations will impose no significant economic impact. We strongly disagree. Many of the provisions of the S.A.F.E. Act require a higher level of scrutiny of documents than at any time in our state's history. Because of the vast diversity of the people who live, work, and *vote* in our great state, we believe election workers will require additional training to successfully implement the new statutes and regulations, while at the same time continuing to guarantee the right to vote to all eligible Kansans. We urge you, in the strongest possible terms, to re-evaluate the economic impact of these proposed regulations, and take into account the additional training that will be required for all elections workers and officials at every level.

We appreciate the opportunity to address these regulations, and hope that you will act to incorporate the amendments we are requesting. Should you need further information, please do not hesitate to contact me.

Very truly yours,



Thomas Witt, Chairman
Kansas Equality Coalition