



*End discrimination based on  
sexual orientation and  
gender identity*

Statement of Thomas Witt  
Executive Director, Equality Kansas  
In Opposition to HB 2224  
House Committee on Federal and State Affairs  
February 11, 2021

Good morning Mr. Chairman and members of the committee.

I am Thomas Witt, Executive Director of Equality Kansas, which works to eliminate discrimination based on sexual orientation and gender identity. I am here today to speak in opposition to HB 2224, and I thank you for the opportunity to do so.

This bill was, on first reading, a pleasant surprise. It appeared to be a small but positive step in removing the legal stigma of HIV infection from our statute books.

Section 1(m) of HB 2224 strikes "AIDS," the condition caused by HIV, and replaces it with a reference to all diseases, as defined in K.A.R. 28-1-2 (attached), that must be reported by health care professionals to the Kansas Department of Health and Environment.

Equality Kansas supports this change. Discrimination against HIV-positive individuals has been common since discovery of the disease in the early 1980's. With the condition at the time affecting primarily adult gay men, it was easy to criminalize an infection found in a class of Americans who were already targets of discrimination, both cultural and official.

However, two other provisions in the proposed bill bring us to oppose its passage as written.

The current statute, K.S.A. 65-6009, provides, in circumstances where there may have been an exchange of bodily fluids during the commission of a crime, for the compulsory testing of the suspect. It also requires the offender, upon conviction, to pay testing and counselling costs.

HB 2224 lowers the standards where tests can be compelled and fees levied.

At page 2, line 28, the bill lowers the standard for compelling a test from "arrested and charged" to merely "arrested."

The current standard requires the suspect to be adjudicated – in other words, convicted and sentenced – before they can be ordered to pay costs. At page 3, line 24, testing and counselling costs are assessed against the suspect if "arrested or convicted." The proposed amendment would drastically lower that standard to a mere arrest, with no requirement that a suspect be charged, tried, or convicted.

Current statute also provides that the results of compulsory, involuntary medical testing of a suspect be disclosed to a number of people, many of whom have no obligation to keep that information private (Section 2(c) at page 3, lines 7 through 18). Should HB 2224 pass as written, people who have never even been charged with a crime could have their private, personal medical status publicly disclosed. In a world where discrimination against those infected with HIV and other diseases is common, this is a horrible idea.

Making a mere arrest grounds for compulsory medical testing, assessment of costs, and public disclosure of highly personal medical information, is a recipe for injustice and abuse. It takes the idea of civil asset forfeiture – the seizure of assets without charge or conviction – and applies it to our very bodies, medical histories, and personal reputations.

While Equality Kansas supports legislation that removes discriminatory language from our statute books, we must oppose this bill as written. Should the committee choose to recommend this bill favorably for passage, we strongly urge it be amended to preserve the current standards for forced medical testing and assessment of costs.

Thank you for your time and attention. I'm happy to stand for questions at the appropriate time.

# Agency 28

## Kansas Department of Health and Environment

### Article 1.—Diseases

**28-1-2. Reporting requirements for infectious or contagious diseases and conditions.** (a) Each person licensed to practice the healing arts or engaged in a postgraduate training program approved by the state board of healing arts, licensed dentist, licensed professional nurse, licensed practical nurse, administrator of a hospital, licensed adult care home administrator, licensed physician assistant, licensed social worker, and teacher or school administrator shall report each suspected case of the following infectious or contagious diseases or conditions to the secretary within four hours of knowledge of the suspected case:

- (1) Anthrax;
- (2) botulism;
- (3) cholera;
- (4) diphtheria;
- (5) measles (rubeola);
- (6) meningococcal disease;
- (7) mumps;
- (8) novel influenza A virus infection;
- (9) plague (*Yersinia pestis*);
- (10) poliovirus;
- (11) rabies, human;
- (12) rubella;
- (13) severe acute respiratory syndrome-associated coronavirus (SARS-CoV);
- (14) smallpox;
- (15) tetanus;
- (16) tuberculosis;
- (17) vaccinia, postvaccination infection or secondary transmission;
- (18) viral hemorrhagic fevers, including Ebola virus, Marburg virus, Crimean-Congo hemorrhagic fever virus, Lassa virus, Lujo virus, and any of the New World arenaviruses; and
- (19) any exotic or newly recognized disease.

(b) Each person licensed to practice the healing arts or engaged in a postgraduate training program approved by the state board of healing arts, licensed dentist, licensed professional nurse, licensed practical nurse, administrator of a hospital, licensed adult care home administrator, licensed physician assistant, licensed social worker, and teacher or school administrator shall report each occurrence of any of the following to the secretary within four hours:

- (1) Clusters, outbreaks, or epidemics;
- (2) possible terrorist acts due to biological, chemical, or radiological agents;
- (3) unexplained death suspected to be due to an unidentified infectious agent; or
- (4) any unusual disease or manifestation of illness.

(c) Each person specified in subsection (a) shall report each case of the infectious or contagious diseases or conditions specified in this subsection to the secretary within 24 hours, except that if the reporting period ends on a weekend or state-approved holiday, the report shall be made to the secretary by 5:00 p.m. on the next business day after the 24-hour period. Each report for the following shall be required only upon receipt of laboratory evidence of the infectious or contagious disease or condition, unless otherwise specified or requested by the secretary:

- (1) Acute flaccid myelitis (report all suspected cases, regardless of laboratory evidence);
- (2) anaplasmosis;
- (3) arboviral disease, neuroinvasive and nonneuroinvasive, including California serogroup virus disease, chikungunya virus, any dengue virus infection, eastern equine encephalitis virus disease (EEE), Powassan virus disease, St. Louis encephalitis virus disease (SLE), West

- Nile virus disease (WNV), western equine encephalitis virus disease (WEE), and Zika virus;
- (4) babesiosis;
  - (5) blood lead level, any results;
  - (6) brucellosis, including laboratory exposures to *Brucella* species;
  - (7) campylobacteriosis;
  - (8) *Candida auris*;
  - (9) carbapenem-resistant bacterial infection or colonization;
  - (10) carbon monoxide poisoning (report all suspected cases, regardless of laboratory evidence);
  - (11) chancroid;
  - (12) chickenpox (varicella) (report all suspected cases, regardless of laboratory evidence);
  - (13) *Chlamydia trachomatis* infection;
  - (14) coccidioidomycosis;
  - (15) cryptosporidiosis;
  - (16) cyclosporiasis;
  - (17) ehrlichiosis;
  - (18) giardiasis;
  - (19) gonorrhea, including antibiotic susceptibility testing results, if performed;
  - (20) *Haemophilus influenzae*, invasive disease;
  - (21) Hansen's disease (leprosy) (report all suspected cases, regardless of laboratory evidence);
  - (22) hantavirus (report all suspected cases, regardless of laboratory evidence);
  - (23) hemolytic uremic syndrome, postdiarrheal (report all suspected cases, regardless of laboratory evidence);
  - (24) hepatitis A, acute hepatitis A (IgM antibody-positive laboratory results only);
  - (25) hepatitis B, acute, chronic, and perinatal infections;
  - (26) hepatitis B in pregnancy (report the pregnancy of each woman with hepatitis B virus infection);
  - (27) hepatitis B (report all positive, negative, and inconclusive results for children younger than five years of age);
  - (28) hepatitis C;
  - (29) hepatitis D;
  - (30) hepatitis E;
  - (31) histoplasmosis;
  - (32) human immunodeficiency virus infection;
  - (33) human immunodeficiency virus-positive cases (report either the CD4+ T-lymphocyte cell counts or the CD4+ T-lymphocyte percent of total lymphocytes);
  - (34) human immunodeficiency virus infection in pregnancy (report the pregnancy of each woman with human immunodeficiency virus infection);
  - (35) human immunodeficiency virus (report viral load of any value);
  - (36) influenza that results in the death of any child under 18 years of age (report both suspected cases and cases, regardless of laboratory evidence);
  - (37) legionellosis;
  - (38) leptospirosis;

- (39) listeriosis;
- (40) Lyme disease;
- (41) malaria;
- (42) psittacosis;
- (43) Q fever, acute and chronic;
- (44) rabies, animal;
- (45) salmonellosis;
- (46) shiga toxin-producing *Escherichia coli* (STEC);
- (47) shigellosis;
- (48) spotted fever rickettsiosis;
- (49) streptococcal toxic-shock syndrome;
- (50) *Streptococcus pneumoniae*, invasive disease;
- (51) syphilis, including congenital syphilis (report all suspected cases, regardless of laboratory evidence);
- (52) toxic-shock syndrome, other than streptococcal;
- (53) transmissible spongiform encephalopathy (TSE) or prion disease (indicate causative agent, if known);
- (54) trichinellosis or trichinosis (report all suspected cases, regardless of laboratory evidence);
- (55) tuberculosis infection (report all suspected cases based on positive tuberculin skin test or laboratory evidence);
- (56) tularemia, including laboratory exposures;
- (57) typhoid fever;
- (58) vancomycin-intermediate *Staphylococcus aureus* (VISA);
- (59) vancomycin-resistant *Staphylococcus aureus* (VRSA);
- (60) vibriosis or non-cholera *Vibrio* species;
- (61) yellow fever; and
- (62) whooping cough (pertussis) (report all suspected cases, regardless of laboratory evidence).

(d) Each person specified in subsection (a) shall report the following information in a manner specified by the secretary for any suspected case or case required to be reported by subsection (a), (b), or (c):

- (1) The following personal information for each patient:
  - (A) First and last names and middle initial;
  - (B) address, including city, state, and zip code;
  - (C) telephone number, including area code;
  - (D) date of birth;
  - (E) sex;
  - (F) race;
  - (G) ethnicity (specify if hispanic or non-hispanic ethnicity);
  - (H) pregnancy status;
  - (I) date of onset of symptoms; and
  - (J) diagnosis;
- (2) type of diagnostic tests;

- (3) type of specimen;
- (4) date of specimen collection;
- (5) site of specimen collection;
- (6) diagnostic test results, including reference range, titer if quantitative procedures are performed, and all available results concerning additional characterization of the organism;
- (7) treatment given;
- (8) name, address, and telephone number of the attending physician; and
- (9) any other necessary epidemiological information and additional specimen collection or laboratory test results requested by the secretary or local health officer. (Authorized by K.S.A. 65-101, K.S.A. 2017 Supp. 65-128, K.S.A. 65-1,202, and K.S.A. 65-6003; implementing K.S.A. 65-101, K.S.A. 2017 Supp. 65-118 and K.S.A. 65-6002; effective May 1, 1982; amended May 1, 1986; amended Dec. 24, 1990; amended April 19, 1993; amended Jan. 12, 1996; amended Dec. 1, 1997; amended Feb. 18, 2000; amended, T-28-11-20-03, Nov. 20, 2003; amended March 5, 2004; amended April 28, 2006; amended May 11, 2018.)