

Approved March 5, 1990  
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Michael R. O'Neal at  
Chairperson

3:30 ~~am~~ p.m. on February 14, 1990 in room 527-S of the Capitol.

All members were present except:

Representatives Adam, Fuller, Peterson and Scott, who were excused

Committee staff present:

Jerry Donaldson, Legislative Research Department  
Jill Wolters, Revisor of Statutes Office  
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Representative Clyde Graeber  
Judge James Buchele, District Judge, Shawnee County  
Margaret Lutes, Assistant Shawnee County District Attorney  
Galen Davis, Governor's Special Assistant on Drug Abuse  
Dr. Eric A. Voth, Medical Director, Chemical Dependency Treatment Services, St. Francis Hospital  
Steve McCoy, Kansas State Toopers Association  
Jack Pearson, Kansas Association of Chiefs of Police  
Sergeant Terry Maple, Kansas Highway Patrol  
Gene Johnson, representing Kansas Alcoholism and Drug Addiction Counselors Association, Kansas  
Association of Alcohol and Drug Program Directors and Kansas Community of Alcohol Safety  
Action Project Coordinators Association  
Andrew O'Donovan, Commissioner, Alcohol and Drug Abuse Services, Social and Rehabilitation  
Services  
R. Michael Jennings, Sedgwick County Assistant District Attorney, Wichita  
Larry Blomenkamp, Chief of Police, Emporia  
Capt. Ellen Hanson, Lenexa Police Department, Lenexa  
Tom Dailey, Chief of Police, City of Kansas City, Kansas  
Stacy Hoogstraten, State Administrator, MADD, Mothers Against Drunk Driving  
Teresa L. White, Shawnee Regional Prevention Center  
Karen Ross, East Central Kansas Regional Prevention Center, Lawrence  
Janine E. Moore, Director, Wyandotte County Regional Prevention Center, Kansas City, Kansas  
Randall K. Listrom, Narcotics Unit, Topeka Police Department  
Professor Jake U. Gordon, Research Associate, Institute for Public Policy and Business Research,  
University of Kansas, Lawrence

**BILL REQUEST:**

Representative Clyde Graeber requested the Committee introduce a bill amending the Division of Assets legislation to include a surviving single parent who has a very physically or mentally handicapped child.

Representative Jenkins moved and Representative Walker seconded to introduce the legislation requested by Representative Clyde Graeber. The motion passed.

**HEARING ON HB 2752**

Court allowed 30 days to issue warrant for arrest of defendant who did not meet conditions of probation

Judge James Buchele informed the Committee HB 2752 would amend the statute to allow the court and/or court services a period of time following probation in which to file a motion to terminate. The bill as drafted set 30 days for the period of time. He recommended a 60 day period of time.

Margaret Lutes, Assistant Shawnee District Attorney, testified in support of HB 2752.

There being no other conferees, the hearing on HB 2752 was closed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,  
room 527-S, Statehouse, at 3:30 ~~xxx~~/p.m. on February 14, 1990.

**HEARING ON HB 2769** Mandatory revocation of drivers licenses if violating the uniform controlled substances act; mandatory fines

**HEARING ON HB 2770** Violations of the uniform controlled substances act including minors

Galen Davis, Governor's Special Assistant on Drug Abuse, testified on HB 2769. He said Governor Hayder believes the one additional method of reducing illegal drugs in Kansas is to hold drug users more responsible and accountable for their illicit activities. HB 2769 sets forth increased mandatory minimum fines for drug possession of \$500 to \$2,000 for drug possession and \$2,500 to \$10,000 for drug trafficking; maximum fines of \$15,000 to \$25,000 for drug possession and \$15,000 to \$60,000 for drug trafficking; mandatory sentencing penalties of 48 hours or 100 hours of community work for first offenders; revocation of driver's license of anyone convicted of drug possession while operating or attempting to operate a motor vehicle and mandatory drug evaluation. He said all forms of incarceration including jail, house arrest, electronic monitoring and work release would be allowed in this bill, see Attachment I.

Mr. Davis submitted amendments to HB 2769, see Attachment II.

Dr. Eric A. Voth, Medical Director, Chemical Dependency Treatment Services, St. Francis Hospital, testified HB 2769 takes a hard stance against drug users. It makes the user responsible for his part in furthering the drug trade. Additionally it will work to pull the impaired driver off of the road. The goal is that if additional pressure can be brought to bear to discourage drug use, hopefully the progression to true addiction can be slowed.

Dr. Voth said HB 2770 addresses the use of juveniles in criminal drug activities. The bill may help slow dealing in the schools and will place pressure on parents not to endanger youth, see Attachment III.

Steve McCoy, Kansas State Troopers Association, testified HB 2769 and HB 2770 enhances the penalties for operating a motor vehicle while in possession of a controlled substance, sets mandatory fines for violation of the Controlled Substance Act and creates provisions making it unlawful to use minors to violate the Uniform Controlled Substances Act. He urged the Committee to approve HB 2769 and HB 2770 to aid and assist the criminal justice community in providing the citizens of Kansas a drug free environment for families to grow and thrive in, see Attachment IV.

Jack Pearson, Kansas Association of Chiefs of Police, supported the passage of HB 2769 and HB 2770.

Sergeant Terry Maple, Kansas Highway Patrol, testified HB 2769 and HB 2770 would benefit law enforcement in efforts to combat the sale and/or transportation of illegal drugs in Kansas, see Attachment V.

Gene Johnson, representing Kansas Alcoholism and Drug Addiction Counselors Association, Kansas Association of Alcohol and Drug Program Directors and Kansas Community of Alcohol Safety Action Project Coordinators Association, testified in support of HB 2769. He suggested changing the language to be exactly the same as the DUI legislation insofar as one's driving privileges are concerned, see Attachment VI. He also supported HB 2770 and recommended amending the bill to not permit any type of a plea bargaining for those offenders charged with the use of juveniles in criminal drug activities, see Attachment VII.

Andrew O'Donovan, Commissioner, Alcohol and Drug Abuse Services, spoke in favor of HB 2769 and HB 2770. He said HB 2769 represents another element in a comprehensive approach to the drug abuse problem in Kansas. He also said HB 2770 provides an additional tooth in the law when adults influence youth with regard to the use and/or sale of controlled substances, see Attachment VIII.

Jim Clark, Kansas County and District Attorneys Association, informed the Committee he was opposed to HB 2769 as it is written and did not think the amendment proposed by the Governor's office would remedy the situation. He suggested new language, "in cases of suspended sentence or imposition of probation or diversion, that DUI related penalties shall also be imposed", be substituted for the general incarceration of a 5 year minimum for a class C felony. In regard to HB 2770

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY,  
room 527-S, Statehouse, at 3:30 ~~xxx~~ p.m. on February 14, 1990.

he said there was a need for legislation of this type. He informed the Committee that two bills have been introduced, one in the House and one in the Senate that extends criminal solicitation and conspiracy to include juvenile offenders. These bills are broader, but cover the same thing.

R. Michael Jennings, Sedgwick County Assistant District Attorney, testified on behalf of Nola Foulston, Sedgwick County District Attorney. He said Mrs. Foulston supports mandatory penalties for drug use, see Attachment IX. Mrs. Foulston also supports HB 2770 which prohibits the involvement of minors in violations of the Controlled Substances Act, see Attachment X.

Larry Blomenkamp, Chief of Police, Emporia Police Department, submitted testimony in support of HB 2769 and HB 2770, see Attachment XI.

Capt. Ellen Hanson, Lenexa Police Department, submitted testimony in support of HB 2769 and HB 2770, see Attachment XII.

Tom Dailey, Chief of Police, City of Kansas City, Kansas, submitted testimony in support of HB 2769 and HB 2770. He recommended that sentencing guidelines be used in HB 2769 in those instances in which a convicted drug trafficker would receive no sentence or suspended sentence under the present status, see Attachment XIII.

Stacy Hoogstraten, State Administrator, MADD, Mothers Against Drunk Driving, submitted testimony in support of HB 2769 and HB 2770, see Attachment XIV.

Teresa L. White, Shawnee Regional Prevention Center, submitted testimony in support of HB 2769 and HB 2770, see Attachment XV.

Karen Ross, East Central Kansas Regional Prevention Center, submitted testimony in support of HB 2769 and HB 2770, see Attachment XVI.

Janine E. Moore, Director, Wyandotte County Regional Prevention Center, submitted testimony in support of HB 2769 and HB 2770, see Attachment XVII.

Randall K. Listrom, Narcotics Unit, Topeka Police Department, submitted testimony in support of HB 2769 and HB 2770, see Attachment XVIII.

Major John Round, Overland Park Police Department, submitted testimony in support of HB 2769 and HB 2770, see Attachment XIX.

Professor Jake U. Gordon, Research Associate, Institute for Public Policy and Business Research, University of Kansas, submitted testimony in support of HB 2769 and HB 2770, see Attachment XX.

The Chairman announced the hearings on HB 2769 and HB 2770 would be continued to another date.

The Committee meeting was adjourned at 5:30 p.m. The next meeting will be Thursday, February 15, 1990, at 3:30 p.m. in room 519-S.

GUEST LIST

COMMITTEE: HOUSE JUDICIARY

DATE: Feb. 14, 1990

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Margaret Lutes	200 SE 7th Topeka, KS	Shawnee County District Atty
<del>Randall K. Listrom</del>	204 SW 5th Topeka, KS	TOPEKA Police Dept.
Eric A. Voth MD	901 Garfield Topeka	St Francis Hospital + Govern <sup>office</sup>
Linda Fund	Topeka	Dept of Admin.
Kay Coen	Topeka	Gov's office
LINDA McGill	TOPEKA	KS-ST. TROOPERS ASSN.
STEVEN R. MCCOY	TOPEKA	KS ST. TROOPERS ASSN,
Terry Maple	Topeka	Highway Patrol
James Lindberg	Topeka	A.H. Gen.
Ed Van Petten	Topeka	A.H. Gen.
Galen Davis	Topeka	Gov's Office
Stacy Hoogstraten	Topeka	NADD Kansas
Karen Ross	Lawrence	East Central Kansas Regional Prevention Center
TERESA L. WHITE	TOPEKA	Shawnee Regional Prevention Center at NCADD
JAMES U. GORDON	3505 W. 10th Ten Lawrence	K.U.
Tom Miller	Topeka	SRS/ADAS
Gene Johnson	Topeka	KOASAP ASSN
Andrew O'Donovan	Topeka	SRS/ADAS
MIKE JENNINGS	WICHITA	SEDC. CO. O.A.
Cooki Perry	Topeka	Ks. Peace Officers Ass'n
Paul Getto	Topeka	KASB
JACK PEARSON	Ks. CITY	Ks. ASSOC CHIEFS OF POLICE

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Mike Hayden Governor

Testimony Concerning HB 2769  
Presented to  
the House Judiciary Committee  
February 14, 1990  
by  
Galen Davis  
Governor's Special Assistant on Drug Abuse

Mr. Chairman, Members of the Committee:

I appreciate the opportunity to appear before you today representing Governor Hayden's support for HB 2769.

As you know, an overwhelming majority of Americans believe that drug abuse is the leading problem facing our nation. Communities, large and small, throughout Kansas are deeply troubled by drug use, drug trafficking and related violence. Leaders throughout our nation, state and local communities are planning and implementing comprehensive anti-drug strategies. Governor Hayden, in his Toward A Drug-Free Kansas Program, has supported new drug education and prevention initiatives, expanded drug treatment services, enhanced drug enforcement initiatives, and additional drug laws.

Non-addictive use of illicit drugs has been impacted in recent years. The 1988 National Household Survey on Drug Abuse has shown a 37 percent decrease in the number of drug users between 1985 and 1988. The estimated number of drug users dropped from 23 million to 14.5 million in those three years. Clearly this is a population that can and must be further impacted.

Governor Hayden believes that one additional method of reducing illegal drugs in Kansas is to hold drug users more responsible and accountable for their illicit activity. Drug users are the largest single denominator in our drug dilemma. For the most part they are not addicted but many have formed some type of ongoing use. Users are not thought of as drug pushers and yet they are known to "sell a little to their friends," if they have some extra. Words such as "casual", "recreational" and "soft drugs" are all too often used to minimize the real threat that drug users pose to our society.

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Attachment I

Drug users are accomplices to every drug related crime that is being committed. Clearly and simply, drug users drive the drug industry. Every dollar spent on a marijuana joint or a rock of crack is one more bullet in the drug gangsters gun; it is one more dollar smuggled illegally out of our country and out of our economy; it contributes to every mother's anguish over a child lost to drugs; and it pushes the needle deeper into the arms of those who are hopelessly addicted.

We are all sick, tired and angry about America being victimized by narcotics terrorists. One way to fight back is to raise the cost of using drugs and to thereby decrease the demand.

Recognizing the significant role that drug users play in this dilemma, Governor Hayden proposes that every drug user arrested pay a high price in terms of time, money and loss of driving privileges. This bill proposes five elements. They include:

#### Mandatory Minimum Fines

In many cases the fines assessed for drug possession amount to little more than a tap on the wrist. These fines of \$100 to \$200 are often times reduced to as little as \$35. This is not a real penalty. HB 2769 proposes mandatory minimum fines of \$500 to \$2,000 for drug possession and \$2,500 to \$10,000 for drug trafficking. Drug dabblers and dealers alike must be guaranteed that they will be hit in the pocketbook for committing these crimes.

A section has been included in this bill to allow a judge to exempt truly indigent defendants from the mandatory fines.

#### Enhanced Maximum Fines

To date, the highest criminal fine that can be levied in Kansas is \$15,000. The sole motivation for drug pushers is profit at any cost. A crime so financially motivated must be repudiated with much higher fines. This bill would raise maximum fines to \$15,000 to \$25,000 for drug possession and to \$15,000 to \$60,000 for drug trafficking.

#### Mandatory Incarceration

Drug users must be guaranteed that they will be further inconvenienced by paying a price in time. The mandatory sentencing penalties require 48 hours or 100 hours of community service for first offenders. All forms of incarceration, including jail, house arrest, electronic monitoring and work release would be allowed in this bill.

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Drivers License Revocation

This bill proposes revocation of the drivers license of anyone convicted of drug possession while operating or attempting to operate a motor vehicle. The possibility that a person in possession of illicit drugs may also be using them while operating a motor vehicle is too great to continue to entrust them with the privilege of driving in Kansas. The drivers license revocation would be for not less than 90 days nor more than one year.

Mandatory Drug Evaluation

Many times involvement with the criminal justice system is the first time that a person's drug use is seriously confronted. By requiring a mandatory drug evaluation, the possibility of effectively intervening in the person's drug use is enhanced. The cost of the evaluation is included in the mandatory fine.

Conclusion:

Governor Hayden supports a comprehensive approach to the many problems and tragedies of drug use, abuse, and trafficking. This comprehensive approach includes drug education and prevention services, treatment, and enforcement as well as anti-drug legislation.

Many of the elements of this bill are new or enhancements that have not been considered before. These are extraordinary times which require extraordinary responses. We must recognize drug users as the major contributing force that is creating a demand for drugs. With the passage of this bill the price for dabbling in drugs will go up significantly.

Your consideration and support for HB 2769 will be appreciated. Thank you.

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HOUSE BILL No. 2769

By Committee on Judiciary

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AN ACT concerning controlled substances; relating to mandatory fines and mandatory revocation of drivers' licenses; amending K.S.A. 21-4503 and K.S.A. 1989 Supp. 8-254, K.S.A. 1988 Supp. 8-254, as amended by section 30 of chapter 38 of the 1989 Session Laws of Kansas, K.S.A. 1989 Supp. 65-4127a and 65-4127b and repealing the existing sections; also repealing K.S.A. 1989 Supp. 8-254, as amended by section 2 of this act.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) ~~Any person convicted of violating K.S.A. 65-4127a or 65-4127b, and amendments thereto, shall:~~ [At minimum any

(1) For a first conviction, be sentenced to not less than 48 consecutive hours' ~~nor more than six months'~~ imprisonment, or in the court's discretion 100 hours of public service. Such imprisonment may be served under house arrest or by electronic monitoring if the court so directs. The person convicted must serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. In addition, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program or treatment program as provided in K.S.A. 8-1008, and amendments thereto, or both the education and treatment programs.

(2) On a second conviction of ~~possession,~~ a person shall be sentenced to not less than 90 days' ~~nor more than one year's~~ imprisonment and ~~fined not less than \$500 nor more than \$1,000.~~ The person convicted must serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. Such imprisonment may be served under house arrest or by electronic monitoring if the court so directs. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete a treatment program for alcohol and drug abuse as provided in K.S.A. 8-1008, and amendments thereto.

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Attachment II



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(3) On the third or a subsequent conviction of ~~possession~~, a person shall be sentenced to not less than 90 days' ~~nor more than one year's~~ imprisonment and ~~fined not less than \$1,000 nor more than \$2,500~~. Such imprisonment may be served under house arrest or by electronic monitoring if the court so directs. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The court may also require as a condition of parole that such person enter into and complete a treatment program for alcohol and drug abuse as provided by K.S.A. 8-1008 and amendments thereto. λ

~~(b)~~ λ The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section including the cost of incarceration. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(b) In addition to these mandatory minimum sentences, the fines contained in K.S.A. 65-4127a and 65-4127b, and amendments thereto, shall be applied.

~~(c)~~ λ In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(c)

(d)

(e)

(f)

(g)

~~(d)~~ λ Nothing in this subsection prohibits entering into a diversion agreement pursuant to K.S.A. 12-4413 *et seq.*, and amendments thereto, or K.S.A. 22-2906 *et seq.*, and amendments thereto.

~~(e)~~ λ The provisions of K.S.A. 8-1008, and amendments thereto, relating to evaluation of violators of K.S.A. 8-1567, and amendments thereto, shall also be applicable to violators of this section.

~~(f)~~ λ The provisions of K.S.A. 8-1009, and amendments thereto, relating to determination by a prosecuting attorney of whether diversion shall be allowed for a violator of K.S.A. 8-1567, and amendments thereto, shall also be applicable to violators of this section.

Sec. 2. K.S.A. 1989 Supp. 8-254 is hereby amended to read as follows: 8-254. (a) Subject to the provisions of subsection (b), the court shall revoke a person's driving privileges upon receiving a record of the person's conviction of any of the following offenses when the conviction has become final, or upon receiving a record

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of a person's adjudication as a juvenile offender for commission of an act which, if committed by a person 18 or more years of age, would constitute any of the following offenses when the adjudication has become final:

(1) Aggravated vehicular homicide, if the crime is committed while committing a violation of K.S.A. 8-1566 or 8-1568, and amendments thereto, or the ordinance of a city or resolution of a county which prohibits any acts prohibited by those statutes;

(2) vehicular homicide;

(3) vehicular battery, if the crime is committed while committing a violation of K.S.A. 8-1566 or 8-1568, and amendments thereto, or the ordinance of a city or resolution of a county which prohibits the acts prohibited by those statutes;

(4) failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

(5) conviction, or forfeiture of bail not vacated, upon three charges of reckless driving committed within a period of 12 months within the state of Kansas;

(6) conviction, or forfeiture of bail not vacated of any felony in the commission of which a motor vehicle is used; or

(7) fleeing or attempting to elude a police officer as provided in K.S.A. 8-1565 and amendments thereto, or conviction of violation of an ordinance of any city or a law of another state which is in substantial conformity with such statute; or

(8) possession of a controlled substance, as provided in K.S.A. 65-4127a or 65-4127b, and amendments thereto, while operating or attempting to operate a motor vehicle.

(b) In lieu of revoking a person's driving privileges as provided by subsection (a), the court in which the person is convicted or adjudicated may place restrictions on the person's driving privileges as provided by K.S.A. 1987 1989 Supp. 8-292, and amendments thereto.

Sec. 3. On January 1, 1991, K.S.A. 1988 Supp. 8-254, as amended by section 30 of chapter 38 of the 1989 Session Laws of Kansas, is hereby amended to read as follows: 8-254. (a) Subject to the provisions of subsection (b), the division shall revoke a person's driving privileges upon receiving a record of the person's conviction of the following offenses, including municipal violations, when conviction has become final, or upon receiving a record of a person's adjudication as a juvenile offender for commission of an act which, if committed by a person 18 or more years of age, would constitute any of the following offenses when the adjudication has

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become final:

(1) Aggravated vehicular homicide, as defined by K.S.A. 21-3405a, and amendments thereto, if the crime is committed while committing a violation of K.S.A. 8-1566 or 8-1568, and amendments thereto, or the ordinance of a city or resolution of a county which prohibits any acts prohibited by those statutes;

(2) vehicular homicide, as defined by K.S.A. 21-3405, and amendments thereto;

(3) vehicular battery, as defined by K.S.A. 21-3405b, and amendments thereto, if the crime is committed while committing a violation of K.S.A. 8-1566 or 8-1568, and amendments thereto, or the ordinance of a city or resolution of a county which prohibits the acts prohibited by those statutes;

(4) failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another;

(5) conviction, or forfeiture of bail not vacated, upon a charge of reckless driving;

(6) conviction, or forfeiture of bail not vacated of any felony in the commission of which a motor vehicle is used; or

(7) fleeing or attempting to elude a police officer as provided in K.S.A. 8-1568, and amendments thereto, or conviction of violation of an ordinance of any city or a law of another state which is in substantial conformity with such statute; or

(8) possession of a controlled substance, as provided in K.S.A. 65-4127a or 65-4127b, and amendments thereto, while operating or attempting to operate a motor vehicle.

(b) In lieu of revoking a person's driving privileges as provided by subsection (a), the court in which the person is convicted or adjudicated may place restrictions on the person's driving privileges as provided by K.S.A. 1988 1989 Supp. 8-292, and amendments thereto, unless the violation was committed while operating a commercial motor vehicle, as defined in section 4 of this act K.S.A. 8-2,128, and amendments thereto. Driving privileges are to be automatically revoked if the violation which leads to the subsequent conviction occurs in a commercial motor vehicle, as defined in section 4 of this act K.S.A. 1989 Supp. 8-2,128, and amendments thereto.

Sec. 4. K.S.A. 21-4503 is hereby amended to read as follows:

4503. Except as otherwise provided by law:

(1) A person who has been convicted of a felony may, in addition to or instead of the imprisonment authorized by law, be sentenced to pay a fine which shall be fixed by the court as follows:

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- (a) For a class B or C felony, a sum not exceeding \$15,000.
- (b) For a class D or E felony, a sum not exceeding \$10,000.
- (2) A person who has been convicted of a misdemeanor may, in addition to or instead of the confinement authorized by law, be sentenced to pay a fine which shall be fixed by the court as follows:

- (a) For a class A misdemeanor, a sum not exceeding \$2,500.
- (b) For a class B misdemeanor, a sum not exceeding \$1,000.
- (c) For a class C misdemeanor, a sum not exceeding \$500.
- (d) For an unclassified misdemeanor, any sum authorized by the statute that defines the crime; if no penalty is provided in such law, the fine shall not exceed the fine provided herein for a class C misdemeanor.

(3) As an alternative to any of the above fines, the fine imposed may be fixed at any greater sum not exceeding double the pecuniary gain derived from the crime by the offender.

(4) A person who has been convicted of a traffic infraction may be sentenced to pay a fine which shall be fixed by the court not exceeding \$500.

Sec. 5. K.S.A. 1989 Supp. 65-4127a is hereby amended to read as follows: 65-4127a. (a) Except as authorized by the uniform controlled substances act, it shall be unlawful for any person to manufacture, possess, have under such person's control, possess with intent to sell, offer for sale, sell, prescribe, administer, deliver, distribute, dispense or compound any opiates, opium or narcotic drugs. Any person who violates this section shall be guilty of a class C felony, except that, upon conviction for the second offense, such person shall be guilty of a class B felony, and upon conviction for a third or subsequent offense, such person shall be guilty of a class A felony, and the punishment shall be life imprisonment.

(b) *Any person convicted of possession of a controlled substance pursuant to this section shall be fined not less than \$500 but no more than \$15,000 for the first offense; fined not less than \$1,000 but no more than \$20,000 for the second offense; and fined not less than \$2,000 but no more than \$25,000 for the third or subsequent offense.*

(c) *Except as provided in subsection (b), any person convicted of violating this section shall be fined not less than \$2,500 but no more than \$15,000 for the first offense; fined not more than \$5,000 but no more than \$30,000 for the second offense; and fined not less than \$10,000 but no more than \$60,000 for the third or subsequent offense.*

(d) *The cost of the alcohol and drug evaluation required under*

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1 subsection (e) of section 1 may be deducted from the fine assessed  
2 against a violation of K.S.A. 65-4127a, and amendments thereto.

3 (c) The fines provided in subsections (b) and (c) may be waived  
4 by the court if the court finds that the defendant is an indigent  
5 person. In lieu of payment of a fine imposed pursuant to subsections  
6 (b) and (c), the court may order that the indigent person perform  
7 community service specified by the court or such other public service  
8 as the court deems best in the administration of justice.

9 (f) Upon conviction of any person pursuant to subsection (a) in  
10 which (1) the substances involved were equal to or greater than the  
11 amounts for such substances as specified in K.S.A. 1988 1989 Supp.  
12 65-4127e, and amendments thereto, or (2) the substances involved,  
13 regardless of amounts, were possessed with intent to sell, sold or  
14 offered for sale to a child under 18 years of age, there shall be at  
15 sentencing a presumption that the defendant be sentenced to im-  
16 prisonment and not granted probation, assignment to a community  
17 correctional services program or suspension of sentence.

18 Sec. 6. K.S.A. 1989 Supp. 65-4127b is hereby amended to read  
19 as follows: 65-4127b. (a) Except as authorized by the uniform con-  
20 trolled substances act, it shall be unlawful for any person to possess  
21 or have under such person's control:

22 (1) Any depressant designated in subsection (e) of K.S.A. 65-  
23 4105, subsection (e) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A.  
24 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments  
25 thereto;

26 (2) any stimulant designated in subsection (f) of K.S.A. 65-4105,  
27 subsection (d) or (f) of K.S.A. 65-4107 or subsection (e) of K.S.A.  
28 65-4109, and amendments thereto;

29 (3) any hallucinogenic drug designated in subsection (d) of K.S.A.  
30 65-4105 and amendments thereto or designated in subsection (g) of  
31 K.S.A. 65-4107 and amendments thereto;

32 (4) any substance designated in subsection (c), (d), (e), (f) or (g)  
33 of K.S.A. 65-4111 and amendments thereto; or

34 (5) any anabolic steroids as defined in subsection (h) of K.S.A.  
35 65-4111 and amendments thereto.

36 Any person who violates this subsection shall be guilty of a class  
37 A misdemeanor, except that such person shall be guilty of a class  
38 D felony upon conviction for a second or subsequent offense. Any  
39 person convicted under this subsection shall be fined not less than  
40 100 but no more than \$2,500 for the first offense; fined not less  
41 than \$5,000 but no more than \$30,000 for the second offense; and  
42 fined not less than \$10,000 but no more than \$60,000 for the third  
43 or subsequent offense.

1 (b) Except as authorized by the uniform controlled substances  
2 act, it shall be unlawful for any person to sell, offer for sale or have  
3 in such person's possession with the intent to sell, manufacture,  
4 prescribe, administer, deliver, distribute, dispense or compound:

5 (1) Any depressant designated in subsection (c) of K.S.A. 65-  
6 4105, subsection (c) of K.S.A. 65-4107, subsection (b) or (c) of K.S.A.  
7 65-4109 or subsection (b) of K.S.A. 65-4111, and amendments  
8 thereto;

9 (2) any stimulant designated in subsection (f) of K.S.A. 65-4105,  
10 subsection (d) or (f) of K.S.A. 65-4107 or subsection (c) of K.S.A.  
11 65-4109, and amendments thereto;

12 (3) any hallucinogenic drug designated in subsection (d) of K.S.A.  
13 65-4105, and amendments thereto or designated in subsection (g) of  
14 K.S.A. 65-4107 and amendments thereto;

15 (4) any substance designated in subsection (c), (d), (e), (f) or (g)  
16 of K.S.A. 65-4111, and amendments thereto; or

17 (5) any anabolic steroids as defined in subsection (h) of K.S.A.  
18 65-4111 and amendments thereto.

19 Any person who violates this subsection shall be guilty of a class  
20 C felony. *Any person convicted under this subsection shall be fined*  
21 *not less than \$2,500 but no more than \$15,000 for the first offense;*  
22 *fined not less than \$5,000 but no more than \$30,000 for the second*  
23 *offense; and fined not less than \$10,000 but no more than \$60,000*  
24 *for the third or subsequent offense.*

25 (c) Except as authorized by the uniform controlled substances  
26 act, it shall be unlawful for any person to manufacture, possess, have  
27 under such person's control, prescribe, administer, deliver, distrib-  
28 ute, dispense, compound, sell, offer for sale or have in such person's  
29 possession with intent to sell any controlled substance designated in  
30 K.S.A. 65-4113 and amendments thereto. Any person who violates  
31 this subsection shall be guilty of a class A misdemeanor, except that  
32 such person shall be guilty of a class D felony if the substance was  
33 prescribed for or administered, delivered, distributed, dispensed,  
34 sold, offered for sale or possessed with intent to sell to a child under  
35 18 years of age. *Any person convicted under this subsection shall*  
36 *be fined not less than \$500 but no more than \$2,500 for the first*  
37 *offense; fined not less than \$5,000 but no more than \$30,000 for*  
38 *the second offense; and fined not less than \$10,000 but no more*  
39 *than \$60,000 for the third or subsequent offense.*

40 (d) Upon conviction of any person pursuant to subsection (a), (b)

41 (c) in which (1) the substances involved were equal to or greater  
42 than the amounts for such substance as specified in K.S.A. 1988  
43 1989 Supp. 65-4127e and amendments thereto, or (2) the substances

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Involved, regardless of amounts, were possessed with intent to sell, sold or offered for sale to a child under 18 years of age, there shall be at sentencing a presumption that the defendant be sentenced to imprisonment and not granted probation, assignment to a community correctional services program or suspension of sentence.

*(e) The cost of the alcohol and drug evaluation required under subsection (e) of section 1 may be deducted from the fine assessed against a violation of K.S.A. 65-4127b, and amendments thereto.*

*(f) The fines provided in subsections (a), (b) and (c) may be waived by the court if the court finds that the defendant is an indigent person. In lieu of payment of a fine imposed pursuant to subsections (a), (b) and (c), the court may order that the indigent person perform community service specified by the court or such other public service as the court deems best in the administration of justice.*

Sec. 7. On January 1, 1991, K.S.A. 1989 Supp. 8-254, as amended by section 2 of this act, and K.S.A. 1988 Supp. 8-254, as amended by section 30 of chapter 38 of the 1989 Session Laws of Kansas, are hereby repealed.

Sec. 8. K.S.A. 21-4503 and K.S.A. 1989 Supp. 8-254, 65-4127a and 65-4127b are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

Honorable Chairman; Members of the Kansas House:

My involvement against drug abuse comes from the perspective of a physician specialist in addiction, medical advisor to the National Federation of Parents for Drug-Free Youth, multiple other activities in the arena of drug abuse, and as a concerned parent.

Annually, the abuse of alcohol and other drugs costs the nation about \$174 billion. In Kansas alone, 2-3% of 11th to 12th graders in 1988 used alcohol, marijuana, or cocaine daily. Seventy five percent of all felonies and crime committed by youth are drug related. Truly all Kansans are under seige from drug abuse.

Across the country, many states are adopting legislation similar to that before you today. I communicate with individuals throughout the United States, and can assure you that the problems of the State of Kansas are consistent with those of other states.

Understanding addiction as a continuum of use of drugs from the first exposure to alcohol or other drugs, up to the end-stage of fatal consequences is important in helping to chart a course of action against drug abuse. The early "casual" exposure to drugs plays a critical role in the development of subsequent addiction. Research in the area clearly demonstrates that early exposure to any intoxicant in adolescence increases an individual's risk of addiction. Intervention at these early stages, or disincentives to use of intoxicants should be seen as critical.

It is also becoming more apparent to those of us involved in drug abuse prevention and treatment that an aggressive approach of prevention, intervention, and rehabilitation is the only approach which stands a chance of being effective. Traditionally, anti-drug abuse

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Attachment III



efforts have been too focused on limited action in only single areas of emphasis. The bills before you show a distinct broadening of this approach.

Despite the fact that some fear the use of legal constraints as a deterrent to use, it is quite effective. Numerous addicts have come to me for treatment by referral from the courts. Others that I know have decreased or quit using because of potential legal complications.

In drug abusing families exposure to drugs comes several ways. Many of the drug addicts that I treat openly use drugs around their children. Some have involved their children in dealing or in purchasing drugs for themselves. Some youth have been forced by their parents to use drugs by the parents injecting them with drugs, holding pipes to their mouths, etc. Certainly, youth are involved in dealing in the schools. These drugs are supplied by adults.

The most important places to start in drug abuse prevention are with the casual user and with young users. Our schools are battlegrounds with children and adolescents as the targets. Major drug trafficking exists in the schools with particular emphasis on the high schools. High level drug dealing, some of which is stimulated by gangs from Los Angeles, takes place in the schools. Young people are used as dealers and "mules" because the risk of violence or legal action against them is less.

House Bill 2769 takes a hard stance against drug users. This action highlights the deterrent effect of the legal system. It makes the user responsible for his part in furthering the drug trade. Additionally, it will work to pull the impaired driver off the road. The goal here is that if additional pressure can be brought to bear to discourage drug

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H. Jud Com  
Att III

use, hopefully the progression to true addiction can be slowed. House bill 2770 addresses the use of juvenile in criminal drug activities. As I have already pointed out, this may help slow dealing in the schools, and will place pressure on parents not to endanger youth. These two bills should be seen as a major step in combating drug abuse.

Drug abuse is a multifactoral problem. Efforts concentrated on enhancing prevention, intervention, and rehabilitation must be carefully considered and adopted.

Eric A. Voth, M.D.



Medical Director,

Chemical Dependency Treatment Services

St. Francis Hospital

Topeka, Kansas

and Medical Advisor

National Federation of Parents

for Drug-Free Youth

2/14/90  
H. Jud Com  
Att III



## KANSAS STATE TROOPERS ASSOCIATION

Mr. Chairman and Members of the Committee:

I am Trooper Steve McCoy and I am appearing on behalf of the Kansas State Troopers Association in support of the passage of House Bills 2769 and 2770 which enhance the penalties for operating a motor vehicle while in possession of a controlled substance, set mandatory fines for violation of the Controlled Substances Act and create a provision making it unlawful to use minors to violate the Uniform Controlled Substances Act

While it has long been common knowledge that drug traffickers most often transport their contraband by motor vehicle, the issue of drivers license revocation for such an act has not been adequately addressed until the introduction of the HB 2769. We support the concept that when an individual is convicted for the possession of a controlled substance while operating a motor vehicle his or her driving privileges should be revoked.

Additionally, we support the mandatory fines imposed by HB 2769 for violatons of the Controlled Substances Act. We believe that the more aggressive the fine structure is for violations of the Controlled Substance Act the less profitable and appealing the drug trafficking business will become.

HB 2770 addresses another avenue through which drug traffickers have attempted to escape prosecution. It is common place for drug traffickers to use minors to commit the actual violations of Uniform Controlled Substances Act, knowing that our juvenile justice system has more lenient standards for minors than does our adult system.

HB 2770 will make adults using minors in such a manner accountable for their actions.

We therefore respectfully urge your approval of House Bills 2769 and 2770 to aid and assist the criminal justice community in providing the citizens of Kansas a drug free environment for families to grow and thrive in.

Thank you for the opportunity to be heard and I would be happy to stand for questions.

2/14/90  
H. Jud. Com.

Attachment IV

SUMMARY OF TESTIMONY

Before the House Judiciary Committee

February 14, 1990

In Support of House Bills 2769 and 2770

Presented by the Kansas Highway Patrol

(Sergeant Terry Maple)

The Kansas Highway Patrol supports both House Bills 2769 and 2770.

House Bill 2769 would provide enhanced mandatory penalties for persons convicted of violating certain controlled substance statutes. Additionally, the Bill would mandate revocation of driving privileges for those persons convicted of possession of a controlled substance while operating a motor vehicle.

House Bill 2770 would make it a crime for adults to knowingly or intentionally hire, use or force a minor to violate any provision of the Uniform Controlled Substances Act. Under current Kansas law persons who employ, hire or use minors to violate the provisions of the Uniform Controlled Substances Act may not be prosecuted for those specific acts.

The Patrol believes these two Bills would benefit law enforcement in our efforts to combat the sale and/or transportation of illegal drugs in our state. It is with this information in mind that we ask your favorable consideration to these two bills.

2/14/90  
H. Jud. Com

Attachment V

TESTIMONY  
HOUSE BILL NO. 2769  
COMMITTEE ON JUDICIARY  
HOUSE OF REPRESENTATIVES  
February 14, 1990

I represent the Kansas Alcoholism Drug Addiction Counselors Association who provide assistance on an individual level who have alcohol and other drug problems. I represent the Kansas Association of Alcohol and Drug Program Directors, whose 50 member organization provides services in the alcohol and drug abuse field throughout the State of Kansas. In addition, I represent the Kansas Community Alcohol Safety Action Project Coordinators Association which provides evaluations and monitoring services throughout the 31 Judicial Districts in the State of Kansas for those people who have been arrested for or applied for diversion for the charge of DUI or other drug offenses.

Our organizations support House Bill No. 2769 as a positive step in reducing the demand for illegal drugs in the State of Kansas. There has been quite a lot of attention on the national level and world level of reducing supply. However, it is gratifying to see the State of Kansas considering legislation that would make it more unattractive to the consumer of illegal drugs. By reducing the demand for these illegal drugs the profits would drop, therefore there would not be that many drug dealers making a living off of those people who are possibly addicted to illegal drugs. In addition, this type of legislation would mandate education and/or treatment for those persons who have been arrested and convicted of an illegal drug offense.

We note that this legislation is patterned similar to the DUI legislation that this Legislature had the foresight to pass in 1982. During the past eight years, we have seen a steady drop in vehicular fatalities throughout the State of Kansas. When there are less fatalities there are less severe injuries in those crashes. Public acceptance of the strict drinking/driving laws is most positive. By patterning this law after the DUI laws in the State of Kansas, we will send a positive message for those people who normally get a slap on the wrist and probation for illegal drug usage or possession. They will now find that the penalties are more severe.

We would suggest to this Committee that they consider the possibility of changing the language in this legislation to be exactly the same as the DUI legislation insofar as one's driving privileges are concerned. We would suggest that the Department of Revenue, upon being notified that the defendant has been convicted of a crime under KSA 65-4127A or KSA 65-4127B, suspend driving privileges to that individual until that individual has completed an alcohol and drug education program or a treatment program as recommended by the evaluation under KSA 8-1008. Upon completion of that program, the Division of Motor Vehicles, at that time could consider placing the restrictions on the offenders license until one year from the date of conviction. We hope that this Committee will move swiftly on this particular legislation as a means of sending a message to those individuals who are creating a market for illegal drugs in the State of Kansas. These individuals, by creating this market, have committed a crime in which is the principal part of the illegal drug traffic in the State and

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Attachment VI

the surrounding areas.

This legislation offers positive alternatives to drug use by mandating alcohol and drug education and/or treatment for those who have been found guilty of violation of these statutes.

Respectfully Yours,

  
Gene Johnson  
Lobbyist

Kansas Alcoholism and Drug Addiction Counselors Association  
Kansas Association of Alcohol and Drug Program Directors  
Kansas Community Alcohol Safety Action Project Coordinators Association

2/14/90  
H. Jud. Comm.  
Att. VI

TESTIMONY

HOUSE BILL NO. 2770  
COMMITTEE ON JUDICIARY  
HOUSE OF REPRESENTATIVES  
STATE OF KANSAS

February 14, 1990

Mr. Chairman:

I represent the Kansas Alcohol and Drug Abuse Counselors Association of some 450 members of alcohol and drug counselors throughout the State of Kansas, who provide services for those afflicted with alcohol and drug problems. I represent the Kansas Association of Alcohol and Drug Program Directors, whose membership lists 50 different programs throughout the State in which the citizens of the State of Kansas can professional assistance for their alcohol and drug problems. In addition, I represent the Kansas Community Alcohol Safety Action Project Coordinators Association, whose 27 members provide the alcohol and drug evaluations for those people who have been found guilty of or applying for diversion from DUI charges and other alcohol/drug violations. These individuals and organizations crisscross our State to offer professional assistance for those afflicted with the fatal illness of alcoholism or drug addiction.

We have little use for those individuals who prey on our youth in order to fatten their own pocketbooks in the illegal drug market. Our youth is our hope for tomorrow and we must give them as much positive assistance in all aspects of the alcohol and drug addiction field.

We support House Bill No. 2770 as a deterrent for those individuals who might entertain the idea of using our youth of the State to further their illegal career in the pushing or the sales of all illegal drugs. We also support the concept in this proposed legislation that the person who violates that section is guilty of a class D felony. We realize that a class D felony for most cases is presumptive of probation. However, we would hope that our judiciary within the State would take a firm look at those individuals who are, by their own actions, misleading our youth today and make all penalties quite severe in nature. We also would suggest that this body consider the possibility of amending this proposed legislation to not permit any type of a plea bargaining for those offenders charged with this crime. This send an even stronger message for those individuals who would prey on our young citizens of the State of Kansas for their own illegal financial gains.

Respectfully Submitted,

*Gene Johnson*

Gene Johnson  
Lobbyist

Kansas Alcoholism and Drug Addiction Counselors Association  
Kansas Association of Alcohol and Drug Program Directors  
Kansas Community Alcohol Safety Action Project Coordinators Association

*H. Jud Comm*  
*2/14/90*

*Attachment VII*



## STATE OF KANSAS

MIKE HAYDEN, *Governor*

### DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Docking State Office Building, Topeka, Kansas 66612-1570

☎ (913) 296-3271

### TESTIMONY

House Judiciary Committee  
House Bill 2769 and HB 2770

WINSTON BARTON  
*Secretary*

THELMA HUNTER GORDON  
*Special Assistant*

TIM OWENS  
*General Counsel*

ANN ROLLINS  
*Public Information  
Director*

Administrative  
Services  
J. S. DUNCAN  
*Commissioner*

Adult Services  
JAN ALLEN  
*Commissioner*

Alcohol and Drug  
Abuse Services  
ANDREW O'DONOVAN  
*Commissioner*

Income Maintenance/  
Medical Services  
JOHN ALQUEST  
*Commissioner*

Mental Health/  
Retardation Services  
AL NEMEC  
*Commissioner*

Rehabilitation  
Services  
GABE FAIMON  
*Commissioner*

Youth Services  
ROBERT BARNUM  
*Commissioner*

I am Andrew O'Donovan, the Commissioner of Alcohol and Drug Abuse Services.

Thank you for the opportunity to appear before the committee and speak in favor of HB 2769 and HB 2770.

HB 2769 speaks to various consequences for violators of the Controlled Substance Act in combination with other offenses involving the use of a vehicle. This bill includes jail/prison sentences, very stiff fines, drivers license suspension/revocation and options for alterative sentencing.

The options for offenders to complete an alcohol/drug evaluation and a drug treatment program when appropriate are considered by ADAS as a strong point of the proposed law.

Overall the bill represents another element in a comprehensive approach to the drug abuse problem in Kansas, because it contains a treatment option for offenders and because it helps to provide balance to an approach which we believe requires strong deterrent potential and rehabilitation for those who need it.

HB 2770 has our endorsement for much the same reasons. It would provide an additional tooth in the law when adults influence youth with regard to the use and/or sale of controlled substances. It would perhaps make it easier for youth to "Say No" under such circumstances if there is a law to back them up.

The incorporation of HB 2770 into existing statute would also complement the balanced approach represented in the Toward A Drug-Free Kansas movement.

Should you have need for additional information please feel free to contact ADAS at 296-3925.

Thank you.

2/14/90  
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Attachment VIII



BEFORE THE HOUSE JUDICIARY  
COMMITTEE

WRITTEN SUMMARY OF TESTIMONY IN  
SUPPORT OF HOUSE BILL 2769  
PERTAINING TO DRUG USER  
ACCOUNTABILITY

Thank you for the opportunity to state the unqualified support of Sedgwick County District Attorney Nola Foulston for mandatory penalties for drug use. House Bill 2769 provides for mandatory imprisonment of 48 hours or for 100 hours of community service for a first possession offense, a mandatory fine or community service, a substance abuse evaluation and revocation of driving privileges. The penalties increase for a second violation and again for a third.

Mrs. Foulston has supported mandatory penalties, including jail time, for drug users in the past and is on the public record as having done so. Please see the attached news release from the Wichita Eagle dated November 20, 1989.

Mandatory penalties for drug users is an important feature of our country's response to the enormous supply of illegal drugs now available in the United States. The cocaine cartel has lowered the domestic price of its product considerably over the last few years. These mandatory penalties have the same effect as a price increase -- they narrow the market by deterring people from entering the market. The extent of the deterrence depends on the buyer's perception of the likelihood that he or she will be caught and subjected to the penalties. If the buyer

2/14/90  
H. Jud Com  
Attachment IX

believes he or she could talk their way out of it, the deterrence is lessened.

While cocaine is the ready example, the same deterrence effects apply to all other controlled substances. These include marijuana, LSD, PCP (angel dust), methamphetamine, ice, and heroin just to name a few. All of these drugs are habit-forming. These penalties make the buyer's decision not to form the habit that much easier.

The mandatory penalties work very well with the required drug evaluation. It is very important that each user be made to face the fact that they have a personal problem with habit forming substances. The number of users who deny this is surprisingly large. While the evaluators are not infallible they do have an expertise that helps users denying their tendencies to see some of the consequences of their drug use. The evaluation is essentially part of the drug rehabilitation process, a process anyone possessing these powerful drugs needs to undergo, if for no other reason than to acquaint them with the risks to their well-being created by drugs they had in their possession.

The increased fines can be used to take the gain out of trafficking. They can also be used to penalize a willful recidivist.

Respectfully submitted,

R. MICHAEL JENNINGS  
Assistant District Attorney

Dated: February 14, 1990

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71 Jud. Com.  
Attachment TX  
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Nola Foulston says those who do drugs should do time.

## Foulston calls for mandatory drug sentences

By Jennifer Benjamin  
The Wichita Eagle

If Sedgwick County District Attorney Nola Foulston had her way, anyone convicted of possessing or selling drugs would go to jail for at least a few days.

Sedgwick County judges, however, have the final say on those matters, and they sometimes place drug offenders on probation.

Foulston hopes to change that by asking the 1990 Legislature to toughen drug-trafficking laws so that both users and sellers pay a higher price.

Under one Foulston proposal, anyone convicted of possessing any illegal drug would be required to serve at least 10 days in jail, pay a fine and attend a drug-treatment program.

"I think even a small amount of time in jail would leave an impression that the system isn't going to tolerate this," Foulston said. "The

## DRUGS

From Page 1C  
does drugs, does time."

But some criminal defense lawyers in Wichita said they oppose Foulston's get-tough proposals because they won't solve the drug problems.

Her efforts are "typical of the anti-drug hysteria sweeping the nation," said defense lawyer Dan Monnat. "It is a political statement which wins votes but makes little sense."

Defense lawyer Charlie O'Hara agreed.

"I don't think anytime you have anything mandatory, it's a good idea," he said. "There's always ex-

ceptions to the rule. It ought to be up to the judges to decide appropriate sentences."

Some of Foulston's other proposals involve upgrading the misdemeanor crime of possession of marijuana to a felony, increasing sanctions for conspiracy in drug trafficking, punishing organized criminal activity and increasing the range of penalties for drug users and dealers. The severity of punishment would depend on previous convictions, the amount of drugs involved and the person's role in the trafficking.

For example, for possession or sale of cocaine, Foulston's office proposes that the range of prison sentences be increased to 3 to 20 years for a minimum sentence and

20 years to life for a maximum, said Mike Jennings, an assistant district attorney. Now, the minimum sentence for those offenses is 3 to 5 years, and the maximum is 10 to 20.

The district attorney's office also will propose that the Legislature classify as felony murder any killing committed during the course of selling drugs, Jennings said.

But one Wichita defense attorney said those proposals would put a lot more people behind bars, and Kansas doesn't need more prisons.

"Nola's suggestions that we cure the disease by shooting the patient doesn't make any sense to me at all," said defense attorney Jean Oliver Moore. "You don't cure an addiction by putting the user in jail."

2/14/90  
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THE CITY OF  
**EMPORIA**

Civic Center / 522 Mechanic / P.O. Box 928 / Emporia, KS 66801 / 316-342-5105

Raymond A. Toso, Mayor  
W.L. Jenks, Vice-Mayor  
Roger Wm. Heineken, Commissioner  
Floyd McCracken, Commissioner  
Evora A. Wheeler, Commissioner  
Steve Commons, City Manager

House Bill 2769  
Supporting Testimony

Presented by  
Larry Blomenkamp, Chief of Police  
Emporia Police Department  
P.O. Box 928  
Emporia, Kansas 66801  
(316) 342-1766

I appear before you today in support of House Bill 2769. Knowing that many others will also speak in favor of this legislation, I will keep my remarks very brief and to the point.

We are, on a national and local level, waging war against the abuse of drugs and the operation of vehicles by drivers whose abilities are impaired by the use of alcohol or drugs. The legislation you are considering would provide our courts and law enforcement officers with a valuable weapon in this war. The revocation of one's driving privileges is a matter which no one takes lightly, not even those who involve themselves in a criminal enterprise such as the distribution and sale of illegal drugs. The suspension of drug transporters' or pushers' driving privileges severely restricts those individuals' ability to continue their illegal activity. It disrupts their ability to freely move about the community or travel from city to city and conduct business as usual. If they are recognized, they realize they are subject to arrest and possible discovery and confiscation of any drugs they are transporting.

This legislation also reduces the number of individuals who are or may operate a motor vehicle while under the influence of drugs, which in turn will reduce the number of injuries and deaths resulting from traffic accidents.

Thank you for your kind consideration of my views on this legislation.

2/14/90  
Steve Commons

Attachment XI



THE CITY OF  
**EMPORIA**

Civic Center / 522 Mechanic / P.O. Box 928 / Emporia, KS 66801 / 316-342-5105

Raymond A. Toso, Mayor  
W.L. Jenks, Vice-Mayor  
Roger Wm. Heineken, Commissioner  
Floyd McCracken, Commissioner  
Evora A. Wheeler, Commissioner  
Steve Commons, City Manager

House Bill 2770  
Supporting Testimony

Presented by  
Larry Blomenkamp, Chief of Police  
Emporia Police Department  
P.O. Box 928  
Emporia, Kansas 66801  
(316) 342-1766

I appear before you today in support of House Bill 2770. Knowing that many others will also speak in favor of this much needed piece of legislation, I will keep my remarks very brief and to the point.

Those who have chosen to involve themselves in the manufacture, distribution and sale of illegal drugs have continually sought ways to avoid detection and reduce the risk of arrest and prosecution. The most reprehensible of their many ploys is the involvement of children in furthering their criminal enterprise. There are an abundance of documented cases regarding the use of children in the trafficking of illegal drugs. They are used for purposes ranging from lookouts and couriers of drugs and money to salesmen and enforcers. The drug trafficker recognizes that children are an excellent source for recruiting customers and are inexpensive to employ. At present time, the individual who involves children in the trafficking of illegal drugs risks only prosecution for such crimes as contributing to the delinquency of a minor or possibly child endangerment.

The legislation you are now considering will provide prosecutors and law enforcement officers with a tool to combat those adults who now involve our youth in their illegal drug activities. It is also my sincere belief that this legislation will eventually reduce the number of children who are being exposed to drug use and other forms of criminal activity.

Thank you for your consideration of my views on this matter.

2/14/90  
A. J. Crim  
Att XI

JOHN L. FOSTER • CHIEF OF POLICE

12500 W. 87th ST. • LENEXA, KANSAS 66215  
OFFICE • 913/888-4110  
TELECOPIER • 913/888-8690

## HOUSE BILL 2769

This type of zero-tolerance approach to the demand side of the drug continuum is a positive step that we, in Law Enforcement can approach because it addresses the problem within the area that we can have the most direct effect.

The mandatory minimum and enhanced maximum fines for drug violations is a realistic approach and is designed to make actual financial impact on the users. Additionally the measures for evaluation pave the way for a more permanent solution.

Mandatory imprisonment and drivers license revocation sends a message to the user that drug usage is at least, if not more serious than driving under the influence of alcohol. Alcohol is perhaps more easily detected and this added measure is necessary to assist Law Enforcement agencies in dealing more effectively with those who drive under the influence of drugs.

CAPT. ELLEN HANSON

2/14/90  
L. Jud Com.

Attachment XII

## HOUSE BILL 2770

Again the Lenexa Police Department strongly supports this bill. We have seen a growing number of adult offenders who supply and sell drugs to juveniles. Unfortunately, a large number of these adults are family members from which the youth have no built in protection. Because of these relationships and the current lack of laws to deal effectively with these offenders, the young people can be exposed over and over again to drug activity.

This legislation should be an important step in breaking the vicious circle of learned drug use and addiction.

2/14/90  
H. Jud Com.

Att XII



# *City of Kansas City, Kansas*

DEPARTMENT OF POLICE

TOM DAILEY  
CHIEF

Members of Legislative Hearing on House Bill #2769

Dear Members of Committee:

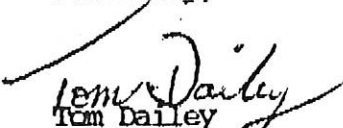
This bill prescribes minimum sentencing for those persons convicted of a first, second or third offense involving possession of a controlled substance. This bill is important because it assures that persons convicted for possession of controlled substance would at least receive some punitive form of incarceration or sentencing alternative, as opposed to some persons receiving suspended or no sentences under the current statutes.

We are mindful of the prison population and crowding problem and feel as though this bill in part serves to address and alleviate a portion of that problem, while prescribing that no one would escape punishment entirely for their first, second or third conviction of possession of a controlled substance. Additionally, this bill contains provisions for the revocation of a person's driving privileges upon conviction of possession of a controlled substance. This measure too, will serve to both add another deterrent to possession of controlled substances and to provide another form of alternative sentencing or punishment for the person convicted of such possession.

This bill also provides a provision that mandates the imposing of significant monetary fines for possession and/or sale of controlled substances. We believe that the amount of the fines prescribed in this bill will in fact act as a deterrent to drug trafficking, and for those persons convicted of such crimes, will serve to adversely impact the drug trafficker's financial status.

For the reasons I have stated, I am recommending the passage of this bill, with the caveat that its sentencing guidelines be used in those instances in which a convicted drug trafficker would receive no sentence or suspended sentence under the present status.

Sincerely,

  
Tom Dailey  
Chief of Police

2/14/90  
H. Jud Com

Attachment XIII





## City of Kansas City, Kansas

DEPARTMENT OF POLICE

TOM DAILEY  
CHIEF

Members of Legislative Hearing on House Bill #2770

Dear Members of Committee:

This bill makes it unlawful for any individual 18 or more years of age to knowingly or intentionally to employ, hire, use, persuade, induce, entice, or coerce an individual under 18 years of age to violate or assist in avoiding detection or apprehension for violation of any provision of the uniform controlled substances act.

Passage of this bill is important because it sends a message to drug offenders that Kansas will not tolerate the use of its young people to facilitate the evil business of drug trafficking. We in law enforcement know first hand how drug dealers traditionally prey on your people to take part in their conspiracies. They use young people for a myriad of reasons, but primarily, because the laws governing the illegal conduct of young people are generally less stringent than those governing the illegal conduct of adults, and by using young people to perform certain tasks in their drug dealing business, they further shield themselves from detection, apprehension and prosecution. Additionally, by using a mentality similar to that of the military, young people are recruited into drug trafficking because they are generally more vulnerable and impressionable than adults, and they seem willing to take more blatant risks than adults generally would.

We also know from experience that young people, especially those from impoverished areas, are more easily lured into criminal drug activity by the promise of easy money, gold jewelry, fancy automobiles, promiscuous women, and other inducements commonly associated with drug trafficking. And these kids that are drawn into this criminal drug environment become a menace to a peaceful society shortly after their initial involvement. We have seen some of our kids try to emulate the infamous youth drug gangs known as the "Bloods" and "Crips" in Los Angeles. These kids are commonly known and referred to as "wanna-bes", because they want to be like those gangs on the West coast. And our kids involved in drugs are just as dangerous as those on the West coast. We've had drive-by shootings, kids shooting another kid, (usually rivals in other gangs), and innocent neighbors or passers-by victimized as a direct result of youth involvement in illegal drug trafficking.

To reiterate the importance of the passage of this bill, let me summarize in saying this bill will not totally eradicate the recruiting and usage of young people in criminal drug trafficking, however, if it

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Jud Com

Att VIII

House Bill #2770  
Page Two

serves to dissuade only a few individuals from utilizing young people in such activity it will be well worth its passage. I therefore encourage your support in children the passage of this much needed legislation.

Sincerely,

  
Tom Dailey  
Chief of Police

2/14/90  
H. Jud Com  
Att. XIV



## Mothers Against Drunk Driving

Kansas State Office • 112 W. 6th • Suite 504 • P.O. Box 1752 • Topeka, KS 66601  
913-234-6233 • 1-800-228-6233

### TESTIMONY ON HOUSE BILL 2769

HOUSE JUDICIARY COMMITTEE

February 14, 1990

Mothers Against Drunk Driving is an organization concerned about issues involving public interest and safety. While our emphasis is on alcohol impaired driving, other drugs are becoming prevalent as causes in more and more traffic incidents. That is why MADD supports House Bill 2769.

The social and human consequences of using alcohol and other drugs is staggering. The reports of violent crime seen daily in the news are no longer coming from New York, Los Angeles or Washington, but from Kansas City, Wichita, Topeka and Hutchinson. These crimes are effecting our friends, neighbors and families.

However, one group of drug related crimes is not in the headlines: Traffic injuries and deaths involving drivers under the influence of alcohol and other drugs are a serious problem on Kansas roads. In 1988, 6,479 traffic crashes involved drivers under the influence of alcohol or other drugs. These crashes resulted in almost 200 deaths and over 4,500 injuries. That's a death every 44 hours in Kansas.

The members and volunteers of MADD have committed themselves to ending these needless deaths and injuries. 2/14/90

H. Jud Com  
Attachment XIV

Today, as a member of this committee and the Kansas Legislature, you too can help reduce this toll of lives taken by drugs by supporting HB 2769 and other measures designed to decrease the number of alcohol and other drug related crimes.

For thousands of years, one of the most effective forms of discipline has been the ability to prohibit people from certain activities. This is true whether it's a parent grounding a child or a court sentencing a person to jail. When the penalties for being caught in an illegal activity outweighs the perceived benefit of that activity, the activity is no longer fun or beneficial. Most people don't commit crimes because not only is it against most values, but the threat of losing your freedom, reputation, money or drivers' license is too high a price.

Modern society is a mobile one. In 1988, 1,537,906 people had valid Kansas drivers' licenses. The inconvenience and embarrassment coming from having your license revoked is a very sobering penalty. This makes drivers' license revocation an effective tool.

A national study performed by the Insurance Institute for Highway Safety found such laws to be approximately 9 per cent effective in reducing fatality traffic crashes. Additionally, several states, West Virginia, North Carolina, Wisconsin, Minnesota, New Mexico, Oklahoma, Nevada and Oregon have had significant reductions in alcohol related fatality crashes. Drivers; license revocation is proving effect against the most frequently committed crime in this country, drunk driving. It could also be effective against other drugs. But it works best when it happens before someone is killed or injured by a driver under the influence.

Stacy Hoogstraten,  
State Administrator,  
MADD, Kansas

2/14/90  
H gud Com.  
Att XIV



## Mothers Against Drunk Driving

Kansas State Office • 112 W. 6th • Suite 504 • P.O. Box 1752 • Topeka, KS 66601  
913-234-6233 • 1-800-228-6233

### TESTIMONY ON HOUSE BILL 2770

HOUSE JUDICIARY COMMITTEE

February 14, 1990

Because the future of our state and nation rests with our children, and because children are not always capable of protecting themselves, Mothers Against Drunk Driving supports House Bill 2770.

The penalties for involving children with drugs should be severe and strictly enforced. This is true whether the drugs are alcohol, tobacco or illegal substances.

Mothers Against Drunk Driving has been proud to work with the Toward a Drug Free Kansas project. We will continue working to keep not only our streets and highways but also our children drug free.

Stacy Hoogstraten,  
State Administrator  
MADD, Kansas

2/14/90  
H. Jud. Com.  
Att. XIV



SHAWNEE REGIONAL PREVENTION CENTER  
603 S. Topeka Blvd. - Second Floor  
Topeka, Kansas 66603 (913) 235-8622

PREVENTION/  
INTERVENTION  
TRAINING

INFORMATION

CONSULTATION

COMMUNITY  
MOBILIZATION

Giving honor to the chair of this committee and its many members. I am here today to speak in favor of the House Bills 2769 and 2770. I am speaking on behalf of the Shawnee Regional Prevention Center a program of the National Council on Alcoholism and Drug Dependence. We are part of a network of Regional Prevention Centers located throughout the state working "Towards a Drug Free Kansas."

The 1988 National Household Survey on Drug Abuse has shown a 37 percent decrease in the number of drug abusers between 1985 and 1988. It however is still a issue that must be reckoned with. Our state carries a tremendous cost of 1.1 billion dollars each year for alcohol and drug abuse. We pay this cost for each time an employee calls into work due to their use, each time a child cannot learn because their parent or parents were using at home, or because the child themselves are unable to learn because of their own use. If we simply take the use of marijuana. We hear an outcry for the legalization of this drug. Yet, we know that if a person smokes marijuana on Monday, although the high may not last several days, the person is still under the influence of this drug for 30 to 45 days. Although, an individual may only use once or twice a month, there are not 60 or 90 days in a month. Drugs no matter what form they come in are destroying our society, our communities, and our families. Each and every year there are approximately 26,000 people who die due to individual's driving and drinking. Most of the individual's that fall into this group range in age from 16 to 24 years old.

When <sup>we</sup> look at our young people and see the use of illicit drugs, we must look at the young victims in this situation. Emergency room cases increased 113% in Kansas City, Kansas from the first of 1983 to the last half of 1985. Nationally, the increase was 136% as stated by the Drug Abuse Warning Network, 1986. By supporting and voting in favor of House Bills 2769 and 2770 we are taking steps to help stop the cycle of abuse and addiction. We are simply saying that if you're going to use drugs then you must be held accountable for your behavior. We are also asking that if you plan to use young people, who far too often are the victims of trafficking illicit drugs. We must protect our future.

a program of  
National Council on  
Alcoholism,  
Topeka Division

2/14/90  
J. J. Corn.

Attachment XV

Before I close, I must make a very simple point. that is that very few people start out to become addicted to any drug. With the drugs that are out and available to those who use them are often so strong that one use of the drug finds them hooked and unable to stop. When we look at the numbers that I cited earlier it does not reflect the loss that is felt by family and friends emotionally and other individual's lives. The support of both of these Bills will help us to ensure that we stop using our young people in the trafficking

of drugs and stop the use of casual drug use. We are a nation that must have a future and we can only have it if we are drug free. Thank You!

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Att XV

# EAST CENTRAL KANSAS REGIONAL PREVENTION CENTER

Serving Douglas, Franklin, Miami, Osage, Linn, Anderson & Coffey Counties



February 14, 1990

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to address you this afternoon. My name is Karen Ross. I am the Director of Prevention at the East Central Kansas Regional Prevention Center, providing prevention and intervention services to a seven county area. I am representing the position of the state wide Regional Prevention Center system, composed of ten centers. These centers are the Northwest Kansas Regional Prevention Center with offices in Hays and Colby; the Southwest Kansas Regional Prevention Center in Garden City; the North Central Kansas Regional Prevention Center in Salina; the Wichita/Sedgwick County Regional Prevention Center in Wichita; the Northeast Kansas Regional Prevention Center in Manhattan; the Shawnee County Regional Prevention Center in Topeka; the East Central Kansas Regional Prevention Center in Lawrence and Ottawa; the Wyandotte Regional Prevention Center in Kansas City; and the Southeast Kansas Regional Prevention Center in Girard. Addresses and catchment areas of these centers are listed on the attached page.

The Regional Prevention Center coordinators express their support for House Bill 2769 regarding user accountability and House Bill 2770 regarding support for drug-free youth.

The reduction of alcohol and other drug use requires a coordinated effort between law enforcement, treatment providers and prevention services. We recognize that the prevention of alcohol and other drug problems calls for a coordinated, multiple strategy approach. Only when we work in concert with each other will we bring an end to the threat to our youth which alcohol and other drug use poses.

Effective prevention of alcohol and other drug problems rely upon five core strategies: appropriate and accurate information; life skill development; development of drug free alternatives; social policy development; and community mobilization to fight these problems. All strategies must be used for an effective campaign

*2/14/90  
H. J. Corn.*

DCCCA Center	<input type="checkbox"/> 2200 West 25th Street	• Lawrence, Kansas 66047	• (913) 841-4138
	<input type="checkbox"/> 112 East 17th Street	• Ottawa, Kansas 66067	• (913) 242-7100



against alcohol and other drug use. In prevention, we focus on establishing healthy behaviors that will encourage and sustain a drug free life style, thus reducing the demand for alcohol and other drugs. Swift, firm consequences remain one the best approaches to discouraging unwanted behavior, and are one form of social policy development.

Additionally, vigorous law enforcement can approach the problem from another side and can affect the supply of drugs. House Bill 2769 and House Bill 2770 will provide firm penalties and additional reasons for youth not to use or traffic drugs.

Thank you for your attention. We encourage your favorable consideration of these bills.

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**ACCEPT THE CHALLENGE**

The journey toward comprehensive substance abuse prevention services has already started in the following regional centers. Contact them. Get involved in seeking solutions. They are an important passport toward a drug-free Kansas.

**EAST CENTRAL KANSAS REGIONAL PREVENTION CENTER**

2200 W. 25th Street  
Lawrence, KS 66046  
(913) 841-4138  
and  
112 E. 17th  
Ottawa, KS 66067  
(913) 242-7100

**Serves:** Anderson, Coffey, Douglas, Franklin, Linn, Miami and Osage Counties

9900 Mission Rd  
Overland Park, Ks  
66206

(913) 341-1415

(location to be announced)  
(916) 363-8604

**Serves:** Johnson and Leavenworth Counties

**JOHNSON AND LEAVENWORTH REGIONAL PREVENTION CENTER**

**NORTH CENTRAL KANSAS REGIONAL PREVENTION CENTER**

1805 S. Ohio  
Salina, KS 67401  
(913) 825-6224

**Serves:** Cloud, Ellsworth, Jewell, Lincoln, Mitchell, Ottawa, Republic and Saline Counties

**NORTHEAST KANSAS REGIONAL PREVENTION CENTER**

2001 Claflin  
Manhattan, KS 66502  
(913) 539-5337

**Serves:** Atchison, Brown, Clay, Doniphan, Geary, Jackson, Jefferson, Marshall, Nemaha, Pottawatomie, Riley, Wabaunsee and Washington Counties.

**NORTHWEST KANSAS REGIONAL PREVENTION CENTER**

485 North Court  
Colby, KS 67701  
(913) 462-8152  
and  
2200 Canterbury Road, Suite C  
Hays, KS 67601  
(913) 625-5521

**Serves:** Cheyenne, Decatur, Ellis, Gove, Graham, Logan, Norton, Osborne, Phillips, Rawlins, Rooks, Russell, Sheridan, Sherman, Smith, Thomas, Trego and Wallace Counties

Casson Building, 2nd Floor  
Topeka, KS 66603  
(913) 235-8622

**Serves:** Shawnee County

**SHAWNEE REGIONAL PREVENTION CENTER**

**SOUTHEAST KANSAS REGIONAL PREVENTION CENTER**

R. R. 4  
Girard, KS 66743  
(316) 724-6281

**Serves:** Allen, Bourbon, Cherokee, Crawford, Labette, Montgomery, Neosho, Wilson and Woodson Counties

**SOUTHWEST KANSAS REGIONAL PREVENTION CENTER**

801 Campus Drive  
Garden City, KS 67846  
(316) 276-7611

**Serves:** Clark, Finney, Ford, Gray, Greeley, Grant, Hamilton, Haskell, Hodgeman, Kearny, Lane, Meade, Morton, Ness, Scott, Seward, Stanton, Stevens and Wichita Counties

**WICHITA/ SEDGWICK COUNTY REGIONAL PREVENTION CENTER**

1421 East Second  
Wichita, KS 67214  
(316) 262-2421

**Serves:** Sedgwick County

**WYANDOTTE COUNTY REGIONAL PREVENTION CENTER**

7250 State Avenue  
Kansas City, KS 66112  
(913) 334-1100

**Serves:** Wyandotte County

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A. Judson  
Att. XVI 3



# Wyandotte County Regional Prevention Center

Kansas City Kansas Community College  
7250 State Avenue \* Kansas City, KS 66112 \* 913/334-1100

Committee Hearing  
House Judiciary

February 14, 1990

Madame Chairperson:

Good Afternoon. My name is Janine Moore, Director of the Wyandotte County Regional Prevention Center in Kansas City, Kansas. I strongly support HB 2769 which asserts that users of illicit drugs must be held more accountable for their illicit activity. I support without reservation, HB 2770 which makes it a new crime to involve, entice or coerce juveniles to violate the uniform controlled substances act. I believe through tough legislation, we can send a strong and clear message to those involved in this illicit activity.

Janine E. Moore, Director  
Wyandotte County Regional Prevention Center  
Kansas City Kansas Community College  
7250 Sate Avenue  
Kansas City, Kansas 66112

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H. JudCom*

*Attachment XVII*

In cooperation with:

Heart of America Family Services  
Mental Health Association  
in Wyandotte County

Turner House Inc.  
Spanish Speaking Office, Inc.  
Wyandot Mental Health  
Center, Inc.

Danier Springs (USD No. 204)  
Kansas City, KS (USD No. 200)  
Peer (USD No. 200)  
Turner (USD No. 200)

CONSIDERATION OF HOUSE BILL 2769

USER ACCOUNTABILITY

In examining the issue of substance abuse, several issues become increasingly prevalent. These issues revolve around: 1) By what authority do we or should we attempt to control substance abuse and 2) what strategy should we employ to decrease the current substance abuse activity. Each of these shall be addressed.

The first question is based upon what authority do we or should we attempt to control substance abuse. Substance abuse is often seen as a victimless crime. It is said that prohibition of substances such as marijuana, cocaine, methamphetamine and others are an attempt to legislate morality. Even more extreme was the notion propounded by historian Richard Lawrence Miller "Citizens must have the right to control their physical bodies. That is the ultimate human right, without it, the rest will erode into dust."<sup>1</sup> Something seems strange about such an argument. A moral statement is one predicated with "X ought to be the case". If we say, then, that robbery ought not to be committed, we have made nothing more than a moral evaluation. Accordingly, all laws legislate a moral statement. Those who would say that drug use is a victimless crime have not seen the lifeless pieces of flesh, the torn and distraught lives or the wasted potential brought about by substance abuse. Many would say that we should adopt a medical model to the substance abuse problem, that is to say, define substance abuse as more of an illness than as a legal problem. This thought, though, denies the ravage lessons of history. It was through vigorous enforcement of tough laws, along with a sense of national isolation, that assisted China in defeating its problem of opium abuse in the mid 1800's.

With the economic impact of drug abuse in the United States having been fixed at up to forty-seven (47) billion dollars per

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<sup>1</sup> Why We Should Legalize Drugs, Richard Lawrence Miller, Star Magazine, January 28, 1990, page 15

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H. Jud Com.

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year <sup>2</sup>, with up to eighty-five (85) per cent of male arrestees testing positive for drug use at the time of their arrest<sup>3</sup>, one can see why Dr. Bernard A. Gropper stated "The psychopharmacological and behavioral sciences have not established any drugs (or combination of drugs) as inherently or directly 'criminogenic' in the simple sense that they compel users to commit crime. But, the overall cumulative evidence is clear and persuasive that the consistently demonstrated pattern of correlation between drug abuse and crime reflect real, albeit indirect, causal links."<sup>4</sup> Certainly in this light it can be seen that substance abuse is not a crime without victims, nor are sanctions against substance abuse attempts to legislate moral issues anymore than is any act of legislation.

The second issue, however, is to what model shall we turn to effectively deal with substance abuse. It should first be understood that DRUGS are not a problem. A pound of cocaine possesses no innate qualities which render it dangerous, anymore than a loaded handgun sitting on a table. The problem is not with the substance, but with the abuse of the substance. It is the interaction between the human race and the substance, as with a loaded handgun, that creates the danger. You see, substance abuse is not about drugs, it is about the hedonistic predisposition of the human race, that is, the propensity of humans to abuse those things which bring a pleasure not found without the substance. In short, addiction is caused when some of the many social skills are not taught, or are taught incorrectly, to children as they grow. For example, if one never learns the concept of self esteem or how

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<sup>2</sup> The Costs of Crime and the Benefits of Drug Abuse Treatment: A Cost-Benefit Analysis Using TOPS Data, Henrick J. Harwood et. al., Compulsory Treatment of Drug Abuse: Research and Clinical Practice, National Institute on Drug Abuse Research, Monograph 86, 1988, page 209

<sup>3</sup> Drug Use Forecasting, National Institute of Justice, September 1989, page 4

<sup>4</sup> Probing the Links Between Drugs and Crime, Bernard A. Gropper, PH.D, National Institute of Justice, Research in Brief, February, 1985, page 2

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H. Jud Com.  
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to get along in an interpersonal relationship, they will be attracted to substances which can provide the fulfillment they lack. This is one reason why substance abuse, as well as spousal abuse and sexual abuse, are seen as a learned behavior passed on from generation to generation.

For many years we in the field of drug law enforcement have failed to comprehend that the social motivations surrounding substance abuse are much like the motivations of any social existence where commodities are exchanged for things of value. There is a demand and, as a consequence, a supply. Drug dealers even keep financial records such as inventory records, profit and loss estimates and accounts receivable balance sheets, on hand just as would a legitimate business. For years we have only dealt with one half of the equation, that being the supply of drugs. We have found that, as in the legitimate sections of the economy, where there is a consistent demand, there will be a supply. Hence, the strategies used in the past, that of attacking only the supply side of the equation, have been ineffective.

Today we have the opportunity to see before our eyes a dialectical movement, that is to say, a movement to a higher level of thinking. In truth we have learned that enforcement alone is not the answer to the drug problem. The legal arm of society did not create the problem of substance abuse, nor will it alone bring about the solutions to the problem. We must attack both the root cause of substance abuse, those psychological deficiencies leading to addiction, as well as the supply of drugs which allow for an easy alternative to dealing with those deficiencies. It will not be the implementation of a single strategy that produces the results intended. Rather, it will be the result of several strategies being implemented that reveals a reduction in substance abuse in the State of Kansas.

Towards that end, I strongly urge, and support the passage of, House Bill 2769. This bill should not be seen as an addition to existing policy on substance abuse. Rather, it should be seen as a clear message, among a group of very confusing messages that we send our young. It is not okay to use drugs, nor experiment with

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mind altering substances.

House Bill 2769 possesses within it two qualities that have been sadly missed in the past. First, it establishes severe penalties which should entice our young to "Just Say No". These penalties strike at the very heart of the young. It establishes immense financial penalties and also provides for revocation or restriction of a driver's license if the violation occurs while operating a vehicle. Certainly the two most prized possessions of youth are a driver's license and currency.

This bill is a clear message which serves to undo years of innuendos that getting "high" is normal. Secondly, for those outside the sphere of mere experimentation and into the realms of addiction, it provides for treatment options which will help break the vicious chain of addiction and dysfunctional lives being passed from generation to generation.

The solution to the drug problem lies in vigorous enforcement of tough laws, education and treatment, and prevention based upon early detection of potential for abuse and a clear "moral" statement made by society.

In short, there are those who would argue that experimental use of a drug is "normal", and that drug abuse is simply today's equal to alcohol of the past. Some would even suggest that we treat drug abuse as we have chosen over the years to treat alcohol abuse. Are we really that proud of our solution to alcohol abuse? With an ever rising number of alcoholic adolescents, with only twenty one and a half (21.5) percent of substance abuse treatment admissions in 1987 being for drug abuse (31.4 % for alcohol and 46.9% for combined alcohol and drug treatment)<sup>5</sup>, with all of the traffic fatalities that are reported to be alcohol related, with the damaging impact on the family structure, are we prepared to say today that we have treated the problem of alcohol abuse in such a glorious manner that we are prepared to treat all substance abuse

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<sup>5</sup> Alcohol Problem Resources and Services in State Supported Programs, FY 1987, William Butynski, PH.D and Diane M. Canova, JD, Public Health Reports, Volume 103, Number 6, November, 1988 page 617

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Alcohol Com  
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in this manner? I suggest not. I suggest instead that we adopt a more responsible approach based upon the three strategies: active enforcement of tough laws, education and prevention, and treatment. These three strategies work in a harmonious union, each supportive of the others, and all designed to assist our youth in making their own decision about substance abuse under the full recognition that socially, drug abuse is an unacceptable form of recreation.

Respectfully Submitted

Randall K. Listrom  
Topeka Police Department  
Narcotics Unit  
204 SW 5th  
Topeka, Kansas 66603  
(913) 354-9434

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CONSIDERATION OF HOUSE BILL 2770

VIOLATIONS OF THE UNIFORMED CONTROLLED  
SUBSTANCES ACT USING MINORS

There is a new movement in progress which threatens our inner city populations throughout the State of Kansas. Gangs. The very word, in light of publicity from the Los Angeles, California area, strikes fear in the hearts of citizens, yet also a jaundice eye is cast towards the belief that Kansas has elements of gangs. Yet, gangs are becoming a very real force in the scheme of cocaine distribution in our inner cities.

For some reason, the concern over gangs is proportional to the level of belief that the "gangs" are from Los Angeles. While the Topeka Police Department has documented, both through investigations as well as arrests, the presence of the Bloods and Cripp organizations in our area, the more fundamental problem is the creation of local gangs. The gang movement provides several benefits to inner city youth. Membership in a gang provides for a sense of identity, a sense of self worth, a sense of security as well as a source of income. It matters not if these individuals are card carrying members of a Los Angeles gang. What does matter is that these youth are emulating the behavior exhibited by the gangs in Los Angeles. This behavior includes drug distribution and the accompanying violence as well.

We, in the field of drug law enforcement, have noted a dramatic change in the manner of cocaine distribution in the inner city areas. To purchase cocaine in the inner city a prospective buyer first dials the number of a digital display pager owned by a cocaine distributor and leaves on the pager the phone number where the distributor can call the buyer back at. The distributor, having received the page, will call the buyer back. This call is usually made from a cellular phone or a pay phone. In this fashion, classical electronic eavesdropping through Court ordered wire taps are ineffective. A location is selected between the

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buyer and the seller, and the seller arrives at the location with only the amount of drugs ordered. In this fashion, the buyer (or the police in the event that the buyer is a police officer or agent thereof) does not know the location of the "stash". The seller will often arrive in a friend's car, a car rented by another person, or even more prevalent, the seller sends a "runner" to make the delivery.

It is to the last element, the "runner", that House Bill 2770 is addressed. This bill can be seen as a direct attack on inner city cocaine distribution in that it provides for a separate offense where juveniles are used as "look outs", "runners" or "mules".

Inner city youth have learned the trade of cocaine distribution from the gang related distributors in Los Angeles. This system is used for two reasons. First, the gang related system makes detection and apprehension of the true distributor difficult as the delivery is made by some one else. Secondly, juveniles will normally receive light sentences if caught. This, in addition to the tremendous profits to be made as a "runner" makes for an endless supply of juveniles to perform the task.

Though the enactment of House Bill 2770 will not solve the problem of gang related cocaine distribution, nor will it soon end the use of juveniles in the distribution scheme, it should be seen as a tool by which enforcement branches can additionally attack inner city cocaine distribution. This bill, when coupled with social incentives, could also assist in the dismantling of area gangs all ready in place.

Through a host of legislative acts pending before this session of the Kansas Legislature, it is hoped to send several messages to our youth. It is intended that youth receive the message that use of drugs is not acceptable. It should also intended that adults receive the message that in Kansas, the development of strong moral

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fiber in our youth is paramount, and interference with that development will not be tolerated.

Respectfully Submitted

Randall K. Listrom  
Topeka Police Department  
Narcotics Unit  
204 SW 5th  
Topeka, Kansas 66603  
(913) 354-9434

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S. Jud Com.  
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MY NAME IS JOHN ROUND AND I AM WITH THE OVERLAND PARK POLICE DEPARTMENT. IT IS MY PLEASURE TO APPEAR BEFORE YOU TODAY TO SPEAK IN FAVOR OF HOUSE BILL NO. 2769 AND HOUSE BILL NO. 2770. THE POLICE DEPARTMENT AND THE CITY OF OVERLAND PARK SUPPORT BOTH OF THESE BILLS.

HOUSE BILL NO. 2769 IS DIRECTED TOWARD INCREASING USER ACCOUNTABILITY. IN THAT REGARD, THIS BILL DOES PROVIDE FOR MANDATORY MINIMUM SENTENCING AND ENHANCED MAXIMUM FINES. ADDITIONALLY, THIS BILL PROVIDES THAT ACTION CAN BE TAKEN DIRECTED TOWARD DRIVER'S LICENSE REVOCATION FOR INDIVIDUALS CONVICTED OF BEING IN POSSESSION OF A CONTROLLED SUBSTANCE.

HOUSE BILL NO. 2770, IF ENACTED, WOULD MAKE IT A CRIME FOR ANY PERSON TO INVOLVE, ENTICE, OR COERCE JUVENILES TO BECOME INVOLVED IN NARCOTICS VIOLATIONS. THIS LEGISLATION IS SPECIFICALLY DIRECTED TOWARD ADULTS WHO ATTEMPT TO INVOLVE YOUNG PEOPLE IN NARCOTICS TRAFFICKING. IT IS MY OPINION THAT BOTH

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H. Jud Com.

Attachment XIX

**BILLS WILL ADD TO OUR EFFORTS TO COMBAT DRUGS IN  
OUR COMMUNITIES. I RESPECTFULLY ENCOURAGE THE  
COMMITTEE TO FAVORABLY CONSIDER BOTH BILLS.**

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H. Jud. Com.

Att. XIX

Antidrug Abuse Proposed Legislation, House Bills 2769 and 2770

A Presentation to Judiciary Committee

by Professor Jake U. Gordon

Research Associate, Institute for Public

Policy and Business Research,

University of Kansas

Feb. 14, 1990

During the past several years alcohol and other drug abuse has emerged as an extremely critical problem affecting young people in America today. Authoritative estimates provided by the U.S. government and other sources consistently indicate that during the past decade problems associated with alcohol and drug abuse have continued to escalate until now it is generally acknowledged that these problems represent one of the major threats to our nation. These affect all aspects of life in the U.S. and all strata of society. No race, socioeconomic class, or culture is immune to the drug dilemma. However, it should be noted that certain segments of our society are suffering from this dilemma disproportionately. For example, the data indicate that 32 percent of African Americans have used drugs illicitly at some time in their lives. There can be little doubt that drug abuse has reached epidemic proportion with the African-American community. For example, in Oakland, California, it is estimated that 90 percent of the drug trafficking is in cocaine. This expensive and addictive drug is available to the poorer people and children in the Black community. In consequence, Black children are exposed at an early age to the presence of drugs.

A recent publication on the state of Black America (Dewart 1989) documents the impact of substance abuse in the African-American community. It suggests that drugs in the African-American community are a clear and present danger. Thus on behalf of our youth and in the interest of the future of our state, I have come to you to request your serious consideration and approval of the proposed legislation now before you (House Bills #2769 and 2770) known

2/14/90  
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as Drug User Accountability and Support for Drug-Free Youth, respectively. The bottom line for these bills is to reduce the demand for illicit drugs thus checking the supply side. Based on available research data on this subject, it is clear that the absence of a significant risk of punishment for illegal drug activity is perhaps the single greatest hindrance to our goal for a drug-free Kansas. In addition to effective educational models severe sanctions provided by the criminal justice system will be one of the most powerful forms of drug prevention. They will make it increasingly difficult to engage in any drug activity with impunity.

An argument against the criminal justice approach vis-a-vis the educational approach as deterrents is that our prisons are already full. Another argument is that we really need to address some social issues (discrimination, employment and poverty, housing and education). The fact remains however that there are no convincing evidences in prevention literature indicating the exact causes of alcohol and drug abuse. It affects the poor and the rich, young and old, Christians and Muslims, educated and illiterates, Blacks, whites and all other ethnic groups. The problem is too complicated to be solved without strong message to the American people. Moreover, under our system of law and order, people should be held responsible and accountable for their actions. This must be done even at the risk of building more prisons rather than sacrifice the future of our youth.

If we fail to protect our youth from unscrupulous adults who would involve them in using and trafficking illicit drugs, history will never forgive us. Thus I urge you as public policy makers to stay on the good side of Kansas history. Thank you.

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