



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
House Committee on Elections
In Opposition to HB2437
February 6, 2012

Good morning Mr. Chairman 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.

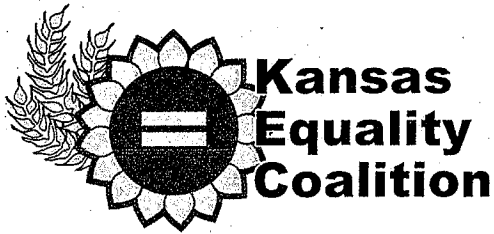
On January 24, I appeared before the Secretary of State at the public hearing on the proposed rules and regulations needed for implementation of the new statutes governing citizenship documents and voter identification. We raised a number of issues with the proposed rules; a copy of our letter to the Secretary of State, outlining our objections, is attached.

Referring to the attachment, our opposition to HB2437 centers on a lack of objective standards in determining the sufficiency of documents proving citizenship, and on a lack of adequate protections given to private information submitted by certain voters.

In conversations with the Secretary of State's office, we have learned that they do not intend to act on the concerns we raised in our January 24 letter and public comments. Without the changes we have proposed, we do not believe the citizenship provisions of the new law should become effective on June 15. Indeed, without standards for determining the sufficiency of documents, and without private document protections, we do not believe those provisions should take effect at all.

Because of the deficiencies found in the current statute, and in the proposed rules and regulations, Kansas Equality Coalition has, in cooperation with the League of Women Voters of Kansas, requested introduction of two bills that deal with voter education and election worker training. We respectfully ask the committee to delay acting on HB2437 until after hearing our two as-yet-unnumbered bills.

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.

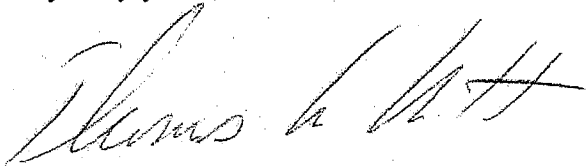
K.A.R. 7-46-1(b) allows post-election submission of photographic identification to their county election office. There is no process defined by which the board of canvassers shall evaluate identification, and no objective standards for considering specific discrepancies in identification. This lack of 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