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Testimony in Support of Senate Bill 362

**Presented to the House Judiciary Committee
By Amanda Voth, Assistant Solicitor General**

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Chairman Barker and Members of the Committee, thank you for this opportunity to testify in support of SB 362.

This bill not only helps keep Kansas roads safe; it is also a time and resource saving measure. This bill is a reflection of the intentions of the DUI Commission: to ensure complete reporting of criminal history data; to make certain the use of KCJIS by prosecutors when charging DUI and DUI-related offenses; and this final piece, which is to allow for the admissibility of the complete reporting of criminal history records in a single document to the court.

Background of SB 362

Necessity of a DUI Central Repository

In 2009, the Kansas DUI Commission was created to make recommendations for improvement of DUI laws. (2009 Sen. Sub for HB 2096.) The DUI Commission determined that the KBI repository would be the best place to have a tracking system for DUI offenders. The system would provide:

1. Electronic submission of DUI filings and dispositions from courts to the Kansas Bureau of Investigation (KBI) central repository;
2. Courts and prosecutors one-stop access to search across disparate data systems, such as the KBI criminal history and incident/arrest repositories, the Kansas Department of Revenue (KDOR) driver and vehicle data, and the Kansas Department of Transportation (KDOT) crash repository, thereby providing a complete picture of an offender's DUI history;
3. Notification to courts and prosecutors when new information regarding an offender becomes available;
4. Tools for managing data errors and data reporting deficiencies; and
5. Augmentation of the KBI central repository to include additional information needed to support DUI prosecution and sentencing. (See Summary of Quarterly IT Project Reports, April-May-June 2015.)

Following much work and collaboration, this KBI/KCJIS DUI Offender repository is now complete.

Use of Records by This New Database

The DUI Commission in 2011 envisioned this specific legislation. In 2011 the DUI Commission stated:

The Commission also recommends a standard document summarizing all DUI arrests, convictions and dispositions be available through the KBI/KCJIS system. *This record should be subject to an evidentiary rule that would allow its admission into Court without the Custodian of the Record being required to attend every hearing unless a defendant challenges the record for accuracy.* (See Report of the Kansas DUI Commission to the 2011 Kansas Legislature; pg. 1-3, 1-14, 1-17, 1-26, 1-28, 1-30.) (Emphasis added.)

This same provision was also mentioned in the Kansas Information Technology Office Feasibility Study Report dated 1/27/12:

The Commission also recommended a standard document summarizing all DUI arrests, convictions, and dispositions be made available through the KBI/KCJIS system. *This record should be subject to an evidentiary rule that would allow its admission into Court without the Custodian of the Record being required to attend every hearing unless a defendant challenges the record for accuracy.* This system also should allow a user of the KCJIS system, such as prosecutors, to subscribe to and be notified of updated information on defendants they have charged with DUI. This will assure the appropriate charge is presented throughout the judicial process. (Emphasis added.)

To build this system, KDOT, through the Traffic Records Coordinating Committee, spent more than \$3 million dollars to create this complete database. the interfaces necessary to access disparate databases. (See Summary of Quarterly IT Project Reports, April-May-June 2015.)

A number of laws were changed to ensure the KBI/KCJIS system would require all conviction data to track DUI offenders. Legislation was also created to enable prosecutors to request and receive information from KCJIS, as well as ensure that courts report all required information. (See 2011 SB 6; specifically K.S.A. 8-2,144; See 2012 SB 60; specifically K.S.A. 8-1567; K.S.A. 22-4704; K.S.A. 12-4106; See 2013 HB 2041; 2014 HB 2501.)

What This Legislation Does

Our current laws only allow for a person at an agency to “certify” records held within that specific agency. KBI repository holds some, but not all, records they will certify. Therefore the change in law is necessary to allow for the KBI to “certify” records either held by the KBI or accessed “electronically” through the KCJIS portal.

Specifically, SB 362 importantly:

1. Defines the term “electronically stored information;”
2. Allows for admissibility of a person’s complete conviction history accessed through the portal or held specifically within the KBI to be admissible in court without the need for a person from the KBI to testify (one of the recommendations of the DUI Commission);
3. Allows for the KBI to make agreements with other state agencies and municipalities to share electronically stored information; and
4. Allows for electronically stored data held by state agencies and municipalities to be transferred and authenticated to the central repository.

Additionally, SB 362 will be a huge time and resource savings measure. It will not only save time for anyone accessing records for charging, sentencing of DUI offenders, and monitoring a DUI offender, it will ensure accurate reporting to the KBI repository to keep Kansas roads safe.

Thank you for your consideration.

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