

## Should Welfare Recipients Get Drug Testing?

By Alan Greenblatt

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Kasha Kelley believes that people on welfare need to spend their money on things like diapers and detergent — not drugs.

Kelley, who has served in the Kansas state House since 2005, sponsored legislation to require a large share of the state's welfare recipients to be tested for drug use, or risk losing their benefits.

"I get a lot of constituents who mention their frustrations with neighbors they know are receiving some sort of public assistance," she says. "They don't feel the money's being used right when they know that drugs are being used in the house, and I would concur with that."

The Kansas House passed Kelley's bill overwhelmingly last year, but it has not won Senate approval. She hasn't given up, though — and neither have legislators in at least nine other states who have introduced similar measures.

It's just common sense, Kelley says. She and other state sponsors of drug testing bills believe that tax dollars should in no way support drug habits. Checking people on public assistance for drugs would not only save money, they argue, but put welfare recipients on firmer footing when they get ready to enter the working world.

Craig P. Blair introduced a similar bill in West Virginia. "The fact is that we have to respect the taxpayer and help the people be work-qualified and be good parents, also," he says.

### Designed To Demean?

Critics of these bills say they're not just misguided but unconstitutional. It's already a given in most welfare programs that if a recipient is suspected of using drugs — because of current behavior or past history of abuse — he or she will be referred for treatment or screening.

"There are plenty of options under federal law," says Liz Schott, a welfare expert with the Center on Budget and Policy Priorities, a group that promotes government programs that support the poor. "They don't need to change their laws to do it."

Although individual drug tests run \$75 or less, the costs of testing large numbers of recipients, users and non-users alike, would add up. The American Civil Liberties Union estimates that for every individual user discovered, the state's expenses would be \$20,000 or more.

That runs counter to the argument proponents make that drug testing would save the state money. And it's the savings that critics say motivates bill sponsors — not the desire to help some users go straight. "The sponsor in our state said it was purely for cost savings," says Linda Katz, policy director of the Poverty Institute at Rhode Island College. "This is really just designed to demean parents on welfare."

## **Constitutional Questions**

Katz also calls the bill "blatantly unconstitutional." A federal appellate court threw out Michigan's random drug testing law in 2003, saying it violated the constitutional ban against unreasonable search and seizure.

"Just because you're seeking public benefits doesn't mean you don't have the same kind of protection from unreasonable searches as anybody else," says Schott.

Such constitutional concerns helped shape a new law in Arizona. Welfare recipients are now asked three questions about drug use. If they answer "yes" to any, they are sent to drug testing. If they test positive, they lose benefits for a year.

Asking everyone without exception gets around some of the legal questions involved in random testing. But Schott argues it's still intrusive. Any program savings, she says, will come from people who refuse to answer such questions — preserving their constitutional rights, she says, but disqualifying themselves from receiving benefits.

Arizona believes it will save \$1.7 million a year from people dropped from welfare in this way. "This isn't a benevolent statute where we want to provide services," says Ellen Katz, director of the William E. Morris Institute for Justice in Phoenix. "The whole purpose of this statute was to terminate people from the program."

Arizona's Legislature has since considered bills that would bar welfare recipients from subscribing to cable television, owning cell phones or smoking cigarettes. None of those proposals has advanced very far.

## **'Definitely Worth Testing'**

Kelley, the Kansas legislator, thinks the constitutionality of the drug-testing regime is itself "definitely worth testing." The Michigan case was decided by a tied vote, which she believes is "hardly a definite decision against states' rights."

She says she recognizes that some people see her proposal as a "mean-spirited" attack on the poor. For that reason, she sought last month to amend her bill to apply identical drug-testing requirements to her fellow Kansas legislators.

Not surprisingly, her colleagues haven't embraced that idea. But she hasn't given up on her underlying proposal, which she describes as a "win-win" because it can help people on welfare

"get out of drug dependencies, while also ensuring that tax dollars are going where they're supposed to go."

Kelley and the other state legislators promoting the drug-testing idea are tired of having their motives impugned. Blair, the West Virginia delegate, points out his state's small minority population and says his bill "is not racist at all. This bill has everything to do with helping people that are addicted to drugs get their life back."

Blair, a Republican who runs a Web site devoted to the issue called [Not With My Tax Dollars](#), says he can't understand why the Democrats who dominate the West Virginia Legislature won't let his bill move forward. But he's not above questioning their motives as he speculates.

"The only thing I can figure out is you can't get them loaded onto the bus to go to the polls if you're taking their money from them," he says.