

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman John Edmonds at 1:30 P.M. on March 14, 2005 in Room 313-S of the Capitol.

All members were present except:

Representative Nile Dillmore- excused
Representative Lynne Oharah- excused
Representative Candy Ruff- excused

Committee staff present:

Athena Andaya, Kansas Legislative Research Department
Dennis Hodgins, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Carol Doel, Committee Secretary

Conferees:

Representative Bill McCreary
Representative Bob Bethel
Representative Richard Kelsey
Representative Richard Kelsey
Senator Donald Betts
Peter Ninemire Kansas family Again Mandatory Minimum
Angela Monaco
Lucia Curtis
Amy Watts
John Trembly, Northwest Kansas Parole Officer
John Chalmers
Billy Rork, Attorney
Dan Hermes, Alcohol & Addiction Services
Tim Haun
Randy Cantor
Thomas Dembeck
Tanya Kincaid
Dixie Whaley
Debie Williams
Cynthia Hockenberger
Mike Jennings, Kansas County & District Attorney Association

Others attending:

See attached list

Chairman Edmonds opened the meeting for bill introduction. Hearing none, he opened the public hearing on **HB 2231** and recognized Representative Bill McCreary who addressed the committee in support of the bill which he called a "common sense piece of legislation". Representative McCreary stated that **HB 2231** would allow an inmate in prison for certain drug crimes to petition the court that sentenced him or her, for a modification of that sentence. If the court finds the inmate is not a threat to society and could benefit from rehabilitation, the inmate could be released to the rehabilitation program. The cost of rehabilitation as well as freeing up beds and possibly postpone building new prison space impressed the Representative. Since that time, he has become aware of other reasons that this bill makes sense. Representative McCreary urged the committee to consider the provision of **HB 2231** as a positive step toward helping inmates realize their potential. (Attachment 1)

Representative Bob Bethell supports the **HB 2231** giving testimony the bill would allow for court hearings at the discretion of both prosecutorial and judicial concerns. Those who present a safety risk would not and should not be granted a hearing. The hearing provides the opportunity for all parties to raise important issues, including whether the offense of conviction was pursuant to a plea bargain down from a more serious offense. He also related that the cost of a year of treatment is one-fourth to one-tenth the cost of a year of a prison bed. He asked that the committee give favorable consideration to **HB 2231**. (Attachment 2)

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Next to come before the committee in support of **HB 2231** was Representative Charles Roth who stated that in addition to being a compassionate and fair bill, it also has the serendipitous effect of being revenue enhancing for the State of Kansas. Treatment is less expensive than incarceration, and it would help with the shortage of beds in our prisons. **HB 2231** helps offenders return to society and saves money for the State of Kansas while protecting our citizens. (Attachment 3)

Representative Dick Kelsey also supports **HB 2231**. Representative Kelsey co-owns a company that helps people overcome addiction issues and feels that this bill tries to help people who have an a drug or alcohol addiction problem. (Attachment 4)

Peter Ninemire representing Families Against Mandatory Minimums (FAMM) delivered testimony supporting **HB 2231**. Mr. Ninemire related that he had previously been in prison doing a 27 year federal mandatory minimum sentence for cultivation of marijuana when the former President Clinton pardoned 15 years of his sentence. Since that time, he is about two months from graduating from Wichita State with a bachelor's degree in Social work and has recently been accepted into the Masters Program. He is currently a certified drug and alcohol counselor. It is his opinion that the legislation in **HB 2231** would have an extremely positive long-term impact on the State of Kansas in the way we handle people with drug addictions, not to mention save the state millions of dollars, and quite possibly eliminate the need to build more prisons. (Attachment 5) In his testimony Mr. Ninemire also included information on what the bill does, the fiscal impact, public safety, treatment, and public support. (Attachment 6) He also included for review articles entitled *Oklahoma Puts Hard Numbers Behind Cost-Savings Claims* (Attachment 7), and *Inmate Treatment Program Reduces Recidivism, Restores Lives*. (Attachment 8)

Supporting **HB 2231**, Angelina Monaco delivered testimony on behalf of her sister, Maria Monaco, who is currently serving a twelve year prison sentence. Ms. Monaco presented her sister's life story and the way she has changed over the years. It is her feeling that her sister and the entire family would benefit by the passage of **HB 2231**. (Attachment 9)

Lucia Curtis, daughter of Maria Monaco, who is currently serving a prison sentence, encouraged the passage of **HB 2231** so she could get her mother back with the family. (No Testimony)

Ami Watts, a recovering addict, presented testimony favorable to **HB 2231**. Ms. Watts related that throughout her life she has experienced destruction caused by substance abuse. Ms. Watts also told a story regarding how incarceration without treatment does not work. She further urged the committee to take the matter to heart and help transform the lives of these addicted people to help stop the vicious cycle of drug addiction. (Attachment 10)

Senator Donald Betts urged the passage of **HB 2231** with the opinion that this bill would implement policy that will correct the problems that we see with our current corrections system. This bill would send the message to our taxpayers that we are working smarter and harder to see that these people, upon release, are being corrected and rehabilitated. (Attachment 11)

Tayna Kincaid is a 28 year old mother of two who was addicted to meth, pot and alcohol. She said she came from a family of addiction and knew no other way of life. Ms. Kincaid said she had been in and out of jail and although it wasn't for a drug charge, it was centered around drugs. With the arrival of **SB 123** people who believed in her and were willing to give her a chance also gave her hope, therefore, she urges the passage of **HB 2231**. (Attachment 12)

Representing Fireside House Reintegration Facility, Timothy Haun presented testimony regarding the significant differences in lives changed by reintegration. Mr. Haun provided a list of services which Fireside House currently provides their clients which include transportation, meals, laundry facility, group sessions, evening group sessions, utilities, individual counseling, linen needs, hygienic needs, clothing, cable TV and many other services. Mr. Haun asked for favorable support for **HB 2231**. (Attachment 13)

Northwest Kansas Parole Officer, John Trembly, is very much a supporter of **HB 2231**. He related that four

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years ago he saw the need for methamphetamine treatment. He started researching the problem, applied for a grant and now has received that grant for a methamphetamine program. He says the addiction problem exists, is going to exist and that the majority of offenders, if given treatment, are going to succeed.

(No Testimony)

Criminal attorney, Billy Rork, feels that it is the responsibility of the State of Kansas to help rehabilitate these addicted people. If the State doesn't do anything to help these addicted people and just sends them back out on the streets they will continue to be abusers of drugs/alcohol. (No Testimony)

Dan Hermes represents the Kansas Association of Addiction Professionals (KAAP). This organization provides substance abuse service to the offender population. He came before the committee in support of the recommended alternative sentences for selected offenders incarcerated in our state which would be provided by the passage of **HB 2231**. (Attachment 14)

John Chalmers, a Salina resident, presented the opinion that rehabilitating a person before incarceration and providing rehabilitation by offering drug addiction counseling, and alcohol treatment, the state would realize a reduced number of inmates, require fewer beds, eliminate the need for more prison space and a cost savings of 75% of felony treatment. Mr. Chalmers supports the passage of **HB 2231**. (Attachment 15)

Randy Cantor testified supporting **HB 2231**. Mr. Cantor related that he was "busted" for drugs and was given a jail sentence where his life was very negative, and only talked about how to be a better cheat or how to commit larger crimes or how to get deeper into the drug world. When Mr. Cantor was "busted" in 1994 for drugs he was sentenced to an inpatient treatment program. He will soon graduate from a halfway house relating that this structured environment was good for him. (Attachment 16)

Thomas Dembeck, IV supports **HB 2231**. Mr. Dembeck has spent time in jail and currently is at the Fireside Half-Way House. He relates that being in jail did not teach him about recovery. The Fireside House has been a big boost in his sense of pride as well as his self-esteem. (Attachment 17)

Mother and grandmother, Dixie Whaley addressed the committee saying that she has seen first hand how the incarceration of her son, who is currently serving a seven year drug offense sentence, has affected her family. Mrs. Whaley is asking for support for a treatment program which is much needed for offenders to help get them back to society as productive, active contributing members of their communities. **HB 2231** would offer that support. (Attachment 18)

Debie Williams, a graduate student of Wichita State University is currently working toward a drug and alcohol certificate and has had extensive experience with drug offenders and dual addictions. Ms. Williams' testimony reflects that with treatment these people with drug and alcohol addictions can successfully become productive members of society and urges the passage of **HB 2231**. (Attachment 19)

Cynthia Hockenberger addressed the committee in favor of **HB 2231**. Ms. Hockenberger has been corresponding with Maria Monaco who is currently serving a sentence for a drug related problem. She says that Maria has been a model inmate, has excelled at her job and is truly a dedicated Christian who reads her Bible and prays daily. In her opinion, Maria would greatly benefit by the program proposed in **HB 2231**. (Attachment 20)

Written testimony supporting **HB 2231** was submitted by Representative Oletha Faust-Goudeau (Attachment 21) and the Washburn Law Clinic. (Attachment 22)

There were no other proponents for **HB 2231** and Mike Jennings, Legislative Chair for Kansas County & District Attorneys Association addressed the committee as an opponent of the bill. They oppose retroactive application as in **SB 123**. They stated the present bill would mandate the Department of Corrections (DOC) to review the convictions of all inmates and to notify the prosecutors and sentencing judges of those inmates it proposes to release to drug therapy. If there is an objection, the bill provides for a hearing mechanism to resolve the objection. They are concerned that uniformity could be a concern. It would require use of limited resources on prosecuting offices to defend past convictions in court. Increased appellate work is another

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potential drawback. They urge a no vote on **HB 2231**. (Attachment 23)

There were no other persons wishing to address **HB 2231** and the Chairman closed the public hearing.

Also submitted at this meeting for committee review, was a editorial from the Lexington Herald of Lexington Kentucky regarding a smoking ban (Attachment 24), and an article on secondhand smoke causing breast cancer. (Attachment 25)

With no further business before the committee, Chairman Edmonds adjourned the meeting.

FEDERAL AND STATE AFFAIRS

GUEST LIST

Date 3/15/05

Kathy Ennis	John Chalmers
Cyndi Hockenberger	Dustin Curtis
MARK WURUW	WIG CURTIS
Larry E. Schuster	Angela Monaco
Katie Wortman	John Ennis
Mandee Schauf	
JOHN J. FRANCIS	
Keon Limbehr	
Charlie Roth	
Debra Williams	
Randy Pesseski	
Stacy Culberts	
Judy Bailey	
RANDY CANTOR	
Timothy J. Da	
Thomas A. Dembeck IV	
Dino Lohaly	
Bill Roek	
John Trambley	
Amirk Watts	
Lisa Mickle	
deb johnson	
Layna Kincaid	
Angela Monaco	
Angela Monaco	

Rd May
Stuart Little

AEIU Local 744
Ks Community Corrections Assoc



TOPEKA

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MEMBER HOUSE COMMITTEES
APPROPRIATIONS
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Mr. Chairman and Committee:

HB 2231 is presented to you as a common sense piece of legislation. As you know, SB 123 was passed by the Legislature and it called for the establishment of rehabilitation centers as an alternative to imprisonment for certain drug crimes.

HB 2231 would allow an inmate in prison for these same offences to petition the court that sentenced him or her, for a modification of that sentence. If the court finds the inmate is not a threat to society and could benefit from rehabilitation, the inmate could be released to the rehabilitation program.

According to the Sentencing Commission, we now have 506 inmates who might qualify for this program.

I became interested in this concept when SB 123 was presented to the legislature. However, my interest at that time was based upon only two factors - fairness and a fiscal concern. I don't think it is fair to have inmates in prison for the same offences that we are now sending offenders to rehabilitation. I was impressed with the fact that we could rehabilitate an offender for approximately \$8000. per year when we are spending over \$25,000. to keep them locked up. Plus, the program would free up beds and possibly postpone building new prison space. Since then I have become aware that there are many other reasons that this bill makes sense.

According to a 1998 report made by Columbia University: Behind Bars, Substance Abuse and America's Prison Population, it showed that 80% of all adults incarcerated for felonies either had:

1. regularly used illegal drugs or abused alcohol
2. had been convicted of a drug or alcohol conviction
3. were under the influence of drugs and/or alcohol when they committed the crime
4. committed the crime to support the habit
5. or exhibited some combination of these characteristics.

The study also pointed out that of the almost \$30B that states spent on incarceration, probation and parole, \$24.1 B was spent on substance-involved offenders.

There are other enormous costs associated with drug addiction. The welfare cost to help families survive, foster care cost when children have been left abandoned, juvenile justice cost, teen pregnancy and other cost associated with low self esteem. Children of incarcerated drug users are said to be 6 to 8 times more likely to become addicts and serve time in prison themselves .

Mr. Chairman, I know that many legislators are committed to be tough on crime. Do the crime - serve the time mentally. However, I think that this is a Smart on Crime proposal.

This group- of inmates (506), have an average of 19.8 months left on their sentences. Therefore, they will soon be out on the street with no rehabilitation. According to the sentencing Commission the recidivism rate for the inmates will be about 35%. If they are released to a rehabilitation program they estimate that this can be reduced to 20-23 percent. They also tell me that this is a very conservative estimate. I think that society will be better served if we give these inmates a chance to be rehabilitated so that they can become productive citizens who will be taxpayers, not tax users.

Yesterday, I read a true quote in the Wichita Eagle. It stated that society benefits when a former inmate fills his potential rather than a prison bed.

Mr. Chairman and Committee, I hope that you will consider the provisions of HB2231 as a positive step toward helping these inmates realize their potential.

I stand for questions.

FEDERAL AND STATE AFFAIRS

Date 3-14-05

Attachment 1

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TOPEKA

Testimony on HB 2231

Good afternoon Chairman Edmonds and members of the House Federal and State Affairs Committee. I am Bob Bethell and I represent the 113th District of Kansas. I am here this afternoon to support HB 2231.

I am personally acquainted with individuals that would be affected by the passage of HB 2231. The issue actually goes back to the passing of SB 123 which provided the option of drug treatment in the community rather than prison for those convicted of certain drug use offenses.

HB 2231 would allow for court hearings at the discretion of both prosecutorial and judicial concerns. Those who present a safety risk would not and should not be granted a hearing. The hearing provides the opportunity for all parties to raise important issues, including whether the offense of conviction was pursuant to a plea bargain down from a more serious offense. The cost of a year of treatment is from one-fourth to one-tenth the cost of a year of a prison bed.

Certain one-time costs to administer the program will be incurred, but over time the investment would pay dividends. HB 2231 holds the offender accountable and utilizes the most effective and efficient use of limited resources in regard to low level, non violent drug use offenders. SB 123 has been successful and now is the time to consider expanding the opportunity to those incarcerated previous to the passing of SB 123.

Thank you for your favorable consideration of HB 2231.

FEDERAL AND STATE AFFAIRS

Date 3-14-05Attachment 2

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CHARLES B. ROTH
71ST DISTRICT

Testimony in Support of House Bill 2231

By Representative Charles B. Roth

Before the House Federal and State Committee

March 14, 2005

Honorable Chairman Edmonds and Committee Members,

Treatment is the ambulance that drives people to recovery programs. Recovery is where a better and more productive life begins.

HB 2231 would allow certain eligible imprisoned inmates to have their sentence modified and committed for treatment in a drug abuse treatment program for up to eighteen months. While treatment may not be the final answer to drug and alcohol abuse, it has had remarkable results. There are those that will testify to that today. And treatment is a much better answer than jail for those already incarcerated and deemed not a danger to the public. Existing law, Senate Bill 123, addresses those issues and now HB 2231 follows up on that bill for those that are already in jail.

I believe that treatment works for those who want it to work. I have seen it happen. There are thousands of men and women who have reached a bottom (sometimes defined as when the last thing you lost, or the next thing you will lose is more important than alcohol/drugs) in their lives and have, through the recovery process, become productive members of our communities. These are men and women that were previously a drain on our resources: hospitals, courts and jails. Many of us have a picture in our head of the drug addict or alcoholic. A person who is scary, a bum, NOT one of us! But the reality is drug addicts and alcoholics are our neighbors, doctors, teachers, lawyers, and business people. We are wasting human resources by keeping them in jail and paying for their incarceration

In addition to being a compassionate and fair bill, it also has the serendipitous effect of being revenue enhancing for the State of Kansas. Treatment is less expensive than incarceration, and it would help with the shortage of beds in our prisons.

HB 2231 helps address successful offender return to society and saves money for the State of Kansas while protecting our citizens.

Thank you for your attention.

FEDERAL AND STATE AFFAIRS

Date 3-14-05

Attachment 3

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March 14, 2005

Chairman Edmonds:

I would like to rise in support of HB 2231. I co own a company that helps people overcome addiction issues. When the legislature decided last year with SB 123 to try and help people with drug and alcohol issues instead of putting them in prison, it made a good decision. 2231 makes this good decision better. I would like to yield my time to Ami Watts who is the Director of the Lighthouse a home we operate to help adult women overcome addictions.

FEDERAL AND STATE AFFAIRS

Date 3-14-05

Attachment 4



Families Against Mandatory Minimums
F O U N D A T I O N

March 14, 2005

Chairman Edmonds and Honorable Members of this Committee:

Thank you for holding these hearings on HB2231. My name is Peter Ninemire and when I say "it truly is an honor to be here", I mean that with utmost sincerity. A little over four years ago I was serving my 10th year of a 27 year-year federal mandatory minimum sentence for cultivation of marijuana. And then on the greatest day of my life, January 20, 2001, former President Clinton commuted the remaining 15 plus years on my sentence and I became a free man.

Today, I am a couple of months away from graduating from Wichita State with a Bachelors in Social Work, and have recently been accepted into the Masters Program. I acquired my Kansas Drug and Alcohol Counselor Certification in 2002 while in pursuit of my Bachelors degree. I am also presently the Coordinator for an adolescent program serving at-risk youth and their families in the field of addictions. But I am here today in my capacity as the Midwest Trainer/Organizer for Families Against Mandatory Minimums(FAMM), and on their behalf. On the national level, FAMM works to restore judicial discretion in sentencing so that the punishment can better fit the crime and the offender. On the state level we work with legislators and others to find more effective and efficient use of limited resources in relation to low-level, non-violent drug offenders.

I believe this legislation before us today is about that, and a lot more. HB2231 could have an extremely positive long-term impact on this state in the way we handle people with drug addictions, not to mention save the state millions of dollars, and quite possibly eliminate the need to build more prisons. Until recently, we have just recycled those with drug problems in and out of prison without addressing the reason that most of them keep returning.

That changed in 2003 with the enactment of SB123. Since then, those convicted of drug possession offenses are now mandated to receive drug treatment as a diversion to prison. The only drawback to the passage of this bill was that it was not made retroactive, meaning that these same provisions would not apply to those in prison for the same offenses. Both myself and many of the effected family members, some here before you today, understand that this was mostly to insure passage of this legislation, (so we can actually appreciate that). However, before gaining that understanding, in my testimony I posed the question of how Kansas could afford to incarcerate and recycle mostly the same offenders without ever giving them the anecdote of drug treatment?

That same question looms much larger today with the overwhelming initial data that supports the success of SB123, while at the same time treating these people differently. Rep. McCreary is right in that the time has come for us to bring equity to this situation, as well as act in a fiscally and socially responsible manner. In my first conversation with him last September about the possibility of reinstating this bill, his initial comments were, "This is a "fairness issue, and besides that, these people are going to be released some day, so why wouldn't we want to make sure we could give them some type of rehabilitation first." The other thing to chiefly consider is that we can do this for one-quarter to one-tenth the cost of their annual incarcerati

FEDERAL AND STATE AFFAIRS

Date 3-14-05

Attachment 5

In November of 2004, I presented our initial case for giving serious consideration to the possibility of a split sentence before members of the Joint Committees on Corrections and Juvenile Justice. At that time, none of the more than 135 offenders receiving SB123 Drug Treatment in Salina, Abilene and Junction City had been revoked to prison. More recently, Patty Biggs, the Executive Director of the Kansas Sentencing Commission related to me that their overall reports from journal entries received as of 12/31/04 revealed that only 6 of 735 SB123 clients had been revoked and sent to prison, despite what she considers very "tight" language in relation to revocations. (Please see HB2231: a smart on crime initiative attachment with other facts and figures related to SB123 outcomes). Proportionately, there does not appear to as much data coming in from Wichita and other metropolitan areas like Johnson county. The reasons for this could possibly be related to case backlogs in the more populated courts.

The stronger arguments against taking the next step with SB123 are in relation to lack of data to support this. While this may be partially true, two things we know for sure are that the initial data powerfully supports this legislation, and that prison do not work as a long term solution to treating drug addiction. We have also heard that SB123 funding was cut by the Governor, but Patty Biggs says this is not the case, and that they have the funds and are actually in are in the black on their projections at this point in time. Another factor that should receive serious consideration here is that the Kansas Department of Corrections has invested considerable fiscal and human resources in training over 300 drug and alcohol counselors to facilitate the SB123 drug treatment program. But to date, at least in Wichita, there is a lack of SB123 clients to fill the slots.

Another concern is the plea bargain issue in relation to some drug use offenders pleading down from a greater offense(s). We believe this is being addressed through judicial review with input from prosecutors in each case. Due to concerns of this nature, some will not be granted a court hearing. Some of this responsibility also belongs to those prosecuting the case and their decisions to accept these plea bargains. Regardless, if someone is truly open to change, and does not pose any threat to public safety, should we not provide them the opportunity considering that other alternatives may be both ineffective and costly? We believe that once you hear the facts and testimony on the related issues before you, you too will agree that we can no longer afford to maintain the status quo with low-level, non-violent drug use offenders in Kansas prisons. The time has come for us to something about this by voting yes for the very responsible legislation called for in KS HB2231.

I believe that we not only have a drug problem in this county, but as much or more so, we have a problem with the way we treat people with drug problems. I think this may in large part due to the fact that this a relatively new phenomena. It appears that policy makers initially felt we could punish and incarcerate our way out of the drug problem. But now that this tough on crime approach in relation to many low-level drug offenders/addicts has proven largely ineffective, and too costly for many states, they are now rethinking their tough on crime approach in favor of the "Smart on Crime" approach. Having said that, I would like to add that intervention could very well be a part of that. It was one of the best things that ever happened to me. Spending 10 years in prison removed me from my lifestyle, associates and addictions, and forced me to take a hard look at myself and become accountable for my actions. Even though it was past the point of

diminishing returns, the intervention of prison was a most essential element of my personal transformation. I believe my experience directly relates to the population of drug use offenders we are looking at with HB2231. There are more and more studies that purport this.

In 2003, the Center for Alcohol and Substance Abuse(CASA) published the results of their 5 year evaluation of a Drug Alternative To Prison (DTAP) program in Brooklyn, New York. In this study, funded by the National Institute on Drug Abuse (NIDA), drug offenders were required to plead guilty to a felony plea, thus establishing the certainty of prison as a punishment for those who dropped out of the 15 - 24 month DTAP residential drug treatment program. The program was open to addicts who repeatedly sold drugs, but had no history of violence or severe mental disorders. The DTAP participants were measured against another comparison control group who received no drug treatment while in prison. Their re-arrest rates were 26 percent lower and re-conviction rates 36 percent lower than the comparison group two years after leaving prison. They were 67 percent less likely to return to prison than the comparison group in that time. They were three and one-half times likely to be employed than their counterparts. The study concluded that DTAP is a promising example of what law-enforcement and corrections can do to reduce the number of addicted drug offenders in America's prisons. (There are several other related studies that support this same type of approach either attached to and following this testimony).

The same holds true here in Kansas. Before my initial testimony on this legislation, I contacted Les Sperling, the Executive Director of Central Kansas Foundation for Drug and Alcohol Dependency in Saline County. He related that aside from the tremendous outcomes, the thing he was most excited about was the improved communication between providers in the community and the criminal justice system, in particular, judges and community corrections. He said their regular ongoing meetings help facilitate a much better understanding of what's going on with individual clients, and that better supervision of offenders helps them to design more effective future interventions, should that be necessary.

The President of the Kansas County District Attorney's Association presented testimony opposed to SB123 in 2003 that strongly supports HB2231 today. President, John Settle, said in part, "Unfortunately, many of these offenders are not motivated to comply with any conditions of their probation, much less successfully complete a drug treatment program, unless they are faced with prospect of incarceration." I also believe coerced treatment in the face of prison is the way to go, and what HB2231 does. In addition, it takes some people into treatment who actually want to be there, regardless if they were coerced into it or not.

Paul Morrison, Johnson County District Attorney, not only gave testimony in support of SB123, but also the retroactivity of the bill. He said that "SB123 will target a narrow group of drug offenders who are in prison strictly because of drug addiction." What he additionally said then, also applies now. Burglars who use drugs do not qualify. Drug users who have a history of hurting people do not qualify." This coming from a one of the most respected law enforcement men in Kansas, who is also the Vice-Chair of the Kansas Sentencing Commission. Paul Morrison felt that providing meaningful drug treatment alternatives and appropriate supervision for non-violent inmates was appropriate. He believes that reserving expensive prison cells for people that we should be afraid of instead of those we are mad at is responsible legislation that equates to

good policy.

Giving these offenders drug treatment will both save money and insure safer communities with people coming back into our community in recovery. This will decrease drug related petty crimes filling our courts with shoplifters and the like, and costs us all the way from an increase in goods to raising insurance rates. Because most of the matters heard in the Capital come down to the bottom line, lets be a little more specific about some of the cost savings that will be realized with this legislation, and briefly look at some of the more latent benefits to the state of Kansas as well.

While addressing the bottom line in the area of criminal justice, we must first look to the area of public safety. We should note that this is not only being done in role of the courts alluded to earlier, but the Kansas Department of Corrections (KDOC) will provide the initial review. Once these concerns are addressed, we should then examine the bottom line. The Kansas Sentencing Commission recently concluded their Impact Study on HB2231 and estimated there administrative, personnel, treatment and complete implementation costs to be around \$3,000,000. The KDOC's Impact Statement projections were close to the same with providing assessment and supervision of the offenders who would be released under HB2231. The KSC's treatment costs were derived by estimating a cost 20% higher than the average cost for treating the highest level offenders under SB123. This amounts to \$5,468.40 per offender, and is where I derived my one-quarter to one-tenth the cost of incarceration ($\$5,468.40 \times 4 = 21,873.60$) referred to earlier in this testimony and in attachments. Based on the studies alluded to earlier in relation to better outcomes with this population, I believe there will be a surplus in relation to these high-end treatment costs estimates, and that we will see many fall under the one-tenth category, which is \$6 a day for treatment as opposed to \$60 a day for incarceration.

The KSC numbers from their impact statement consider that 75% of those eligible for treatment, will in the end receive it, and that 23% of those that do will relapse. So if we safely consider the above numbers (516 x \$20,000) we see a cost savings (\$10,000,000, minus 6,000,000 for KSC & KDOC overhead) that equals \$4,000,000 in the first year alone. This would includes the vast majority of treatment and initial implementation costs for the entire program. What we have not considered is the annual costs of incarceration of these offenders who would have otherwise been serving multiple years on their sentences. In addition, there would be indirect cost savings to the state, such as child support paid, continued employment and taxes paid, less usage of aid to dependent families, less demand on our health care system and more families remaining intact and contributing to their communities. In relation to both manifest and latent costs, the Oklahoma Governor and Attorney General convened a blue ribbon panel to study how much policy makers could save by investing addiction, mental health and domestic violence services. The task force outcomes revealed that \$8 billion dollars in "hard" and "soft" costs associated with these under-treated and unserved areas. (Please see attached article, "Oklahoma Puts Hard Numbers Behind Cost Savings Claim" and link to full study).

However, this issues is not just about the bottom line. It is just as much about politics, or in this case, public perception. Politicians have been quoted in recent years (Rep. Barney Frank, D-Massachusetts) as saying that there is no greater chasm in this country than the one between public opinion and drug policy. Perhaps, as has been suggested, this has to do with politicians'

fear of being viewed as “soft on crime.” But in recent years it appears that the public wants politicians to be “smart on crime” instead, partially because the other approach has drained state coffers with inversely proportionate outcomes.

Evidence of this is contained in Peter D. Hart Research Associates national poll conducted in 2002 shortly after 9/11 to test whether Americans were still in favor of progressive sentencing reforms indicated by polls before then. The results showed even more favorable changing public attitudes toward the criminal justice system with 65% in favor of treating the root cause instead of the symptoms of drug abuse and crime. A more recent poll conducted in May 2004 by the Eagleton Center for Public Interest Polling at Rutgers University found that an overwhelming majority, - fully 4-in -5 (80% to 14%) - support mandatory treatment and community service sentences for low-level, non-violent drug offenders, if such sentences would reduce the amount of money New Jersey spends on corrections.

Closer to home, and relating directly to HB2231, the KSCommission commissioned a poll in 2003 through the KU school of Communications Research Department to explore Kansan’s attitudes in relation to SB123. The poll, which included the retroactivity aspect, revealed that 73% of Kansans felt that “if Kansas could empty 400 - 600 prison beds by using community punishment that includes drug addiction treatment instead of incarceration for possession convictions, then we should do it.” SB123 was modeled after California’s proposition 36 enacted in 2000. Recent studies not only reveal positive outcomes, but a recent poll sponsored by the National Council on Crime and Delinquency found that 73% of California voters would now vote for proposition 36, up from the 61 percent of voters who passed the initiative in 2000. (Please see attachment).

The last and most most difficult objection for me to understand in relation to enacting HB2231 is that it could possibly create the roll back of SB123. This concern appears to emanate from those who still have difficulty accepting the concept of treatment. So lets forget the facts, figures and studies mentioned earlier, and consider the outcome of a recent national poll taken by Faces of Recovery which found that drug and alcohol addiction has effected the lives of 63% of Americans. I believe what Shawnee County Judge Dan Mitchell who handles family related drug cases daily as the magistrate for CINC (Child In Need of Care) cases here in Topeka would be a very credible person to listen to in this area. He very much wanted to testify in support of this legislation today, but the 60 cases he has on his docket would not allow him that opportunity. However, he did grant permission for me to express his views on his behalf. Judge Mitchell said, “ This is a bad utilization of state resources, and it is not helping families or inmates. These people, who are addicts, need treatment, they need help, so they can become contributing members of society.”

I believe that the other concern mentioned above is actually the voice of fear, resistance and change, which can be scary as opposed to the status quo. I also believe that we have to use some discernment and common sense, and that have to listen to those who have been there and overcome addiction, many of those in the field, as well as follow best practices with valid research. In my capacity as a certified Kansas Drug and Alcohol counselor and Coordinator of a youth counseling program in Wichita working with at-risk youth in the field of addictions, I supervise a team of 3 other counselors. We work with 20 - 30 kids and their parents from every

socioeconomic status. On Thursday evening I facilitate a parents group. Sitting in the same room with parents who are doctors to those receiving welfare benefits, I am often amazed watching them be humbled and work together to come to terms with this disease we know as chemical dependency. I am here to tell you that no family or family member is immune from it effecting their lives. If that happened, I suspect that they would not only want intervention, but also that the human dignity of their loved one(s) be preserved.

HB2231 is fair and equitable legislation that holds the offender accountable, as well as the state, with utilization of the most effective and efficient use of our limited resources in regard to low level, non-violent drug use offenders. Many of them and their families have suffered the torment of separation long enough. It is time to demonstrate some fiscal and social responsibility by offering these individuals an opportunity to receive help at one-fourth to one-tenth the cost Kansas taxpayers are now spending annually to incarcerate them. I believe your job as members of this committee is to see that the punishment fits the crime. In the majority of cases involving those incarcerated in Kansas prisons for drug use crimes, it does not. It is almost entirely punitive. In far too many cases, it is not serving the state, the offenders or their children and families. Thank you for your vote in support of this most important legislation. If you have further questions, please feel free to contact me.



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HB 2231: a smart on crime initiative

WHAT HB 2231 DOES

- HB 2231 allows current prisoners convicted of drug use offenses, with no prior history of violence, to petition their sentencing court for a hearing on whether they may be released into a 12 to 18 month drug treatment program for the remainder of their sentence.
- The bill combines long-term supervision with compliance in mandatory treatment. Community Corrections would assess and determine both the appropriate level of treatment and supervision. Those who fail drug treatment return to prison without receiving any credit for time served in treatment.
- HB 2231 provides for a split sentence. It is NOT a retroactive provision re-sentencing individuals under SB 123.

FISCAL IMPACT

- There are an estimated 516 people eligible to petition their respective courts for treatment.
- Those in prison for drug use offenses can receive treatment for one-quarter to one-tenth the annual cost of incarceration under this bill, while greatly enhancing their chance for success, thus reducing recidivism, without affecting public safety.
- Kansas now spends millions on incarcerating these low-level, nonviolent drug offenders, while investing little, if any, in drug treatment to reduce recidivism and enhance public safety. Those convicted for drug use crimes after July 1, 2003, are serving much shorter sentences than those serving convicted for the same offenses prior to July 1, 2003. This uses expensive prison bed space for the lowest level, nonviolent drug offenders.

PUBLIC SAFETY

- The bill makes public safety a priority. The Kansas Department of Corrections would retain jurisdiction and control over the individual.
- Under this bill, prosecutors can raise issues of concern, such as whether the current sentence was imposed after a plea to a lesser drug use offense. The bill permits judges to consider a person's prior record when deciding whether to grant a hearing.

OVER

FEDERAL AND STATE AFFAIRS

Date 3-15-05

Attachment 6

TREATMENT

- The Kansas Department of Corrections has invested tremendous fiscal and human resources training over 300 drug and alcohol counselors in the SB 123 drug treatment program. There are numerous slots available for SB 123 clients that could serve those eligible under HB 2231.
- SB 123 works! Kansas Sentencing Commission records show that of the 735 SB 123 clients in treatment through Dec. 31, 2004, only six people have been revoked and sent to prison. A treatment facility in Saline County operating offices in Junction City and Abilene reports that NOT ONE of their 135 SB123 clients have been re-incarcerated. Treatment is a smart investment in public safety that keeps on paying!
- Research shows that people who receive drug treatment as a condition of release have much better outcomes. (Bureau of Prison Residential Treatment, 2000 & Drug Treatment Alternative to Prison, 2003)
- Children who have parents in prison are five times more likely to be incarcerated themselves. Giving low-level drug offenders with drug addictions longer prison stays without receiving treatment is perpetuating the cycle of incarceration. It also unnecessarily places heavy fiscal and social and burdens on the state and family members, often grandparents, left to care for the children.

PUBLIC SUPPORT

- According to a statewide survey conducted by the Kansas Sentencing Commission in 2003, 72 percent of Kansas citizens believe that we should empty 400-600 prison beds by using community punishment that includes drug addiction treatment instead of incarceration for drug possession convictions.
- A recent poll sponsored by the National Council on Crime and Delinquency and conducted by the Field Research Corporation, reveals that 73 percent of Californian voters would now vote for Proposition 36 (which SB123 was modeled around), up from 61 % of voters who passed the initiative in 2000.
- In 2003, Michigan authorized early parole eligibility for up to 1200 prisoners serving long mandatory minimums for more serious controlled substance offenses without negative political repercussions. The press estimated savings in the first year alone of this and other early parole provisions in the package at \$41 million. The measure passed with overwhelming bi-partisan and public support.

*For more information contact Peter Ninemire, Organizer, Kansas FAMM,
via email at pj9mire@sbcglobal.net or call (316)651-5852*

February 2005



Families Against Mandatory Minimums

F O U N D A T I O N

KS HB2231

(Rep. Bill McCreary – R-Wellington, Sponsor)

- HB 2231 relates to the non-prison sanction of a certified drug treatment program for persons who were convicted of a felony drug violation on or after July 1, 1994, but prior to July 1, 2003.
- Qualifying persons may have their sentences for such convictions modified to be subject to mandatory drug abuse treatment programs instead of incarceration.
- Department of corrections shall review and prepare a report on all imprisoned inmates who were convicted of a felony violation between July 1, 1994, and July 1, 2003, and have greater than 180 days left to serve on their sentence before their initial release date
- Reviews by DOC will occur according to security classification. Reviews of minimum security inmates shall occur within 60 days of effective date of the act. Reviews of medium security inmates shall occur within 90 days of effective date of the act. Reviews of maximum-security inmates shall occur within 120 days of the effective date of the act.
- The department shall also submit a report on all inmates who are condition probation violators within 90 days of the effective date of the act, and on condition parole violators or post-release supervision violators within 120 days of the effective date of the act.
- The burden of proof will be on prosecution officer to prove that a person is not eligible for such modification of sentence. In such cases, the prosecution officer must request a hearing within 60 days of the issuance of the department's report.
- Eligible offenders shall have 60 days from the issuance of DOC's report to request a hearing in the sentencing court. Once the request is filed, the sentencing court shall have 90 days from the receipt of the request to have a hearing and make a ruling. A public defender or an assigned counsel that is contracted with the Board of Indigents' Defense Services (BIDS) shall represent the offender.
- The court shall determine whether the offender would not jeopardize the safety of the public if a sentence were modified.
- All offenders who have a sentence modified shall be under the supervision of community corrections.
- According to the Kansas Sentencing Commission, there are 516 offenders who would currently meet the eligibility criteria for the drug treatment program under this legislation.

If possible, please take time to review summary of other related studies below and related links contained in the following attachments.

The federal Bureau of Prisons' (BOP) Residential Drug Treatment program is similar to the Drug Treatment Alternative to Prison (DTAP) program in Brooklyn, New York (from testimony) that the National Center on Substance Abuse and Addiction (CASA) evaluated from 1998 - 2003. In 1996, Peters, Wallace, Oneil, et al, conducted a study on whether or not this program reduced substance use and arrests after release. Outcomes were measured by first occurrence of an arrest in the category of re-arrest, and first positive urinalysis relating to illegal substance use. This limited the outcome measure to individuals who received urinalysis testing. The study satisfied the hypothesis that individuals who received and completed in-prison treatment would have more favorable outcomes than those who never received treatment. Approximately 12% had at least one arrest for a new offense during the 6 months post-release period and 29 % had evidence of substance use during the that same period. *Overall, those who completed drug treatment were 44% less likely than the comparison group of those who had not received treatment or completed treatment to use drugs within the first 6 months after release.* Substance abuse also correlated with increase in arrests for the subjects who tested positive with a drug screen.

I believe the case of Marina Monaco whom you will hear testimony about relates to the above. So far, she has served 8 years for her third drug possession charge, all involving less than \$50 worth of drugs. Aside from being the mother of three teenage children, as it stands now, if we do not enact this legislation, she will serve another 4 years in Kansas prison and never receive any drug treatment. Studies show that these long prison stays for drug addiction and use related crimes are counterproductive.

Inmate Treatment Program Reduces Recidivism, Restores Lives. (1/17/2005)

<http://www.jointogether.org/sa/action/dt/news/reader/0,2812,575558,00.html>

Illinois Sheridan Correctional Center has created an intensive prison treatment program that one expert believes could be a national model, the Chicago Tribune reported on January 3. Each week, Sheridan officials work with outside organization to give inmates nearly 50 hours of drug and alcohol counseling and other therapy sessions, education , job training, and additional skills to prevent recidivism. According the a report on 150 inmates by David Olson, professor of criminal justice at Loyola University, 12 percent were re-arrested compared to 27 percent who had served in other prisons. When inmates spent at least 7 months at Sheridan, none was re-arrested compared with 20 percent from other prisons serving that same amount of time. Olson conducted the study for the Illinois Criminal Justice Information Authority, a state agency that analyze crime statistics and trends. *(Please see more details in attachment)*

This might also be useful **Oklahoma puts hard numbers behind cost-savings claim.**

<http://www.jointogether.org/sa/news/features/reader/0%2C1854%2C576367%2C00.html>

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Okla. Puts Hard Numbers Behind Cost-Savings Claims

3/4/2005

News Feature

By Bob Curley

A blue-ribbon panel convened by Oklahoma's governor and attorney general has put on paper what advocates have been telling policymakers for years: investing in addiction, mental-health, and domestic-violence services can save taxpayers billions of dollars each year.

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The task force last month issued a 31-page report (click [here](#) for a copy in PDF format) that details \$8 billion in "hard" and "soft" costs associated with untreated, under-treated, and unserved addiction, mental health and domestic violence. The groups also makes five key recommendations for addressing what the panel called "an escalating health and public-policy crisis which, if not dealt with soon, will deepen in both intensity and gravity."

The task force called for:

- making prevention, early intervention, treatment, and recovery-support services available to those in need
- identifying people in the criminal-justice system with addictions and major mental illnesses soon after their entry, with referrals to more cost-effective programs to treat, monitor, rehabilitate, and supervise these populations
- establishing minimum state standards for mandatory training of addiction, mental-health, and domestic violence service-providers
- increasing the number of trained professionals and paraprofessionals working in these fields
- further study of the needs of offenders and others in custody who need addiction and mental health services, as well as improved data collection on sexual assault.

The report noted that addiction, mental health, and domestic violence account for half of all state expenditures on criminal justice, and 11 percent of healthcare costs. The task force boldly endorses full parity for addiction and mental-health services; expanding drug courts; raising alcohol taxes to expand addiction treatment capacity, especially for pregnant and parenting mothers; and adding up to 200 adolescent treatment beds (currently, there are just 22 state-paid adolescent treatment slots in Oklahoma).

The report estimated direct costs (defined as cash expenditures directly or

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FEDERAL AND STATE AFFAIRS

Date 3-14-05

Attachment 7

indirectly caused by behaviors related to mental illness, substance abuse and/or domestic violence) total \$3.4 billion annually, while indirect costs (the economic impact of lost productivity due to premature death, incarceration and other reduced productivity through failure to complete education and training programs) totaled \$5.5 billion. "We've known for a long time that this is costing us far more not to deal with it," said Jeff Dismukes, director of communications and public information for the Oklahoma Department of Mental Health and Substance Abuse Services.

Direct costs alone amount to \$1,000 for every Oklahoman, Dismukes noted. In the past, advocates were sometimes criticized for citing "fluffy" numbers when arguing for a policy shift toward treatment and prevention, he said, but the task-force report seems to be changing some minds.

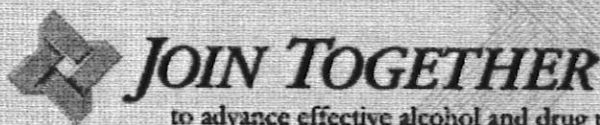
"We've gotten a fairly positive reaction to [the report]," he said. "Many people didn't realize it was that bad. It's making a difference in the legislature because we are able to point to these numbers ... We don't have to reprove anything. The information is down there; now, let's go forward."

Dismukes predicted that the report would carry some weight with state lawmakers since it bears the imprimatur of both Gov. Brad Henry and Attorney General Drew Edmonson. "The legislature has been very supportive of us over the past few years," he said. "The state budget has shrunk, but they've mostly held us harmless."

Supporters of the task-force recommendations hope they can accomplish many of the goals by reallocating existing resources, particularly within the a criminal-justice system increasingly overburdened by demand for space and services. "They can't keep going the way they're going, and they know it," said Dismukes.

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Inmate Treatment Program Reduces Recidivism, Restores Lives

1/7/2005

Illinois' Sheridan Correctional Center has created an intensive prison treatment program that one expert believes could be a national model, the Chicago Tribune reported on January 3.

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Each week, Sheridan officials work with outside organizations to give inmates nearly 50 hours of drug and alcohol counseling and other therapy sessions, education, job training, and additional skills to prevent recidivism.

According to a report on 150 inmates by David Olson, professor of criminal justice at Loyola University, 12 percent were re-arrested compared with 27 percent who had served in other prisons. When inmates spent at least seven months at Sheridan, none was rearrested compared with 20 percent from other prisons serving that same amount of time. Olson conducted the research for the Illinois Criminal Justice Information Authority, a state agency that analyzes crime statistics and trends.

"It tells us clearly that it's working," he said.

While Christy Visser, principal research associate at the Urban Institute, cautions officials to involve communities to help with jobs or continuing treatment, she said "I think the project is really combining a lot of what we know works in one place. I see this as a model for the rest of the country."

Anthony Edwards, now 33 and out of prison, had been behind bars six times on charges of theft, drug possession and other crimes since he was 15. Since leaving jail in September, he has maintained a job as a warehouse worker, reunited with his two children, and is enrolled in community college.

"If the program wasn't offered, I would still be out on the street thinking that I could get different results from doing the same thing," said Edwards, who spoke Monday at the facility's one-year anniversary ceremony.

State officials hope to help 1,700 men sentenced to prison on drug-related crimes, which will make Sheridan Correctional Center the country's largest prison dedicated exclusively to drug offenders.

Take Action: Requiring effective treatment and continuing, supervised aftercare programs instead of incarceration for non-violent drug and alcohol offenders is among Join Together's [10 Drug and Alcohol Policies That Will Save Lives](#).

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FEDERAL AND STATE AFFAIRS

Date 3-14-05
Attachment 8

Honorable Members of This Committee:

Good afternoon. My name is Angelina Monaco. First, I would like to thank you for the opportunity to address this committee concerning this matter. It is a subject that is very close to my heart, because it affects someone that I love very much, Maria Monaco, my sister. She has struggled with an addiction problem in her life. Her addiction has been a great detriment to her, as well as the rest of our family.

I am very pleased at the prospect of HB2231 giving our family some much needed relief for an otherwise hopeless situation. Our family, and intelligent tax-payers, would prefer to see our money spent helping drug addicts receive the tools they need to become productive members of society. It advocates for allowing people like Maria, that are currently incarcerated, to have the opportunity to go to a treatment program, instead of leaving them in prison for the remainder of their lengthy sentences.

It is not a general free for all for every drug offender to be released onto society. Only qualified inmates will be eligible. They would have to petition their sentencing judge, and would be subject to judiciary and prosecutorial discretion to even receive a hearing. They would have to be non-violent offenders that were only guilty of possession, and did not plea-bargain down from a more severe offense like manufacturing or distributing. Plus, if they are unsuccessful in the treatment program, they will have to finish out their original sentence.

So far, there have been over 700 in the state that have gone through a similar program that is available to new offenders with possession charges, and of those that have participated in this program, only 6-7 have had to go to prison. One of the strongest objections to taking this approach with people that are already incarcerated is that they don't have enough data from this program, which stemmed from SB123. But the data that we do have on our side is amazing. How many things can you think of that 700 people have done, and only had a 6-7 person failure rate? Consider the success rate that prison without treatment has had.

At some point, all of the drug users that are incarcerated will be released back into society. Isn't it better to give them the tools they need to keep from going back? People like Maria would much better serve our society out of prison, than in, and they should be given the same opportunity that current offenders are being given. It's only fair! Plus, the savings to the state is remarkably outstanding as far as the cost of treatment verses incarceration. There is currently no drug treatment available to Kansas' inmates, thus perpetuating the cycle of failure, because the time spent in prison doesn't give inmates the tools they need to be successful upon their release.

It's a no-brainer! Most of the state representatives that I have spoken with are very receptive to such a program, but there have been a few that met the prospect with resistance. I believe they are scared to death of political suicide. They don't want to appear soft on crime. They assume that the public is so stupid that they would prefer an

FEDERAL AND STATE AFFAIRS

Date 3-14-05

Attachment 9

ineffective punitive system that does nothing to prepare for successful reintegration upon the release of inmates, which is extremely costly and cumbersome.

This legislation would potentially effect approximately 500 inmates. With that kind of an impact, we wouldn't be in the dilemma of where to put the violent offenders that we don't have room for, because the system is flooded with drug offenders with lengthy sentences. The people of Kansas just aren't that stupid. Lock the ones up that are going to steal, rape, and kill, and give the ones with a problem with addiction a chance to change their life and become productive members of society.

In my family, Maria being in prison has imprisoned a whole community of people that love and need her, and can't have her as a regular part of their lives. Just think how many people this will truly affect. It's not just the 500 or so inmates, but their loved ones as well. Just think of the number of children that the state is supporting because they have taken their parent, as in the case of Duston, my sister's youngest child. He has been without his mother for over half of his life. If she remains incarcerated, she will have been gone from the time he was 8 until he is 20. And many other inmates also have more than one child in such a situation, as my sister does. It is the state of Kansas that has to foot the bill for the care of the orphans of addiction. Also, statistically, the longer Maria and others are incarcerated, the more likely it is that this cycle will be perpetuated by the children following in the footsteps of the parents.

There is plenty to say in defense of our position, and very little reasonable retort. Some who have personal experience may point out the disparaging difficulty that a relative of an addict has to endure, showing that substance abuse is not a victimless crime. My family and I completely understand that perspective. Addiction is a poison to the entire family if even one member gets caught up in that cycle. I came from a very dysfunctional home. My dad had alcoholic binges. My brother is an alcoholic, and my sister was severely addicted to drugs. I have longed to understand why someone would make such stupid, self-destructive choices. I have wondered why someone would be so selfish in their pursuit of a high that they would have little to no regard for those closest to them. Drugs are a cancer in our society.

So many people look to the easy escape of numbing their mind and body to the painful world around or inside of them. They never developed any other coping mechanism to get them through life, and society suffers for it. Even though no one likes prison, in some cases, it is very necessary. In the case of my sister, prison was probably the best thing that ever happened to her, for all of us, to a point. She had gone through life making a series of bad choices that affected everyone around her. The burden of her removal was not much worse to the family as the burden of living with her addiction.

However, over time, my sister began to change. It was a dramatic change that can only begin in her heart. She was humbled. She was selfless. She was patient. She just seemed to be at peace. She realized what really mattered in life, and that drugs only played a destructive part in it. She completely disassociated from her old druggie

friends. She turned so far from addiction that long before it was ever mandated, she even quit smoking cigarettes. I was amazed at the person that she had become. Even though she has made these substantial changes, getting reintegrated into society will have it's own challenges that would be better met by her if she is given the tools that she needs to cope effectively with life, without drugs. That is why I believe she would greatly benefit from a drug treatment program upon her reintegration into society, which is not currently offered to inmates at the Topeka Correctional Facility.

Although prison imparted the reform that it was designed to deliver, my sister has remained there years after the benefits of her prison experience were manifested, because her sentence is a mandatory minimum, since she is considered to be a three time loser. This has become as much of a burden to our family as living with an addict. Our elderly, disabled parents were saddled with raising her three children. It was bad enough that the children had little benefit of their mother in her addiction. Now that we see such a significant change in her, the children have grown greatly resentful to the system that is keeping her out of their lives since her recovery. Missing milestones in their lives deeply hurts them. My niece desperately wants her mom to be there for her graduation. Can you look her in the eyes and give her an acceptable reason why her mom can't be there? Unless something changes, it will just be one more thing that, in her eyes, the state of Kansas has stolen from her, for the sake of the state proving a point.

My sister now has a one year old granddaughter from her oldest son, and I am about to have my first child in May. My sister won't even be able to meet my daughter until she is four years old, unless something changes. Our mom is going to be 70 in May, and our dad turned 83 in December. We all need Maria home. I'm sure there are people that need to be in prison for long periods of time, and even then, often return to society only to return to the same behavior that imprisoned them in the first place, but in the case of my sister, and many others, I believe it is a much different story. When the needs of the family and society are no longer being met by the incarceration of an individual, it seems to me there should be a better alternative. That's why I believe HB2231 should be passed.

You can offer excuses to justify procrastination of passing this bill, and hope that their consolation will alleviate your conscience. However, if you were to truly consider the individuals that are being affected by the resistance to progression, you would only need to think about the isolation that my sister feels from being separated from her family. You would also have to consider the degradation that she is subjected to by having to endure regular strip searches. Would you be so willing to let another day pass by without finding a way to have her safely returned home to you if it was your sister, or daughter, or mother? Keep in mind, she has already had to endure 8 years of this, and is facing 4 more. Her crime was not dealing, manufacturing, stealing, raping, or killing. Her conviction was for possession of less than \$40.00 worth of cocaine that she had for her own personal use, from which she was compelled by her addiction. Can you honestly look this family in our faces and tell us that you believe that her punishment fits her crime?

If you could see the true change her, as we have, wouldn't you want her to finally step up to her own responsibilities, and remove the burden from our family and society that she should be accepting? I hope you understand my family's position in this situation. In the case of our family, this lengthy mandatory minimum has become a detriment, rather than a service, and that is why I feel that in our situation, this lengthy of a sentence was not the best answer. Our family has endured enough punishment, and the tax-payers have paid the price long enough. Now is the time to give her the tools she needs to be successful upon reintegration, and for her to face the normal responsibilities that everyone else in our society has to face, and become a productive member of society.

Thank you for the time you have given me today and thank you for allowing me the time to express myself to you on behalf of my sister and our family.

Angelina Monaco
700 W. Scott Ave.
Apt. 301
Stillwater, OK
(405)227-0998

My name is Ami Watts. I am a 31 year old recovering addict. I celebrated 10 years clean and sober on January 19th 2005. I have a personal and professional interest in seeing this bill pass. Throughout my life I have experienced first hand the destruction that substance abuse causes. I was raised by parents who were addicts, I was an addict myself and now I have been a counselor for nearly 9 years where I am honored to be a part of the process of helping other women with a drug addiction take their lives back.

My interest in the SB 123 increased after I was lucky enough to witness first hand the significant life changes that were made in three women that came to my program under this bill. One of these women recently celebrated her 1 year sobriety birthday. Another is due to celebrate her 1 year birthday in the next month. And another who has 10 months clean and sober who will be testifying in front of you today. She has been an inspiration to her peers and to all that meet her. I have had such a great opportunity to work in the field of addiction, helping others receive the same treatment and information that I received that transformed my life. I am living proof that treatment works. I feel incredibly blessed that I have been able to see the success that has come to these women because someone decided they were worth a second chance. Sometimes that all a person needs, is a chance and someone to believe in them.

I also have a story of how incarceration without treatment does not work. Just 2 years ago my son's father who was an addict, overdosed and died. That day I made a vow to God that I would do what ever I could to ensure that no other child would have to watch their parent die as a result of this disease. That is why I am here today. I have seen first hand the positive results of SB 123. When I see a child climb on the lap of his mother, and I see the pride in their eyes when they know their parent isn't high anymore I know this is working. My child will never experience those things. His father died in his addiction not long after being released from prison.

Wyatt went to prison to serve out a four and a half year sentence for involuntary manslaughter. He was assessed in prison as NOT needing substance abuse treatment, even though he had a rap sheet that was nothing but drug related charges and he took a life while under the influence of meth and alcohol. He was released Nov. 2001 after receiving no treatment for his drug addiction. He was placed on parole and returned to the environment that he used in. He was given a female parole officer that came to see him in the home because he couldn't drive (he lost his license due to multiple DUI's). It was not long before he returned to active addiction. By March of 2002 he was using meth on a regular basis. By April of 2002 he was manufacturing meth and by June of 2002 he had his parole revoked. Wyatt was put back in prison for 3 months and was released in September of 2002. He had still not received treatment for substance abuse or counseling for the fact that he had taken a life. Wyatt returned immediately to active drug use and manufacturing meth.

Even in the depths of Wyatt's addiction, he was a good dad. He always managed to go to my sons football games, help him with homework, he made jokes that made my son belly laugh so hard that the whole room would be laughing, he played video games with him, he would take time to help my son practice pitching when he was in baseball, he took him fishing and camping, he talked to him about not doing drugs, because he did not want his son to turn out addicted like him. Despite Wyatt's history he was a charismatic, humorous, loving father, son and friend. He was lost and he had no hope. That lack of hope was intensified when he was assessed as not needing treatment, he believed that he was beyond help after that. So, he just kept using, until January 14th of 2003 that is. When Wyatt overdosed on methamphetamines. He was in the hospital brain dead for until January 17th of 2003 when his mother, father, siblings, myself and MY SON had to make a decision to take him off of life support. This decision came after days of listening to my then 13 year old son repeat over and over again "dad, dad, dad, wake up dad". Over and over for days. He cried and begged his dad to wake up. He never did.

My son came to me during this time and told me that his fathers condition was his fault. I of course asked why in the world he would feel that way. He said to me " I have been giving dad my pee". He said "I knew it was wrong, but I didn't want dad to go back to prison". Due to the fact that Wyatt's parole officer

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could not observe him giving a urine sample because she was a female, he managed to collect urine from Jake and give it to her for testing. He managed to use drugs and went undetected for months before he died. This was not the first time that Wyatt went undetected. He had managed to slip through the cracks many times. He had a long history of drug charges, he completed jail time or probation, and did not have the opportunity to participate in a program like SB 123, he just did his time only to return to the same way of life. His drug addiction led to the loss of a young mothers life, the pain that her children must face after losing their mother and this time my son's life was forever changed due to the fact that his father had a drug addiction that went untreated. Jake won't ever belly laugh again with his dad. He has someone else's dad helping him practice his pitching. He won't ever look up after a play on the football field and see his dad cheering. His dad isn't there when he wants to talk with him, he goes to a cemetery and talks and cries to a pile of dirt. I could go on and on about everything that my son lost when his father overdosed on drugs. Wyatt had legal charges throughout his life that if used to initiate treatment for his disease may have ended with the outcome being significantly different.

I witness on a daily basis people enter in to a treatment program and completely turn their lives around so that their children don't have to go down the same road that they did. I have seen some of the most hopeless people become amazing inspirations. Treatment saved my life and the lives of many people.

Treatment reduces the chance that people will die in addiction, it reduces the chance that children will repeat this deadly and destructive cycle, it rebuilds lives, treatment makes it possible to live a normal and productive live, treatment restores hope to people who have become addicted to drugs for one reason or another.

These people that are addicted to drugs have indeed broken the law, they have been a drain on the system, they have hurt people, lied and become something they could have never imagined. Incarceration rarely transforms these people in to productive members of society, dependable employees and loving parents. But, treatment does.

Please take this matter in to your heart and help to transform the lives of these people so that we can stop this vicious cycle of drug addiction which leads to all of the things that we are as a community trying to end, such as, the break down of our family values. You can make a difference in the lives of children.

DONALD BETTS JR.
 SENATOR 29TH DISTRICT
 SEDGWICK COUNTY

STATE CAPITOL BUILDING
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 TOPEKA KANSAS 66612-1504

(785) 296-7387 • 1-800-432-3924

1505 N. MATLOCK DR.
 WICHITA KANSAS 67208
 (316) 393-9203



COMMITTEE ASSIGNMENTS

RANKING MINORITY MEMBER: • ELECTIONS & LOCAL GOVERNMENT
 MEMBER: • WAYS & MEANS
 • JOINT COMMITTEE ON ADMINISTRATIVE RULES & REGULATIONS
 • JUDICIARY

Representative Siegfried, Committee Members,

The prison system was established with the specific purpose of punishing an individual for their crimes. This concept has worked for the State of Kansas for many years, but has cost taxpayers millions. Currently those individuals that have been incarcerated as a result of drug use obviously have a problem. The policy of Kansas should be a smart on crime approach that prepares individuals to be productive citizens once released.

Eventually, these individuals will be released from prison. With our recidivism rate at 70%, most of these individuals will return. Why? Because the prison system was meant to punish, and not rehabilitate, we have failed to apply corrections component. Are we spending taxpayer dollars as efficient as possible? Are we saying that it is ok to release prisoners back into the community without any rehabilitation or training? With the current practices of Kansas's prisons, that is exactly what we're doing. Taxpayers are living with the belief that sending a person to prison will correct them upon release. Are we deceiving the public's understanding of "corrections?"

House Bill 2231 will implement policy that will "correct" the problems that we see with our "corrections" system. This bill will send the message to our taxpayers that we are working smarter and harder, to see that these persons upon release are being "corrected", and rehabilitated.

Mr. Chairman and Committee Members, I ask that you support this correction to our corrections system by implementing HB2231.

Respectfully,

Donald Betts Jr.
 Senator, 29th District

FEDERAL AND STATE AFFAIRS

Date 3-14-05

Attachment 11

My name is Tayna Kincaid I'm 28 years of age and a mother of two. I currently have 10 months clean, which I never thought would happen. I was addicted to meth pot and alcohol. I used each of these substances on a daily basis. I lived and breathed drugs I woke up high and went to sleep high, if I slept at all. I would pay people to take care of my children with drugs so I would be able to do what I thought I needed to do. I stole for my dope and I lived on the streets hustling. I was sure there was no other way and I had to survive.

I come from a family of addiction and I never knew any other way of life. My parents are still in active addiction today. When I was 9 years old my mother gave me my first beer. At 14 years of age I started smoking pot. I was 18 years old when I did my first line of methamphetamines. I thought that was the way life was supposed to be and I never knew anything different. Everyday of my life was centered on using substances. My birthdays were celebrated with drinking and using drugs together as a family. I was 15, 16, 17 years of age when this occurred. This was normal in my life.

Several years I used with my parents and this was okay. After I had my children there were times when my mother would not offer me any help unless I had drugs or something to offer her. I remember several times when I did without because of this way of life. Today I love the fact that SB123 has opened a door to allow me to change my life and the future of my children.

I have been in and out of jail and although it wasn't for a drug charge it had always been centered around it. Everyday of my life was about drugs. In my heart I always wanted something different. When I had my kids I felt hopeless and I did not know how to change. Today I have a different perspective on my life. I have been in prison and to several treatment facilities in the past 8 years. I never thought I would get the chance to live my life clean and sober. This last time when I was in jail I didn't believe I could live my life any different and I was ready to give up and go to prison. I never thought that I would be given a chance.

Then an opportunity was put in front of me. They told me I could go to treatment and live a different life. To be honest I did not believe I could live life any other way than the way I was taught. With the Senate Bill 123 people who believed in me and were willing to give me a chance also gave me hope, and although I did not believe in myself someone did. I can remember crying out to God to please help me that I wanted something different. I guess he heard me the day I stood in front of the judge. I just knew that I had lost 5 years of my life because of my addiction. In reality I was given my life back. A miracle happened and I was given a choice, a choice to live my life right that was the Senate Bill 123.

Since then I have become an associate manager at Sonic. I have healthy relationships with people in recovery and my children have faith in me and trust in me for the first time. Today I can provide for them because of the choice I make. My relationship with my children has been a big encouragement. I don't want them to see me the way I saw my parents. To me this bill is a tool I use in my daily life to help me learn a better way to live. I go to treatment once a week I pay my bills on time and I'm looking for my own home, which is an opportunity, I haven't had since 1999. Today I'm a friend, a mother, an employee, and a daughter, not just an addict.

I owe a lot to the Senate Bill 123 because without it, I would be in prison. Each day I wake up I have a choice, a choice to live. I'm learning a new way of life today and each day I'm more grateful for this opportunity. I have wasted a lot of my life using drugs. Today I know the consequences for my actions. I know something else through this program, I know that life can be something completely different and I have that choice. Today I have the chance to meet other women who are trying to change their life so their children won't live the same life we have. Everyday I have a chance to surround myself with caring and loving people who are just like me and need someone to believe in them. It hasn't been easy to do, but my life today is better and more positive. For that I'm grateful. I'm very thankful to this program it has saved my life. Thank you for giving me the opportunity to tell you my story and how Senate Bill 123 has helped me.

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Since I started working in the reintegration field I have seen many lives changed for the better. I am not saying that everyone that I have worked with has found recovery but we have made a significant difference and over the last year I have seen that whether or not my Clients find recovery has a lot to do with the way we run our program. Mainly in the area of program structure, if we structure the clients freedom to the level of trust that they have earned, we as providers can better help them to find stability in their recovery by allowing them to earn this trust, and in earning this trust the client has something invested in the freedoms that he has earned rather than just having something given to them. Where as just sending them home after inpatient treatment does not give the client time to put what he or she has learned in to practice and instead of using the new tools that they have learned to cope with situations that arise, they turn back to their drug of choice. But if they are placed in a half way house or a reintegration program when these situations come up, staff on duty or their counselor can listen to them and help them to work through their problems by putting to use what they have already learned. By doing this for a period of time the client begins to use these tools on their own. In the reintegration program that I run, which is a minimum of 90 days and a maximum of 180 days, clients are not allowed to come and go as they please, for the first 30 days, everywhere they need to go, they are accompanied by a staff member. If the staff goes somewhere the client has to go with all of the rules, then they will earn the privilege to go to and from meetings and appointments without our staff. Also, during the first 30 days, Monday thru Friday staff then takes the client to apply for employment. This ensures that the client is looking for work and not spending time in any unhealthy ways. Our program also helps clients during this time to obtain anything that they may need to start work such as ID, SS card and birth certificates, which many of the clients I work with do not have. I have seen many of the clients that I work with pay off large amounts of fines to gain back their driving privileges and make restitution to the courts for past or current transgressions. Most recently I have seen two clients graduate our program totally paid off and released from corrections. Clients in the house are also required to complete a minimum of 10 hours community service per week at some form of non-profit organization, such as United Way. Reintegration consists of a lot more than just monitoring clients, we also communicate with intensive outpatient counselors, community corrections and previous inpatient counselors to better the overall care provided. We provide community corrections with weekly progress notes; hold a monthly wrap-around meeting to further access current status of the clients and to set future goals in many different aspects of client growth. Our goal is to fully reintegrate each of our clients into sobriety, as a fully functional, tax paying citizen , in the great state of Kansas. I truly believe that this goal can and is being accomplished through the SB123 program. The only barrier I personally have seen that is hindering me of performing this task is that there is not enough funding provided for the reintegration program which I personally see as an extremely important part of our client's recovery and reintegration into society. More funding would help us to provide more services and help us to hire more staff to provide these services. On page two, I have provided a list of some of the services that we currently provide our clients at the Fireside House Reintegration facility.

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Attachment 13

Transportation to and from community corrections, CKF intensive out patient program, doctors appointments, job hunting, etc.

All meals including breakfast which is prepared by staff, a sack lunch to take to work or hot lunch if client has not obtained a job and dinner which is prepared by staff and clients in an evening cooking class.

Laundry facility which includes all supplies needed.

Morning group session called positive beginnings which is a discussion on a reading from the book Just for Today.

Evening group called planning ahead which is a group discussion of the next days events in a discussion of the events of the day before.

All utilities.

Individual counseling.

All linen needs.

All hygienic needs.

Clothing for those in need.

Weekly UAs.

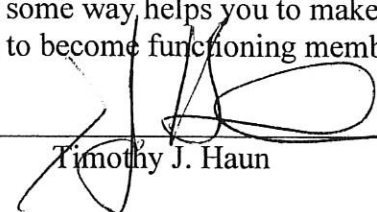
Cable television.

Conflict resolution training.

And much more.

I truly hope that this testimony in some way helps you to make decisions to better enable people like me to help our clients to become functioning members of society.

Sincerely,



Timothy J. Haun

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LEGISLATIVE TESTIMONY

TO: Chairman John Edmonds and Members of the House Committee on Federal and State Affairs

DATE: March 14, 2004

SUBJECT: HB 2231

Mr. Chairman and Members of the Committee, my name is Dan Hermes and I represent the Kansas Association of Addiction Professionals (KAAP). In addition, I represent several organizations that provide substance abuse service to the offender population. Members of KAAP provide over 85 percent of the treatment services for offenders sentenced under 2003 SB 123.

I appear today in support of the recommended alternative sentences for selected offenders incarcerated in our state. The research is in; treatment of drug offenders is more effective than incarceration in reducing crime. Additionally, our experience with the alternative drug sentencing program from 2003 SB 123 has demonstrated that both the community correction and treatment programs have the necessary infrastructure to carry out the provisions of HB 2231.

In addition, it has been demonstrated to cost less than half than incarceration. According to the National Center on Addiction and Substance Abuse (CASA) at Columbia University, drug-addicted, non-violent felony offenders with five prior drug arrests and an average of four years behind bars achieved significantly lower recidivism rates and higher employment rates through a drug treatment program than comparable offenders that were sent to prison. These results were achieved at about half the cost of incarceration.

This five-year study of a program in New York, similar to the treatment required for offenders identified as eligible under HB 2231, found that participants who completed the program were 33 percent less likely to be rearrested, 45 percent less likely to be reconvicted, and 87 percent less likely to return to prison. In addition, program participants were three and one-half times more likely to be employed after completion than before their arrest.

Another important point to consider involves the current budget proposed for the Department of Corrections. Simply put, no dollars are budgeted in FY 2005 or FY 2006 for substance abuse treatment in facility-based programs. As recently as FY 2000, the Department was able to provide treatment services to just over 1,600 offenders. If programs are indeed effective, under the recommended budget, the offenders targeted by HB 2231 will receive no treatment for their substance abuse problems.

I thank the committee for its time and attention and I would stand for any questions.

FEDERAL AND STATE AFFAIRS

Date 3-14-05
Attachment 14

March 7, 2005

Kansas House of Representatives
Kansas State Capital
Topeka, KS

Re: House Bill No. 2231

Early in my life as a resident of Hutchinson, Kansas, my residence was located approximately six blocks from what was then known as the Kansas State Reformatory and was the most forbidding walled-in space my young heart could imagine.

One of my best friend's father was a guard at that facility and made the statement that many of the inmates were just like those of us outside those walls except they got caught. That statement has stuck with me a very long time and has really become much easier to believe since I became a part of "Criminal Justice and Mercies Ministries." This has included a "Disciple Bible Study," which has allowed me to see first hand that incarceration is not always the best method of rehabilitating a good number of inmates to become law-abiding, productive citizens.

With rehabilitating a person before incarceration and providing rehabilitation by offering drug addiction counseling, alcohol treatment, Community Correction Supervision, the State would realize a reduced number of inmates, requiring fewer beds, eliminating the need for more prison space, and at a cost saving of 75% of felony treatment. Today's prison system is a business, and those involved in this, plan to keep it as such regardless of cost or more effective ways of combating felonies.

HOUSE BILL No. 2231 has enough provisions that hard criminals are treated as such, but rehabilitation is a much overlooked option in many of the cases in our court system. Exercise good judgment and approve this bill allowing the State of Kansas to follow other states that are already in a program such as this.

Respectively,



John Chalmers
2190 Kensington Rd.
Salina, KS 67401

FEDERAL AND STATE AFFAIRS

Date 3-14-05

Attachment 15

My name is Randy Cantor. I'm 53 and had a good child hood, am a high school graduate, graduate from Salina Area Tech in the Auto Mechanic program. I spent 7 years in the US Army Reserve Corp. I am a man with good morals and ethics. I've always held a good job. After my schooling, I was married at 18 years and raised two children. I have worked for a millwright company for 14 years. I then switched companies and went through my first divorce, and started using drugs. I was lucky for about 8 years and then I got busted on a drug charge. I spent 30 days in county jail and then 30 days in Topeka to be evaluated. This was in a prison setting. When I went to jail the people I spent time with were negative about life's problems and only talked about how to be a better cheat or how to commit larger crimes or how to get deeper into the drug world. I did not learn anything about recovery or how to change my life for the better.

I am currently holding the same job I've held for about 12 years. I still dabble in drugs. My wife and I got busted in August of 1994. We went to court and the judge ordered us a SB 123's, which meant we had to go to a drug rehabilitation center and probation for 18 months.

CKF inpatient was good for me. I learned that I had a drug problem, and problems coping with life. I remembered the times I spent in jail and learned nothing but negative thoughts. I have graduated from CKF's inpatient treatment program and have nothing but a good positive outlook on life and how to deal with it when I have a problem.

I will graduate from the halfway house on the 28th of this month, and intensive outpatient very soon after. The halfway house was a good structured environment; I had helpful roommates, attended AA and NA meetings and social functions. I would like to thank the CKF staff members and the fireside house and the staff with the SB 123 staff members that worked with me. I learned more about life on life's terms. If I had been sentenced to jail I would have probably never found recovery.

Sincerely,



Randy Cantor

FEDERAL AND STATE AFFAIRS

Date 3-14-05

Attachment 16

I am writing this in regards to how I have spent my time in jail and how my stay is here at the fireside half-way house. For the time I have spent in jail was very hard as well as frustrating because of all of the negative things I've seen and heard. Being in jail also did not teach me about recovery, it fell more under the lines of wanting to get back out on the streets again and use. There are so many disadvantages in jail that it would be pointless to go on. So for jail I felt like a failure, has so much anger, fear and as well as resentment towards myself. It all really boils down to not living on life's terms.

Now comparing the jail to a positive way of living environment, there are comparisons. The reason is because the fireside half-way house has been a really big boost in my sense of pride as well as self esteem. The residents and staff of CKF and the fireside house have been so very supportive of my recovery and personal issues. They not only help you find work, they also encourage you to get a GED or some kind of education. The way the house manager runs the house is a really great system; only reason is because they make us sign in and out to keep track of us. The house manager will make sure if there are any issues or personal issues that you need to take care of, then he encourages all the residents to address them to him and he will do everything in his power to help you. CKF is a really great treatment facility the only reason being is because the counselors will identify or help you identify your issues and help you work on them so they can help you build yourself in your own recovery. So for the living quarters and the meal programs, they were more than satisfying because they gave us vitamins every morning we woke up and checked our vitals. After treatment and moving into the half-way house, we learned how to meet people in recovery inside the rooms of NA and AA meetings and churches, people that really care and support our need to be helpful and clean in our way to live a beautiful life.

Thomas L. Dembeck IV

FEDERAL AND STATE AFFAIRS

Date 3-14-05

Attachment 17

March 14, 2005

Ladies and Gentlemen of the committee, my name is Dixie Whaley.

I am here today to ask for your support of House Bill ~~x~~231.

As a mother and grandmother I have seen first hand how the incarceration of my son, Max Gebhardt, has effected my family. Max is currently serving a seven (7) year sentence on a first time non-violent drug offense. He is serving this sentence at the Ellsworth Correctional Facility of Kansas.

His sentence has caused me a great deal of emotional distress and often leaves me frustrated and stressed when attempting to understand this situation. It is hard to make sense of this.

The sentencing of my son to prison, rather than extending help with his disease through treatment or rehabilitation for his drug dependency seems shortsighted.

As Grandmother to my son Max's children I am aware, and have witnessed first hand their confusion, torment and pain as they try daily to cope with life's struggles without the aid of their father. These young men, 14, 15, and 17 need their father available to help guide them during these important years. Max was a strong guiding force in their lives.

I am pleading for your support for a treatment program which is much needed for these offenders to help get back to society as productive, active, contributing members of their communities. The program in House Bill ~~x~~231 would accomplish this. The programs offered, such as, obtaining a GED or a craft would help these offenders regain their self confidence and self respect of being a productive human being. It would also help restore the stability, strength, confidence and self respect drug dependency takes from them. By supporting HB ~~x~~231 and treating these citizens of our state for their illness, rather than warehousing them, you can create an environment where they are able to add their efforts towards making this a great state in which to live and raise families.

FEDERAL AND STATE AFFAIRS

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Attachment 18

You have an opportunity for Kansas to continue to be on the forefront of best serving its citizens, by providing treatment and assistance as set out in HBx 231. The legislators of Kansas can through this legislation show compassion and concern for these men and women by passing this bill to help them in their efforts to reintegrate into society.

**HBx 231 is a
Smart program with
Smart Results, and represents
Smart money.**

I hope and pray that God keep and guide you in your decision to support and pass this legislation.

Thank you for allowing me this opportunity to present my thoughts and feelings on this matter.

Sincerely yours,

**Dixie L. Whaley
216 W. Republic Ave.
Salina, KS 67401**

A handwritten signature in cursive script that reads "Dixie L. Whaley". The signature is written in black ink and is positioned to the right of the typed name and address.

13 March 2005

The Honorable Chairman Edmonds

Honorable Members of the Committee

My name is Debie Williams. I am a graduate student at Wichita State University. My undergraduate degree is in Criminal Justice. Besides my masters, I am currently working towards my drug and alcohol certificate. I am at the present employed as a case manager. I have extensive experience with drug offenders and dual addictions.

My job is working with Severely Persistent Mentally Ill adults. I see everyday the damage of drugs to individuals and our community. I work with numerous persons who are on parole and have a dual diagnosis of drug addiction and mental illness. I also have experience working with drug addicts and the criminal justice system. I feel that my credentials will speak for themselves.

As you well know 98% of the prisoners who are incarcerated will return to our community. Many of these are individuals who have been charged with drug possession, and crimes related to drug offenses. When a person is released into our community without treatment for their addictions, the cost is doubled for the taxpayer. For one, the person has the same problem coming out that incarcerated them in the first place. Second, most drug addicts commit small petty thefts and crimes. Third, taxpayers pay for these crimes by, paying more at businesses due to shoplifting, and higher insurance for insurance frauds. Police officers spend a lot of unduly time working these cases, and our court systems are backlogged from misdemeanor offenses.

FEDERAL AND STATE AFFAIRS

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This tremendous expense is not only monetary, but also very costly for the families of substance abuse persons. Families are destroyed when adults are incarcerated. Spouses and children are left usually alone without additional financial support. Grandparents and extended family bear the burden of helping these children. Some of these folks end up receiving SRS assistance to make ends meet. Children suffer from the incarceration in several different ways. Many act out because of the interruption of their home life, due to an absent parent. The schools see numerous children who have behavioral problems. Schools have limited resources to help the offspring of the incarcerated parent. This oppression on the family unit creates additional pain, which in turn carries on the cycle of abuse and addiction. This cycle can be broken if individuals are given the choice and opportunity for treatment. Individuals have a belief that removing the drug addict from the home is better for the family, but in reality, severing children from their parent can be life long trauma. Many families do not have the funds to visit their spouse or parent during incarceration. This puts a tremendous strain on the family.

With treatment these parents can learn to be emotionally available for their families. With treatment persons can get the help they need to become productive members of society. They would be at home with their families, gaining employment; then he or she would be a taxpayer paying into the system, instead of using it for their care of their families, or their incarceration. The cost of incarceration is huge. It is proven that first time offenders going into the prison system come out worse then before they went in. It is much more cost efficient to provide treatment. As many of you well know in our criminal justice system, individuals with money can afford attorneys, psychotherapy,

medications, and treatment. This leaves out a large portion of persons in our society. This includes the poor and oppressed who cannot afford these luxuries.

As representatives of our community and state you have been elected to stand for all members of our community. There are persons in our state with drug and alcohol addictions. If we are honest with ourselves we all know someone who has substance abuse problems, and may be living a life of addiction. This includes rich or poor, young and old. Many citizens of Kansas do not understand these cycles of addictions. In order to keep families together, crime down, incarceration rates much lower we need to address this issue now. Treatment can be affordable, effective and efficient.

Thank-you for your time and consideration regarding HB2231, please support this bill.

Sincerely;

A handwritten signature in cursive script that reads "Debra Williams". The signature is written in dark ink and is positioned above the printed name.

Debra Williams

March 14, 2005

I would like to thank this committee for giving me this opportunity to share my testimony with you concerning this matter.

Five years ago, a member of my church was sent to prison for vehicular homicide. She and I corresponded on a regular basis. She requested that I would write to Maria Monaco, her friend in prison. Maria and I corresponded for a short while and then Maria asked if I would come for a visit. I eagerly accepted her invitation. Throughout these past five years, she and I have developed a strong, Christian friendship.

When I check in with the guards for my entry into the visitation area and tell them whom I am there to visit, the guards make very complimentary remarks concerning Maria. They respect her because she is courteous and friendly. She keeps a low profile and only associates with inmates who are not troublemakers.

During her very long imprisonment, Maria has been a positive role model inmate. She excelled on her job at Kansas State Surplus and was commended many times for her excellent mechanical skills. Since then she has been promoted to a position at a new industries job. She was one of three chosen out of the entire facility in a process that was very selective. Her selection was based on her employment skills and a multitude of institutional success in a variety of activities undertaken since her incarceration.

Despite her bleak circumstances, Maria is an upbeat person with a positive attitude that can be attributed to her strong faith in God. She is truly a dedicated Christian who reads her Bible and prays daily. She had weekly visits with lay ministers, but unfortunately the prison has prohibited these visitations.

Maria is a devoted mother who loves her children and is heart-broken that she has not been able to raise them. She and her daughter Lucia were actively involved with the prison's Girl Scout program. Lucia will be graduating from high school this May and Maria wants to be able to attend her graduation. Her oldest son, Buddy and his wife Rita has blessed her with a beautiful granddaughter who is 14 months old.

Maria and I have developed a very close friendship and I truly know in my heart and soul that it is a great injustice to keep Maria for her full sentence. This is a woman who has more than paid her debt. I believe that Maria is a perfect candidate for the program proposed in HB2231. She would serve society in a far greater capacity if she were given the chance. I believe she and others like her deserve this opportunity.

I pray that you will give your full consideration to this matter because she is definitely a changed person who wants to be with her family and be given a second chance at life.

Thank you again for this opportunity to share my thoughts with you. I am confident that you will do the right thing.

Cynthia K. Hockenberger
3356 SW Belle Ave.
Topeka, Ks. 66614

FEDERAL AND STATE AFFAIRS

Date 3-14-05

Attachment 20

OLETHA FAUST-GOUDEAU

REPRESENTATIVE, 84TH DISTRICT

2641 E. 8TH STREET

WICHITA, KANSAS 67214

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HOUSE OF
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TESTIMONY ON HOUSE BILL 2231

FEDERAL AND STATE AFFAIRS

March 14, 2005

By Representative Faust-Goudeau

Mr. Chairman and members of the committee, thank you for the opportunity to share my support of House Bill 2231.

Drug offenders are sick, they need treatment. If we want to help drug abusers and save taxpayers millions of dollars we can. House bill 2231 offers legislation that holds drug offenders accountable and utilizes limited resources to help non-violent drug users.

We must reduce the high rate of recidivism among non-violent drug use offenders, HB 2231 offers a solution. I fully support rehabilitation as opposed to incarceration, saving taxpayers money and helping families in Kansas.

Respectfully,

Oletha Faust-Goudeau

FEDERAL AND STATE AFFAIRS

Date 3-14-05

Attachment 21



March 14, 2005

Chair, Federal and State Affairs Committee
Kansas House of Representatives
Kansas State Capitol
300 SW 10th St.
Topeka, Kansas 66612

RE: House Bill 2231

Dear Mr. Chairman:

I am an Associate Professor of Law at the Washburn University School of Law. I am also Director of the Washburn Law Clinic, where I work with law students who are authorized under Supreme Court Rule 709 to practice law under my supervision. Two of those law students join me in this letter of support for House Bill 2231.

My interest in this bill originates from my sixteen years as a lawyer practicing in the area of criminal law. Additionally, in my role as Director of the Washburn Law Clinic, I receive letters from incarcerated persons seeking assistance. Last year, we received a letter from a person serving time in prison for possession of a controlled substance. This person was convicted prior to passage of Senate Bill 123 and consequently is not eligible for the drug treatment alternative to incarceration established by the legislature with the passage of that bill. This individual exemplifies a number of people who, due only to the year in which they committed their offenses, will not be eligible for the provisions of Senate Bill 123 (now codified under K.S.A. 21-4729). House Bill 2231 will bring the benefits contained in K.S.A. 21-4729 to many people who are currently beyond the reach of that law.

We believe that several public policy and economic concerns are advanced through passage of House Bill 2231. Since we understand that other people providing testimony on the benefits of this bill will address these issues, we intend to comment upon specific language of this bill, making suggestions to improve its administration and to avoid future ambiguity.

1. **Commencement of the 60-day filing period** – The terms of H.B. 2231 proposes a limited window of time within which inmates may seek modification of a sentence to a drug treatment program. Page 2, lines 5-7 reads, “If a request for a hearing is not filed within 60 days of the *issuance* of the report, the person is not eligible for such modification of sentence.” (emphasis added). Since there is no requirement within this bill about when or how the report of eligibility will be transmitted to an eligible

inmate, we are concerned that potential delays or lack of consistency in transmission of the report may leave some inmates with too little time (or no time) to effectively seek relief under this bill.

A means of remedying this potential problem is to replace the word "issuance" on page 2, line 6 with the words "transmission to the inmate" or "service upon the inmate." In this way, the 60 day time period will be uniformly tied to the inmate's receipt of the report rather than to the date upon which it issues (with no assurance of how rapidly it will be transmitted to the defendant). This modification will ensure that no eligible inmate is foreclosed from seeking relief due to an unforeseen problem in communicating eligibility to the inmate.

2. **Credit for time served upon the original sentence** – The current language of H.B. 2231 Sec. 1 (g) on page 2, lines 35-37 create the possibility of inconsistent application. Subsection (g) reads "An offender shall not be credited for service on the modified sentence for an amount of time spent on the original prison sentence." When read together with the provisions of subsection (n)(2) on page 8, lines 6-15, there is a risk that an offender who is judicially found to be in violation of the treatment program could be re-sentenced to the underlying prison sentence without receiving credit for prison time already served prior to the sentence modification. This circumstance could result in needless expense in litigation clarifying this provision.

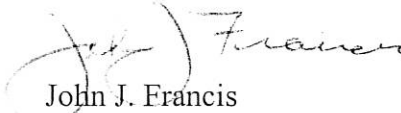
Modifying the language on page 2, lines 35-37 to parallel the structure of the language used on page 8, lines 14-15 can help avoid any ambiguity of the intent of this provision. We propose section (g) on page 2, lines 35-37 read as follows: "The amount of time an offender spent incarcerated on the original sentence shall not be credited to the time an offender is sentenced to a treatment program on the modified sentence." This modification will clarify the bill's intent that time already served in incarceration will not be credited toward time sentenced to drug treatment. However, it will avoid the risk of eliminating all prison-time credit in the event an offender is sent back to prison for failing to comply with the modified sentence.

We appreciate the opportunity to contribute to the discussion of this important legislation. We strongly support passage of House Bill 2231 and urge the committee to consider the amendments

Chair, Federal and State Affairs Committee
Page 3
March 14, 2005

we propose. If you have any questions, we plan to attend the scheduled hearings on March 14, 2005 at 1:30 and will be available to address your concerns.


Respectfully submitted,



John J. Francis
Associate Professor of Law
Director, Washburn Law Clinic



Keen Umbeh
Legal Intern

Mandee Schauf
Mandee Schauf
Legal Intern 

JJF:kp

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TO: The House Federal and State Affairs Committee

FROM: Kansas County and District Attorneys Association
Mike Jennings, Legislative Chair

RE: H.B. 2231

Dear Chair and Committee Members:

Thank you for the opportunity to state our opposition to H. B. 2231, a bill authorizing those convicted of a violation of K.S.A. 65-4160 or 4162 to be released from DOC custody and placed back in our communities if they go to a drug treatment program.

Our Association opposed retroactive application of S. B. 123 during its enactment and the Legislature graciously, and we believe correctly, declined to enact retroactive application initially. There were several major concerns about the desirability of making the treatment option retroactive. Among them are some of the convicts pose a risk to community safety other than for their crime of conviction because of plea negotiations, because they were caught with drugs even though they were a threat because of burglaries, forgeries, assaultiveness, or other behavior carrying risks to the community different from those associated with chronic drug use. Further, as some drug convicts are serving admittedly long sentences for repeat possessions, the Secretary may have more of a point in saying that these individuals should be considered for release. However, the Department of Corrections already has a remedy under existing law in that it can petition the Court to modify the inmate's sentence.

The present bill would mandate the DOC to review the convictions of all inmates and to notify the prosecutors and sentencing judges of those inmates it proposes to release to drug therapy. If there is an objection, the bill provides for a hearing mechanism to resolve the objection. Because there could be hearings across the state, uniformity becomes a concern. It would also require use of limited resources on prosecuting offices to defend past convictions in court. Increased appellate work is another potential drawback.

Prosecutors are asking for a no vote on this bill. It's better to allow existing mechanisms to deal with any perceived problems.

FEDERAL AND STATE AFFAIRS

Date 3-14-05
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EDITORIALS

Try it; you'll like it

Lexington smoking ban a model for Louisville

It is healthier to eat, drink, bowl or otherwise engage in public recreation in Lexington than in Louisville.

Why? Because of our smoking ban.

A few months back, University of Kentucky researchers released results of tests conducted on indoor air pollution in Lexington public places before and after the smoking ban took effect. They found the level of pollutants had dropped 91 percent in the six months following the ban.

Now, further results have been published in Louisville Medicine, the magazine of the Jefferson County Medical Society. Comparing Lexington post-ban to Louisville without a ban, researchers found that indoor air pollution levels were, on average, 17 times higher in Louisville than in Lexington.

The study's findings mirror those of similar studies in other locales. Indoor air pollution declined 82 percent on average in a California study, for example.

The Jefferson County Medical Society is using the Kentucky study results to push Louisville's Metro Council to ban smoking in public places and businesses.

We endorse that effort in Louisville and give another pat on the back to

Lexington's Urban County Council for doing the right thing more than a year ago. And we urge new council members to avoid any backsliding. The ban has made the air cleaner for people who choose to visit these public places and for people who must be in them to earn a living.

We give another pat on the back to Lexington's Urban County Council for doing the right thing more than a year ago.

And we urge new council members to avoid any backsliding. The ban has made the air cleaner for people who choose to visit these public places and for people who must be in them to earn a living.

We also urge parents, coaches and others who allow or encourage children to work in smoke-filled bingo halls to raise money for extra-curricular activities to think seriously about the health issues.

The National Cancer Institute, in a 1999 study, found that secondhand smoke is the third leading cause of preventable death in the United States. The 4,000 chemicals found in secondhand smoke include formaldehyde, cyanide, carbon monoxide, ammonia and nicotine, according to the Centers for Disease Control and Prevention. More

than 50 of the 4,000 chemicals can cause cancer.

For more information go to www.cdc.gov/tobacco/research_data/environmental/ets-fact.htm.

We urge Louisville's Metro Council to ban smoking in public places. Until it does, we invite, even urge, Louisvillians to come to Lexington to eat, drink and be merry in clean air.

FEDERAL AND STATE AFFAIRS


Date 3-14-05

Attachment 24

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d the most cigarettes in 2003 (in

1,735



Top cigarette importers

shley Burrell and Marcy E. Mullins, USA TODAY

10	Crossword	9D
	Editorial/Opinion	10-11A
	Lotteries	11C
	Marketplace Today	9D
	State-by-state	6A
	Market scoreboard	4B

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Secondhand smoke causes breast cancer, study says

Calif. finding could have wide effect

By John Ritter
USA TODAY

SAN FRANCISCO — Scientists at an influential California agency have concluded that secondhand smoke causes breast cancer, a finding that could have broad impact on cancer research and lead to even tougher anti-smoking regulations.

Although recent studies have linked smoking to breast cancer, no major public health group, including the American Cancer Society, the Centers for Disease Control and Prevention and the National Cancer Institute, has declared it a cause of the disease that kills 40,000 women each year in the USA.

The finding by scientists for

the Air Resources Board — whose early efforts to regulate auto emissions were a model for the rest of the country — could fuel workplace smoking bans in more states. And it is likely to refocus the scientific debate over the link between smoking and breast cancer.

"I have to say without reservation it will stimulate continued and accelerated scientific evaluation of the smoking and breast cancer issue," says Terry Pechacek, associate director for science in the CDC's office on smoking and health.

A scientific review panel is expected to approve the report as early as Monday and forward it to the Air Resources Board, which has broad state authority to regulate air pollution.

The 1,200-page report analyzes new data on the extent of Californians' exposure to sec-

Cancer risk

A woman's risk of developing breast cancer increases with age:

- 30 to 40: 1 in 227
- 40 to 50: 1 in 67
- 50 to 60: 1 in 36
- 60 to 70: 1 in 26

Source: National Cancer Institute

Breast cancer link

■ Debate not over, 7D

ondhand smoke and more than 1,000 studies of health effects from secondhand smoke.

The conclusion that secondhand smoke causes breast cancer, particularly in younger women, challenges conven-

tional scientific thinking because most studies, until recently, had found no connection between female smokers and breast cancer.

But California scientists based their conclusion on recent human studies that they determined had more careful assessments of long-term exposure to tobacco smoke. The report also gave more weight to toxicology evidence from animal studies than previous studies by the surgeon general and others. It's well-documented that chemicals from cigarettes cause breast cancer in lab animals.

Overall, women exposed to secondhand smoke have up to a 90% greater risk of breast cancer, the report says. It says secondhand smoke kills as many as 73,400 a year in the USA.

The report did not estimate

the number of additional new breast cancer cases annually, and scientists did not calculate risk levels based on doses of secondhand smoke.

Tobacco companies, in public comments filed with the board, say the report gives little weight to studies that found no breast cancer connection.

A new surgeon general's report on secondhand smoke is expected this year.

"The topic is still under review," says the report's senior scientific editor, Jonathan Samet, an epidemiology professor at Johns Hopkins University.

"It's controversial," Samet says. "Concluding that passive smoke causes breast cancer has potentially powerful implications for tobacco control and breast cancer control. So there has been tension over it."

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