

KANSAS MENTAL HEALTH COALITION

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

January 30, 2014

Dear Senator King,

The Kansas Mental Health Coalition continues to be concerned about SB 270 and asks that the Senate Committee take these concerns seriously.

Yesterday, the Attorney General testified to the Senate Judiciary Committee that the purpose of SB 270 is to force defendants to submit to examination by the prosecutor's expert when the defense had entered expert testimony for the defense. He asserted examples regarding the habitual use of drugs.

He said that the rules for submitting expert testimony for a mental health defense were already established in current law – and it seemed the mental health advocates were complaining about current law. However, the concerns expressed by NAMI, Kansas in testimony and by the Kansas Mental Health Coalition by email are targeting the new language of the bill.

If the State is simply trying to have the ability to get their own expert's examination of the defendant in cases where the defendant is claiming that his or her level of intoxication and/or history of intoxication rendered them incapable of having the intent to commit whatever crime is at hand, then we recommend writing a bill to accomplish this purpose only.

It is true that current law applies these 30 day limits to entering a defense is asserting that mental disease excludes criminal responsibility. But the new proposed law expands application of current time limits and the new requirements both to people who are using mental disease or defect as a defense, AND to anyone who might enter expert testimony about their mental disease or defect as it relates to the intent or to the level of punishment.

It also new language mandating that the court will order the defendant to submit to an additional expert's evaluation in all circumstances – whereas current law makes this optional for the judge, and only applies to cases where the defense is asserting that mental disease excludes criminal responsibility.

It is important to understand that there are very sensitive issues of confidentiality relating to psychological examinations. It is remarkable to think that we would force additional examinations on people with mental illness without placing extremely stringent requirements on when that could occur and how that information could be used. Again, the current law is very specific as to when this can be ordered, and it is optional for the presiding judge.

It is true that the new language in the bill expands its scope to include voluntary intoxication, which seems to be the primary target of the Attorney General's office. However, it is not clear why they would not propose language that addresses this issue separately and distinctly from mental disease or defect.

The Kansas Mental Health Coalition continues to oppose SB 270 as written.

Thank you for your consideration.

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