



MAR 31 2004

JIM DOYLE
GOVERNOR
STATE OF WISCONSIN

March 25, 2004

Senator Carol Roessler
State Capitol, Room 8 South
Madison, WI 53702

Dear Senator Roessler:

Thank you for contacting me regarding your position on Senate Bill 230, relating to authorizing an employee of a school district, cooperative educational service agency, charter school, private school, the Wisconsin Educational Services Program for the Deaf and Hard of Hearing, the Wisconsin Center for the Blind and Visually Impaired, or a social worker to subject an individual's blood to a test for the presence of the virus that causes acquired immunodeficiency syndrome.

As you point out, this bill has recently passed both houses of the Legislature. I am currently reviewing all of the Legislature's action on recent legislation. I appreciate your insight and support on this matter and encourage you to continue to contact my office in the future.

It is my expectation that a decision on this piece of legislation will be made soon. My office will notify you when I take a formal position on SB 230. Thank you again for your leadership on this matter and your continued commitment to the people of Wisconsin. I look forward to working with you in the future.

Sincerely,


Jim Doyle
Governor

JED/pg

Cheryl Hartman
Patti Yana out of state:
4/19 - 4/17



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Bill would let educators demand HIV test

Requiring student to be checked after exposure seen as vital or intrusive

By STACY FORSTER
sforster@journalsentinel.com

SB230

Posted: March 17, 2004

Madison - As a teacher of emotionally disturbed adolescents who sometimes become violent, Cheryl Hartman knew her job could be dangerous.

But she never expected a violent incident might also threaten her health. Three and a half years ago, a student at the Oshkosh Area School District's Second Chance school lashed out, broke a window and sliced his arm, and some of his blood splattered in Hartman's eye. Although she immediately ran to flush out her eye - as medical experts recommended - Hartman was concerned about what might have been in his blood, and to what she might have been exposed.

Legislature

Text: Senate Bill 230

She was surprised to learn that unlike emergency medical professionals and corrections officers, she wasn't able to require the student to take a test for HIV, the virus that causes AIDS.

"I had no right to know what I had been contaminated with," Hartman said.

That could change if Gov. Jim Doyle signs a bill that cleared the Legislature last week. Under current law, people who work in certain fields, such as emergency medical service, health care or corrections, may ask that another person's blood be tested for HIV if they think they have been exposed. About 100,000 Wisconsin teachers, school administrators and support staff could be added to that list.

Doyle's office is reviewing the bill; the governor hasn't yet made a decision about whether he will sign it. There was no estimate from the Legislature about how much the extra testing might cost.

Educators say it's a necessary precaution for teachers who find themselves mediating violent incidents or simply responding to emergencies. But the measure would also extend the right to demand tests to any other school employees, including janitors and coaches, and some fear the right could be overused or serve as a crutch for lax protective measures and medical advice.

"There are going to be arbitrary decisions made by the school employees who may or may not have the information they need to make a good decision," said Chris Ahmuty, executive director of the American Civil Liberties Union of Wisconsin. "Certainly we want to allay people's concerns, but you want to do that by providing good information or counseling if needed, not by making them think, 'Let's test the wrestler or basketball player who started bleeding.'"

To be sure, testing would be allowed only in cases where an educator has been significantly exposed to a student's blood. This means the teacher must have used precautions to prevent being exposed in the first place, then a physician would certify that exposure had occurred. The teacher would also have to submit to a test for the presence of HIV within a specified time period.

Because it wouldn't be easy for an educator to meet those standards, the measure isn't likely to be abused by teachers, said Stan Johnson, president of the Madison-based Wisconsin Education Association Council.

"This is not something that happens all the time, but you need those protections just in case," Johnson said, adding that the

teachers group wouldn't support mandatory testing of all students.

The Milwaukee Teachers' Education Association, which is affiliated with WEAC, also supports extending the right to demand a test to teachers. Dan Donder, a spokesman for Milwaukee Public Schools, said the district was reviewing the measure but agreed with the concept.



Support staff and other school personnel were included in the list of employees who could demand a test because anyone at a school might be the first to respond to a violent incident and put themselves at risk, said state Sen. Carol Roessler (R-Oshkosh), who sponsored the bill after hearing of Hartman's experience.

While aggression by students is rare, one place where blood often flows is on the sports field.

"It happens frequently," said Dave Anderson, deputy director of the Wisconsin Interscholastic Athletic Association in Stevens Point. "You name the sport, whether it's the hockey player that gets bashed around with a stick . . . or a facial laceration in basketball when you catch an elbow, there are numbers of times when there is blood."

Relying on others' tests

Critics say the current law already poses a public health hazard and argue against further expansion. The medical community advises people never to rely on the test results of another person to determine their own HIV status, said Michael Gifford, vice president and chief operating officer of the AIDS Resource Center of Wisconsin in Milwaukee. Instead, someone who suspects exposure to HIV should consult a physician and have a test, he added.

"This creates a safety net that is full of holes," Gifford said of the bill. "In this day and age, it is so easy to access HIV testing - it's free and anonymous - and there's no reason for legislation like this, which is based on fear instead of good public health policy."

In Hartman's case, a month after the incident, a judge ordered that the student be tested, and Hartman eventually tested negative.

After undergoing the series of blood tests, which are conducted over a six-month time period, Hartman said she doesn't think too many educators would choose to have them unless they were truly afraid of having been exposed to HIV.

"It's not fun, so who would go through that if they didn't have to?" she said.

From the March 18, 2004 editions of the Milwaukee Journal Sentinel



Carol Roessler
STATE SENATOR

March 24, 2004

Governor Jim Doyle
115 East State Capitol
Madison, WI 53702

Dear Governor Doyle,

I strongly encourage you to sign Senate Bill 230, relating to authorizing employees of a school district to subject an individual's blood to a test for the presence of the virus that causes acquired immunodeficiency syndrome.

Senate Bill 230 is a natural extension of current law. This bill does not create a new process for testing. Rather, **it simply adds employees of a school district** to the list of other professionals that can currently require that the blood of an individual, **to whom they were significantly exposed**, be tested for the presence of HIV.

It is important to acknowledge that extending to employees of a school district the right to have an individual's blood tested for the presence of HIV, does not change the requirements that must be fulfilled prior to such a request. Those requirements include:

- **The use of universal precautions against a significant exposure at the time of the significant exposure.**
- **Certification in writing by a physician that the affected person was significantly exposed.**
- **Submittal to a test, by the person who was significantly exposed, for the presence of HIV within a specified time period.**

Clearly, the ability for employees of a school district and individuals currently allowed to require testing, is limited. A student who falls playing basketball, cuts his or her knee and gets a minimal amount of blood on a teacher's hand while applying bandages, is not the type of exposure current law or the bill addresses. This bill does not change the fact that a person **must be significantly exposed, as determined by a physician.**

The March 17, 2004 Milwaukee Journal Sentinel article entitled, "Bill would let educators demand HIV test," indicates that you have not made a decision about whether

or not you will sign SB 230. If you still have concerns about this bill, I respectfully request a meeting with you before you take action on this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol", written in a cursive style.

CAROL ROESSLER
State Senator
18th Senate District

CR:/jhS:\DOCS\Jennifer\3-24-04 hiv testing to gov..doc

SB 230

Oshkosh Northwestern March 12, 2004

Facts, patience gets HIV testing bill approved

Teachers can demand a test

BY KEVIN MURPHY
for The Northwestern

MADISON - It took Oshkosh teacher Cheryl Hartman 3 1/2 years and two trips to Madison before the state Legislature finally approved a bill Wednesday night that would add teachers to the list of professions who could subject an individual for HIV testing if they have been exposed to their blood.

Hartman, who teaches health and other subjects at the Oshkosh School District's Second Chance program, had blood splashed in her eye when a student became disruptive at school. After seeing her best friend die of AIDS a few years earlier, Hartman's initial concern was about becoming infected.

Later, that worry turned to dismay when it took about a month for a court to order the student's uncooperative parents to have their son tested.

Gratified that the student tested negative, Hartman began e-mailing area legislators seeking to cut through the red tape in getting a student tested and the results released.

Although the first bill

died in a legislative committee two years ago, Sen. Carol Roessler, R-Oshkosh, re-introduced the measure last year and called on Hartman and other district employees and administrators to testify in support of the bill.

Roessler credited the effort of Hartman and the others with getting the bill approved.

"It was her story, and with her help and with several others, it conveyed the real substance of the issue which helped bring the bill to fruition," Roessler said.

Legislators are used to hearing from their colleagues and lobbyists at hearings, but citizen input is often vital to a bill's chances of success, Roessler said.

"They listen to me all the time, but it really helps to have a real person come talk to them about their situation," Roessler said.

Hartman said getting behind the bill gave her a civics lesson she could never get from a textbook.

Most surprising was listening to the bill's opponents using outdated information in making their case. Some witnesses apparently didn't know that the most effective treatment for AIDS can be administered

within 48 hours of exposure, which makes getting the test results quickly from the HIV-infected person even more important, Hartman said.

The best advice Hartman had for other citizen-lobbyists is to go to the Capitol with facts and patience. The facts will strengthen any argument, but patience is needed to see the task through to completion.

Although some legislators will say 3 1/2 years is a relatively short wait to get legislation ap-

proved, citizens can tire quickly of the delays and roadblocks opponents will use to defeat your proposal, Hartman said.

The bill will be forwarded to Gov. James Doyle's office within a few weeks.

Roessler expects it to be signed.

When it is, the bill signing ceremony should prompt one more trip to Madison for Hartman and her colleagues, Roessler said.

Kevin Murphy is a freelance writer based in Madison.

SB 230

Posted Mar. 12, 2004

Facts, patience gets HIV testing bill approved

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By Kevin Murphy

for The Northwestern

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* Update Hr
for SB 230
contacts.

Patti
Cheryl
Linda
John

not
getting
this Hr.

March 11, 2004

X
X
X

Dear X,

in writing
Given your interest in Senate Bill 230, I want to provide you with an update on the status of this bill. SB 230 relates to authorizing employees of a school district to subject an individual's blood to a test for the presence of the virus that causes acquired immunodeficiency syndrome.

Senate Bill 230 has been a collaborative effort between the Legislature and individuals of the Oshkosh School District. This bill would not be where it is today without the tireless efforts of that particular group of people. The sharing of their personal experiences with legislators was critical in the movement of this proposal.

SB 230 passed the Senate Health Committee 8-1 on September 4, 2003. On October 1, 2003, the bill passed the full Senate 30-3. The Assembly passed SB 230 on March 10, 2003. I, along with educators, celebrate the *final passage* furthering of this bill and look forward to the Governor signing it into law.

Thank you again for sharing your views on this issue.

*those people O.S.D. who worked
diligently with me,*

Sincerely,

CAROL ROESSLER

Letter for Patti Yana
Cheryl Hartman
Linda Stoikes
John Sprangers

March 11, 2004

X
X
X

* Carol -
Update SB 230
letter.

Dear X,

Thank you for the work you have done on Senate Bill 230, relating to authorizing employees of a school district to subject an individual's blood to a test for the presence of the virus that causes acquired immunodeficiency syndrome.

Your efforts have been tireless and critical to the movement of this bill. I applaud your proactive approach to this issue and the sharing of your personal experiences with other legislators. You truly have made a difference.

Senate Bill 230 passed the State Senate on October 1, 2003. The Assembly passed SB 230 on March 10, 2003. I, along with you, celebrate the furthering of this bill and look forward to the Governor signing it into law.

~~Thank you again for sharing your views on this issue.~~

Sincerely,

Sincerely,

CAROL ROESSLER
State Senator
18th Senate District

Will
keep you
appraised
of the bill's progress

~~have seen~~ have caused this bill to become law as soon as possible
together we
can
do it
Sincerely
Carol

I thank you
for bringing this troubling
issue to me. It is asking
me to work on your behalf.
It has been a great
partnership and we
have achieved the
desired
result.

SB 230

Halbur, Jennifer

From: Hartwitt [hartwitt@prodigy.net]
Sent: Thursday, February 26, 2004 6:26 PM
To: Jennifer.Halbur@legis.state.wi.us
Subject: SB 230 Press release

Jennifer,
Tell Sen Roessler she should do whatever she wants to promote the bill.
Also, there are a lot of school district employees out there who still have
no idea how she has helped us. They need to know that. All of them, all
over the state!! Tell her all of her constituents here in town who showed
up last week are thrilled with her accomplishment.

Cherie

↳ Cheryl Hartman

2/27/04



OSHKOSH

ON THE WATER

215 Church Ave. - PO Box 1130 - Oshkosh WI 54903-1130

Sandra Knutson
Sanitarian
215 Church Ave.
Oshkosh, WI 54901

Legislature Health Committee Members
State Capitol
PO Box 8953
Madison, WI 53708

Dear Health Committee Members:

I am a Sanitarian for the City of Oshkosh and am writing to you concerning SB230. I was in attendance for the testimony presented to you on Feb 17, 2004. I would like to point out an inaccurate statement made concerning the treatment of persons in health care settings whom have had a significant exposure. Currently the CDC is recommending that when a blood specimen from the source of a significant exposure is not available for testing within two hours of the exposure, the exposed would be treated with AZT as a precaution until the blood from the source can be tested. This is supported by scientific research. There is a reduced level of seroconversion of exposed persons when treatment is started within two hours of the exposure. Below are references which support the statements above.

I am educated as a Medical Technologist and have worked in hospital laboratories. I have conducted HIV testing on significant exposures and have seen physicians prescribe AZT for persons significantly exposed when the blood of the source is not available for immediate testing. I not only think that teachers should be added to the list of occupations that the bloodborne pathogens law covers, but anyone occupationally exposed to another's blood or body fluids. A physician should receive the information about the sources blood so proper treatment of the exposed could start immediately to prevent the transfer of bloodborne pathogens from the source to the exposed.

Sincerely,
Sandra Knutson

*Sent a copy to
Jim Address of the
Black Health Coalition
WI. (Milwaukee)
Fax: 414-933-0284*

FUT

SB 230

References

Cardo, DM et al. A case control study of HIV seroconversion in health care workers after percutaneous exposure. *N Engl. J Med.* 1997; 337:1485-1490.

Center for Disease Control and Prevention. Case-control study of HIV seroconversion in health care workers after percutaneous exposure to HIV-infected blood. France, United Kingdom, and United States January 1988 – August 1994, *MMWR Morb Mortal. Wkly Rep.* 1995; 44: 929-33.

Center for Disease Control and Prevention. Update: provisional public health service recommendations for the chemoprophylaxis after occupational exposure to HIV, *MMWR* 1996; 45: 468-72.



Carol Roessler
STATE SENATOR

FOR IMMEDIATE RELEASE

February 26, 2004

Contact: State Senator Carol Roessler, 888-736-8720

Roessler HIV Testing Bill Advances

Madison...Senate Bill 230, authored by State Senator Carol Roessler (R-Oshkosh), Chair of the Senate Committee on Health, Families, Children and Long Term Care, unanimously passed the Assembly Health Committee today. Representative Underheim is the chairman of that Committee. "This bill adds employees of a school district and other educational facilities to the list of people who currently can require that the blood of the individual to whom they were significantly exposed, be tested to determine the presence of the HIV/AIDS virus," explained Roessler.

"I introduced this bill in response to concerns brought to me by Cheryl Hartman, an Oshkosh teacher, and Linda Stoikes, Patricia Yana and John Sprangers from the Oshkosh School District. These individuals shared compelling stories about teachers in this school district who have experienced incidents where they have been exposed to student's blood while on the job. I commend them for working with the Legislature in addressing this issue," said Roessler. Current state statutes do not provide recourse for school district employees to subject the blood to a test to determine the presence of Human Immunodeficiency Virus (HIV). "A court order must be filed requesting that the blood

(more)

be tested,” said Roessler. “State statutes do, however, provide a right to require testing to several other professionals, including employees of a secured child caring institution, a secured group home, an emergency medical technician, a person employed at a secured correctional facility, a peace officer, first responders and firefighters.”

“It is very important to note that these individuals must meet the following requirements before a request can be made: (a) The use of universal precautions against a significant exposure at the time of the significant exposure; (b) certification in writing by a physician that the affected person was significantly exposed; and (c) submittal to a test for the presence of HIV within a specified time period,” said Roessler.

“Given the increase of violence in schools and the day to day, one on one, contact school district employees have with children, this bill makes common sense. Teachers and other employers of a school district should be able to take every precaution necessary to determine whether he or she has been infected with HIV after a significant exposure to another person’s blood,” stated Roessler.

Roessler continued, “Senate bill 230 removes barriers to information that affect a person’s life and well being. If a person is significantly exposed to another person’s blood, it is critical that he or she know if they were also exposed to a virus, which if not treated, could worsen and even cause death.”

(more)

“Senate Bill 230 has been a collaborative effort between the Legislature and individuals of the Oshkosh School District. We celebrate the furthering of this bill today. We hope that this bill will soon be scheduled for a vote by the full Assembly and signed by the Governor,” said Roessler.

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September 4, 2003

To: Members of the Senate Health, Families, Children and Long-Term Care Committee

From: Gary Radloff, DHFS Legislative Liaison

Re: Senate Bill 230

DHFS Position

DHFS position is that the bill is not necessary and may be harmful to public health initiatives attempting to decrease HIV transmission; raise three major concerns and issues

1. HIV transmission in a school setting is extremely unlikely
2. Universal use of blood-borne pathogens precautions is the critical strategy to prevent HIV transmission
3. Adopting any legislation that allows for involuntary testing, harms public health efforts to encourage voluntary testing of persons at risk

HIV transmission is unlikely to occur

- School age youth have a very low seroprevalence rate, lower than the general public
- Although significant blood exposure in any setting could result in an HIV infection, DHFS staff could not identify any cases of HIV transmission that have occurred in a school setting that have been reported in the US
- In the workplace setting, HIV transmission has been almost exclusively the result of needlestick exposures—almost all have been in healthcare settings; non-needle stick transmission is rare even in healthcare settings
- Even bites which may occur in school settings are have not been clearly associated with HIV transmission although transmission of hepatitis B virus has occasionally been associated with bites; even then it is the person doing the biting who is at greatest risk

Blood-borne pathogen precautions

- Schools are required by OSHA to have policies and staff training in place to prevent staff and student exposure to blood; universally adhering to these precautions is the best method to prevent HIV transmission in schools and other work settings.
- Most blood exposure incidents in the workplace settings are resolved through the voluntary testing of the source person
- This bill adopts language that was intended for healthcare settings that is not very applicable to schools as it lays out numerous conditions which have to be met before you can test.
 1. You have to be using universal precautions (gloves and mucus membrane protection, not likely in a casual school situation);
 2. A physician has to attest in writing that this was a significant exposure, on the Department of Commerce significant exposure form;
 3. The test has to be done on blood drawn for another purpose, not likely outside of a health care setting;
 4. The individual who was the source of the exposure has been asked to consent to the testing and has not consented;
 5. The individual has been informed that their blood can be tested for HIV without their consent but that the only individual the result can be disclosed to is the exposed individual; and
 6. If blood was not drawn for another purpose, you have to go to circuit court to get approval for involuntary testing.

Adverse public health effect

- SB 230 may impede the public health efforts to control the HIV epidemic through voluntary counseling and testing efforts.
- Often HIV testing is the first step for an individual to obtain medical services for their HIV infection and behavioral services to assist them in reducing their HIV transmission risk behaviors.
- Any involuntary testing can create a climate of fear and thus reduce the likelihood that people will be willing to be tested voluntarily.
- For this reason, there is broad consensus among public health officials, bioethicists and professional organizations representing clinicians that only voluntary testing can contribute to the overarching goal of changing risk behaviors of people who are infected with HIV.

In summary

It is the position of the DHFS that SB 230 is:

1. not necessary,
2. will not prevent HIV transmission in school settings, and
3. by increasing involuntary testing, it could create a climate that discourages voluntary testing of HIV and thus hamper efforts to control the epidemic.