



Senate Judiciary Committee:

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**SB 114: Drug Test Admissibility in CINC  
Code Proceedings**

Written-Only Testimony by:

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**Testimony of:**

Kathy L. Armstrong, Assistant General Counsel for Prevention & Protection Services  
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**Testimony on:**

SB 114, Drug Test Admissibility in CINC Code Proceedings

**Chair Wilborn, Vice Chair Lynn, Ranking Member Haley and Members of the Committee:**

Thank you for the opportunity to provide neutral testimony on SB 114.

SB 114 amends K.S.A. 38-2249 in the Kansas Code for Care of Children (CINC Code) related to rules of evidence. It adds a provision regarding admissibility of reports concerning the results and analysis of a test to determine presence of alcohol or drugs in a person's blood, breath, urine or other bodily substance.

K.S.A. 38-2249 provides that in all proceedings under the CINC Code, "the rules of evidence of the code of civil procedure shall apply" with the narrow exception set out in (a) regarding exclusion of evidence solely on the on the ground the matter is or may be subject to physician-patient privilege, psychologist-client privilege or social worker-client privilege. The rules of evidence are found in Kansas Statutes Annotated (K.S.A.) 60-401 et. seq. and address such issues as hearsay, credibility, documentation, foundation for admission of evidence, admissibility of evidence, etc.

SB 114 creates a specific provision regarding evidence that is intended to eliminate the need for alcohol/drug test examiners to testify in court in CINC proceedings, by providing a lesser foundational requirement with which they can attest to the result of the tests. The proposed legislation essentially removes the requirement that examiners appear in court to establish the foundation and chain of custody of these alcohol/drug tests. This attestation is required to be accomplished by a signed certificate taken under oath.

Current rules of evidence take into consideration the complexities of facts and circumstances of the case, the credibility of the person who conducted the test, the relevant foundation for admission of the test results, etc. However, this legislation may result in efficiencies of time and resources for certain parties involved in the child welfare system. This would be a welcome outcome.

Thank you for the opportunity to provide neutral testimony regarding SB 114.