

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman Tim Owens at 9:40 a.m. on March 16, 2009, in Room 545-N of the Capitol.

All members were present except:

Senator David Haley- excused

Committee staff present:

Jason Thompson, Office of the Revisor of Statutes

Doug Taylor, Office of the Revisor of Statutes

Jerry Donaldson, Kansas Legislative Research Department

Athena Andaya, Kansas Legislative Research Department

Karen Clowers, Committee Assistant

Conferees appearing before the Committee:

Rep. Joe Patton

Michelle Cutrer

Rep. Anthony Brown

April Holman, Kansas Action for Children

Janice DeBoer, Director, Child Support Enforcement

Others attending:

See attached list.

The Chairman opened the hearing on **HB 2165 - Establishing recklessness as a standard in unlawfully hosting minors in a person's residence.**

Rep. Joe Patton appeared in support indicating underage drinking is a serious problem difficult for law enforcement and prosecutors to enforce. "Recklessness" is a tight legal standard and clearly defined in statute. (Attachment 1)

Michelle Cutrer spoke in favor relating a personal experience and her frustration over the lack of enforcement in situations where underage drinking was allowed in the presence of adults. Ms. Cutrer encouraged enactment of the legislation. (Attachment 2)

Written testimony in support of **HB 2165** was submitted by:

Ted Powers, Government Affairs, Anheuser-Busch, Inc. (Attachment 3)

Cristi Cain, Shawnee Regional Prevention & Recovery Services, Inc. (Attachment 4)

Deputy Desiree Wright, Shawnee County Sheriff's Office (Attachment 5)

Neutral written testimony on **HB 2165** was submitted by:

Ron Hein, Kansas Restaurant Association (Attachment 6)

Written testimony in opposition of **HB 2165** was submitted by:

Don Scott, Seward County Attorney (Attachment 7)

There being no further conferees, the hearing on **HB 2165** was closed.

The Chairman opened the hearing on **HB 2201 - Conditions on licensee if delinquent in child support.**

April Holman appeared in favor stating enactment of **HB 2210** would strengthen current law as it relates to child support enforcement for parents holding professional licenses. This bill will provide another tool to assist in the collection of child support. (Attachment 8)

Rep. Anthony Brown spoke in support as sponsor of the bill. Rep. Brown reviewed the bill and stated as a proponent in the collection of back child support he urged the enactment of **HB 2210** as another method of child support collection. (Attachment 9)

CONTINUATION SHEET

Minutes of the Senate Judiciary Committee at 9:40 a.m. on March 16, 2009, in Room 545-N of the Capitol.

Janice DeBoer testified in support stating self-employed parents pose special challenges for support enforcement and sanctions against licenses would be especially helpful in those situations. The measure creates no new costs for the Child Support Enforcement Program and will produce a moderate increase of collections in a challenging segment of their caseload. (Attachment 10)

There being no further conferees, the hearing on **HB 2201** was closed.

The Chairman called for final action on **HB 2059 - Proceeds derived from violation of the uniform controlled substances act or any substantially similar offense from another jurisdiction.** Jason Thompson, staff revisor, reviewed the bill.

Senator Vratil moved, Senator Lynn seconded, to recommend HB 2059 favorably for passage. Motion carried.

The Chairman called for final action on **HB 2111 - Removing sunset provision from Kansas commission on judicial performance statutes; retaining increase in docket fees to fund commission.** Jason Thompson, staff revisor, reviewed the bill.

Senator Schmidt moved, Senator Pilcher-Cook seconded, to amend HB 2111 on page 1, line 25, by striking "2010" and inserting "2009".

Senator Vratil made a substitute motion to recommend HB 2111 as amended by the House, which extends the sunset provision to June 30, 2013 and deletes current law decreasing docket fees on or after July 1, 2010, favorably for passage. Motion carried.

The next meeting is scheduled for March 17, 2009.

The meeting was adjourned at 10:27 a.m.

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

SENATE JUDICIARY COMMITTEE GUEST LIST

DATE: 3-16-09

NAME	REPRESENTING
Janis DeBoer	SRS/CSE
Jamie Corkhill	SRS/CSE
Zeddy Nearell	Jud. Council
Michelle Cutrer	KCSL
Rep. Joe Patton	District 54
Asuley Dopta	Pnegar, Smith & Assoc.
Wigh Keck	Hein Law firm
Lame Walst	Jud. Branch
Joseph Molina	KS BAR ASSN.
Richard Sammis	Kenny Bassok
Ed Kumer	KACP KPOA

JOE PATTON
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TOPEKA
 HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 VICE CHAIRMAN: CORRECTIONS AND JUVENILE
 JUSTICE
 MEMBER: JUDICIARY
 ADMINISTRATIVE RULES AND
 REGULATIONS

Testimony in Support of HB 2165
Representative Joe Patton
March 4, 2009

Underage drinking is a serious problem. Law enforcement and prosecutors have found it difficult to enforce the law because the parent or guardian will say they were not aware that the minors were consuming alcohol. The bill establishes "recklessness" as a standard in unlawfully hosting minors in a person's residence and eliminates that loop hole."

Recklessness is a very tight legal standard and clearly defined in statute. K.S.A. 21-3201, the criminal intent statute, subsection (c) says, "Reckless conduct is conduct done under circumstances that show a realization of the imminence of danger to the person of another and a conscious and unjustifiable disregard of that danger. The terms "gross negligence," "culpable negligence," "wanton negligence," and "wantonness" are included within the term "recklessness" as used in this code."

This term is a well recognized legal term of art and has been used in our statutes over 55 times.

It is important to note that Recklessness is not mere negligence. This is a standard that is only slightly below that of intentional conduct.

The Lodging industry had, in my opinion, a misplaced concern that this bill might create civil liability. In an abundance of caution the House committee amended the bill to make it clear that there is no civil liability to lodging establishments.

I want to repeat some information we had in the House committee from Sally Zellers, Director of Safe Streets Coalition, in case she is unable to attend the Senate hearing. Sally Zellers presented to the House committee members the 2008 Communities that Care Youth Survey found that underage drinking continues to be a problem among Kansas youth. The survey found:

Those who drank alcohol at least once in the past 30 days:

- 12th graders - 50.4%
- 10th graders - 37.3%
- 8th graders - 21.1%
- 6th graders - 7.9%

The survey also found binge drinking rates are also very high. Those reporting to have consumed five or more drinks in a row during the past two weeks:

- 12th graders - 33.1%
- 10th graders - 21.6%
- 8th graders - 9.4%
- 6th graders - 2.8%

“Most of these youth gain access to alcoholic drinks from their own homes, their friends’ homes or from older friends who can purchase alcoholic drinks legally and who either share it or sell it to them,” Zellers told the House committee. “According to reports from youth, parents, and law enforcement, this social host law has already made some differences in limiting accessibility of alcohol to youth. Adding the words, “or recklessly”, will increase law enforcement’s ability to more effectively enforce this important prevention and early intervention tool.”

Written Testimony

Of
Michelle Cutrer
for
HB 2165

As both a parent of teens and a professional who works with at risk teens and their families, I am acutely aware of the need to be a proactive parent. As such, I have always made it a point to talk with my children about the risks of alcohol consumption. Because I am also aware of the powers of peer influence, I have made it a point to require my teens to always provide me with specific information whenever they make plans with their friends, including where they are going and with whom, what they plan on doing while they are out, and the name and home phone numbers of an adult who will be present if they are going to be at someone else's house. Additionally, I frequently follow up with this information, and have made numerous phone calls to other parents to verify the location of my children as well as driving to addresses given to me by my teens to make sure that they are where they have told me they will be.

Unfortunately, I have also become aware that these actions are not always enough, and that my children, just like hundreds of others, will occasionally make errors in judgment and participate in activities that put them at risk. At these times, I am forced to rely on the local law enforcement agencies and the laws that govern them to assist me in protecting my family. Sadly, I am also learning that these are not enough.

On the weekend of August 30th, 2008, I learned through a series of phone calls that I initiated that my 16 year old son was not where he had told me he would be. After several hours of detective work, my husband and I located him at the residence of an 18 year old friend who lived with his parents. When we arrived at this location, we were greeted by the sight of three Topeka Police vehicles parked in the road at various locations on the block. We learned while speaking with one of the officers that they had been called to the location by a report of a vehicle that had struck a parked car along the side of the road. The officer informed us that the driver of the vehicle was a 16 year old friend of my son who was being charged with DUI after leaving a party at the residence I was en route to. The officer requested that we not go to the residence to make contact with my son until after he and another officer were able to make contact, so that we would not alert the other teens known to be there of the presence of the police before they were prepared to intervene. We agreed, and waited patiently outside in our car.

After waiting approximately half an hour, we watched while two Topeka Police officers knocked on the door of the residence and spoke with the parents of the household. We overheard the father of my son's friend tell the police that he knew that there were kids in his basement, but that he had no idea that they were drinking. While the officer was conversing with this gentleman, the second officer removed several cases of beer and a three foot tall glass bong from the basement of the home and placed them on the front porch. As we continued to wait outside, I was approached by two other parents who had received calls to come and retrieve their minor children from the home. My husband then asked one of the TPD officers if any charges were going to be filed or tickets issued, and he was told that there were no plans to do so at this time. He was also told that the parents of all of the minors still in the home would be called to pick up their youth.

Once we returned home, I learned from my son that this home is a frequent party destination for him and his friends. He stated that his friend's parents have always told the teens that they don't care if they drink at their house, but that they expect that if the kids are drinking, they need to plan on spending the night so that they aren't driving while intoxicated.

In October of 2008, I learned while speaking with another officer from the Topeka Police Department that there was no record that he could find of any of these events on that evening. Furthermore, I was advised that there is very often no follow up action taken in these situations due to a combination of difficulty in prosecution and understaffing of the police department, which is compounded by the overwhelming amount of time and paperwork it requires an officer to invest. In short, I was told that as a parent, I should not expect the police to enforce what few laws there are already in place because they have more important things to do.

I find this response to be overwhelmingly sad and discouraging, and can't help but wonder how I would respond to it if I were to lose my child to alcohol poisoning brought on by binge drinking or a drunken driving accident. I strongly encourage the passage of HB 2165 in an effort to reduce the amount of underage drinking that occurs in our community. I feel that as a parent, I can instill as many safeguards as possible for my children, but when those safeguards are being knowingly undermined by others, I need to know that there are consequences that are both severe enough and likely enough to happen to discourage these individuals from allowing my child to drink in their homes.



One Busch Place
St. Louis, Missouri
63118-1852
tel: (314) 577-2000

March 4, 2009

Senator Tim Owens, Chair
Senate Judiciary Committee
Statehouse
Topeka, KS

Re: House Bill 2165

Dear Chair Owens and members of the Committee:

On behalf of Anheuser-Busch, we encourage passage of H.B. 2165. As you know, this important legislation would make it illegal for parents to recklessly allow minors to drink alcohol in their homes. It also will help reinforce the positive choices most Kansas teens already are making. In fact, according to the federal government's National Survey on Drug Use and Health, 81 percent of Kansas adolescents, ages 12 to 17, do *not* drink. This is good news, but more work needs to be done.

Anheuser-Busch and its nationwide network of independent wholesalers, including the 19 in Kansas, have invested more than \$750 million in developing and implementing programs that are proven, targeted and effective in fighting underage drinking. Programs such as *Family Talk*, which encourages parents to talk with their children about underage drinking; *Operation ID*, which helps educate retailers on how to prevent sales to minors by spotting fake IDs; and *Prevent. Don't Provide*, which reminds adults not to buy alcohol for minors or provide it to them at parties, are already being implemented in communities across the state. H.B. 2165 can help in this effort to combat underage drinking, which is why Anheuser-Busch is in support of the bill, and why we are asking for your support of this important legislation.

Sincerely,

A handwritten signature in black ink that reads "Ted Powers".

Ted Powers
Government Affairs, Anheuser-Busch

Senate Judiciary

3-16-09
Attachment 3

Shawnee Regional Prevention and Recovery Services, Inc.
2209 SW 29th Street
Topeka, Kansas 66611
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Fax (785) 266-3833
E-mail: ccain@parstopeka.com

Testimony in Support of HB2165 before the Senate Judiciary Committee

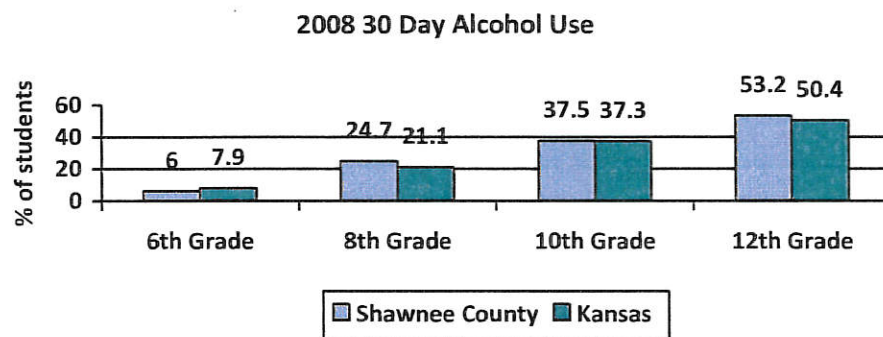
**Cristi Cain, Certified Prevention Professional,
Shawnee Regional Prevention and Recovery Services
March 4, 2009**

Chairperson Owens and Members of the Committee,

I appear today on behalf of Shawnee Regional Prevention and Recovery Services and the Safe Streets Coalition of Topeka-Shawnee County. I am a Certified Prevention Professional and have worked in substance abuse prevention for 13 years.

The "social host" law is critically important for Kansas communities in addressing the significant problem of underage drinking. The addition of the words "or recklessly" to line 16 of the statute strengthens the existing law and will make it more enforceable.

The following statistics give a snapshot of the problem of underage drinking throughout Kansas as well as in Shawnee County (Source: Kansas Communities that Care School Survey, 2008).



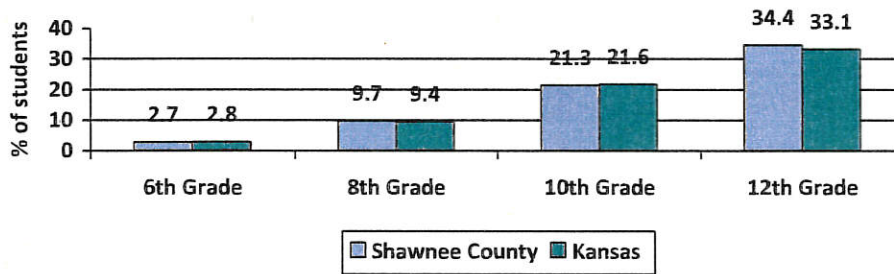
% of youth responding they had used alcohol within the past 30 days at the time they took the survey

Senate Judiciary

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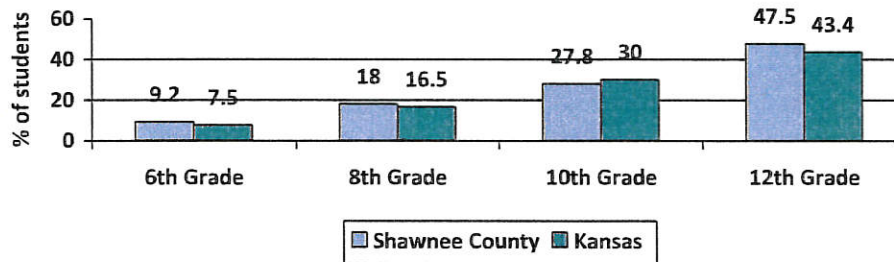
Attachment 4

2008 Binge Drinking



% of youth responding they had 5 or more drinks in a row at one sitting within the last 2 weeks of taking the survey

2008 Perceived Availability of Alcohol



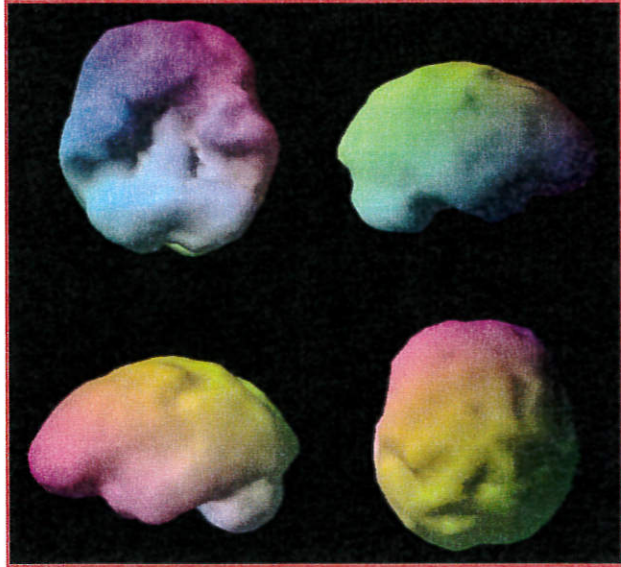
% of youth responding that it would be very easy to get alcohol

Additionally, 83.3% of Kansas high school seniors reported they would not be caught by police for drinking in their neighborhood. The average age Kansas children first try alcohol is 12.99. Why is this a problem? (review Figure 1)

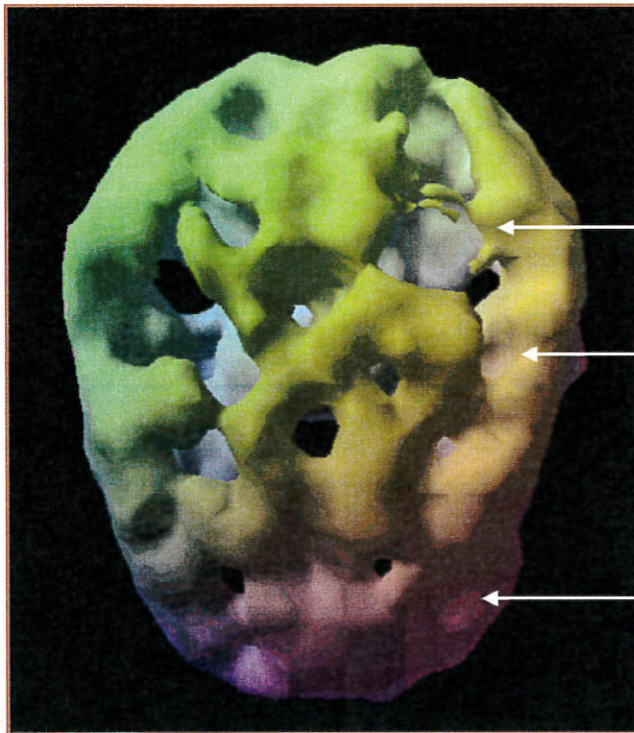
Most youth in Kansas who consume alcohol gain access from their own homes, their friends' homes or from older friends who can purchase alcoholic drinks legally and who either share it or sell it to them. With the information about the effects of alcohol on the brains of adolescents, parents and other adults who allow underage consumption are endangering children and at the very least are affecting their ability to live up to their full potential. The effective enforcement of the "social host" law is an important tool which will help reduce the rates of underage drinking by Kansas children and teens. Please help us improve the law by adding the words "or recklessly". Thank you.

Figure 1: Alcohol and the Brain

Source: Amen Clinic, 2003



Healthy brain image



Prefrontal cortex

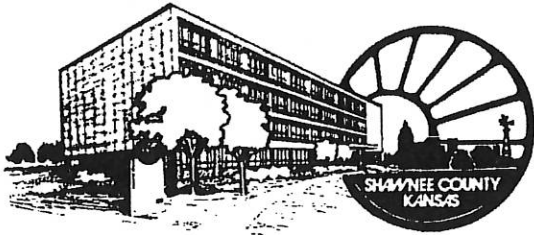
Temporal lobe

Cerebellum

Brain image of 38 year old who began drinking at age 21 (17 years of heavy weekend use)

- Scientists believed brain development was complete by adolescence.
- We now know adolescence is a period of profound brain maturation which is not complete until about age 24!
- The prefrontal cortex, which is responsible for critical thinking and higher level functioning, is the last to develop.
- If alcohol is consumed during adolescence, it can alter brain development and have a lifelong impact on a person's critical thinking skills, memory and learning.

Source: Dr. Ken Winters, Ph.D., Director of the Center for Adolescent Substance Abuse Research and Professor of Psychiatry at the University of Minnesota



**Shawnee County
Sheriff's Office
Sheriff Richard W. Barta
Law Enforcement Center**

320 South Kansas Ave., Suite 200
Topeka, KS 66603-3641
785-368-2200

MEMORANDUM

March 3, 2009

To: House Committee on Corrections and Juvenile Justice

From: Deputy Desiree Wright

Ref: House Bill 2165

Chairperson and Members of the Committee:

Thank you for this opportunity to provide input concerning House Bill 2165. I am a Deputy Sheriff currently assigned as a School Resource Officer at Rossville and Silver Lake High Schools. I am speaking on behalf of the Shawnee County Sheriff's Office.

In July 2008, I attended the annual School Based Policing Conference held at the Ramada Inn, Topeka, Kansas. One of the training breakout sessions at the conference was regarding underage drinking, which is an area of great concern for me and many other law enforcement officers. In this breakout session we were provided information that a law enforcement office in Kansas has been utilizing a letter to notify parents that their child was found to be in attendance at a party where alcohol was present. This letter was designed to inform those parents of children who were not charged with any crime resulting from the party that their child had been in attendance. As a parent of a teenager I thought this letter was a great idea. If my son was at a party where alcohol was present and law enforcement was called to respond to this activity, I would definitely want to know where my child had been.

As a deputy assigned to two high schools I know how devastating underage drinking can be. I have spoken to teenagers after they have received a Minor In Possession citation (MIP) or a Driving Under the Influence (DUI) citation. I have heard about the devastation and seen many tears shed at the loss of a youngster in an alcohol related accident. I decided that day that I would begin pursuing the implementation of a policy in my own agency.

It is a major problem for law enforcement that we have adults who think it is no big deal to provide alcohol to minors. I have heard it said that, "Well, if my child is going to drink at a party, I would rather they just be at home where I can keep them safe." I have also heard about adults who have said that they took the keys to the juveniles' vehicles so they could not leave the house. The tolerance for alcohol consumption differs from person to person and I assume those adults are not aware of alcohol poisoning.

There are times when juveniles don't exactly tell their parents the truth as to where they will be during an evening. The child may say they are going to a friend's house, the movies, the library, the mall, etc., but in actuality they are going to a party with their friends. That juvenile may make a good choice and choose to not partake in drinking alcohol if it were provided. Perhaps by the time law enforcement arrives to break up the party, the juvenile just hasn't had time to begin drinking. It is the parents of these children the Agency hopes to reach to educate them about the law.

I wrote a proposal and drafted a letter I thought was appropriate for my agency. In my proposal I explained what I hoped to gain from sending out a letter addressed to the parents of those juveniles who did not receive a charge of an MIP. There will likely be those parents who will take the attitude that it's no big deal their child was at a party. However, perhaps the child forgot to mention to their parent that there was alcohol present and available to underage persons. It is my hope for a parent who receives this letter that the information could be valuable for that parent in helping their child to make good choices about being around underage drinkers, even if that juvenile had not been drinking. Also, that adult or parent will read the statutes and understand that it is not okay to provide alcohol or a party location to minors.

On August 22, 2008, the Shawnee County Sheriff's Office implemented a new policy in regards to underage drinking. When our Patrol Division responds to a report of a party where underage drinking is happening, the information is forwarded to me. The information includes the case number and the address of the party. I then contact our Records Division and have all the reports regarding the party forwarded to me. I review the reports to determine how many MIP's were issued and if a Social Host charge was given. But more importantly I look to see how many names were provided in the report of those juveniles who did not receive an MIP but were present at the event. After compiling this list, I mail a letter addressed to the parent or guardian of that juvenile. I have attached the letter to this testimony. In addition, I attach to the letter portions of K.S.A. 41-727, regarding the purchase or consumption of alcoholic beverage by a minor, and portions of K.S.A. 21-3610c, regarding unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage.

Since the implementation of this policy our deputies have currently responded to five parties (2 in December 2008, 1 in January and 2 in February 2009) where there was underage drinking. Three of those parties resulted in a Social Host charge and there was a total of 50 MIP's issued. A shocking number. However, those are just the ones that got caught. Usually when law enforcement arrives at a party, the kids run in an attempt to elude an MIP or consumption charge. I sent out eight letters to parents letting them know of their juvenile's attendance at these parties. To date my agency has received no feedback from the letter but it is my hope that the parent took the time to talk to their child about the importance of not drinking alcohol until they are of legal age to do so.

The School Resource Officers of the Shawnee County Sheriff's Office do what we can to educate the youth in our schools. We have mock crashes, use Fatal Vision Goggles and tell them the consequences of receiving an MIP or DUI. The effort to reduce underage drinking needs the support of the adults in the community. In order for that to happen the adults in the community need to be

educated as to the consequences of providing a location to underage persons to drink and/or providing the alcohol to them.

Our agency does not have an abundance of manpower to respond to these types of calls. This is why it is so profoundly important to educate all parents and adults before it happens. For those parents and adults who choose to provide a location and/or alcohol to minors, a strong Social Host statute is necessary.

I would ask for your support in adding the wording "or Recklessly" to House Bill 2165.

Thank you for you time,

Deputy Desiree Wright,

Shawnee County Sheriff's Office

HEIN LAW FIRM, CHARTERED

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Ronald R. Hein

Attorney-at-Law

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**Testimony Re: HB 2165
Senate Judiciary Committee
Presented by Ronald R. Hein
on behalf of
Kansas Restaurant and Hospitality Association
March 4, 2009**

Mister Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association. The KRHA is the Kansas professional association for restaurant, hotel, lodging and hospitality businesses in Kansas.

KRHA is neutral on HB 2165. In the House Committee, KRHA raised concerns with the original language of HB 2165, which has been adequately addressed with the committee amendments. KRHA was solely concerned that the lessening of the standard of conduct prohibited from intentionally to recklessly raises liability issues for proprietors of lodging establishments. That standard is more appropriately defensible when used in a situation of a private residence. When the current law was originally introduced, we had requested an exemption for lodging establishments, where, as a practical matter, the lodging proprietor is either unable to be knowledgeable about the conduct occurring in private rooms which are leased by the public or, at the very least, where it is more difficult for the proprietor to be aware of such unlawful activities.

Since lodging establishments were not ultimately exempted from the legislation, we felt some comfort in the fact that the standard for enforcement of the act required an intentional act on the proprietor of the lodging establishment.

As a practical matter, owners of lodging establishments are not concerned about criminal law enforcement prosecution, because if proprietors are aware of inappropriate activity, whether involving minors or not, they will intervene for other reasons, including protection of their own property and protection of the rights of the other residents at the facility. However, the concern arises for our industry in the event of a tragic situation, where a litigious party might seek to make the lodging establishment liable for harm to either the offending minor, or a third party, in the event of a minor being unlawfully served alcohol on the premises of the lodging establishment.

The intentional requirement absolved the lodging establishment of such liability except where they knew that the unlawful activity was occurring, and intentionally permitted it to

Senate Judiciary Committee

March 4, 2009

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continue or to occur in the first place. Reducing that standard increases the likelihood of a litigious party arguing that the proprietor had constructive knowledge of the unlawful activity occurring even if not able to prove actual knowledge. This argument is especially appropriate in light of situations involving the doctrine of *respondeat superior*, and whether or not the owner of the premises is going to be charged with constructive knowledge of observations made by staff at the lodging facility. For example, if an employee witnesses activity sufficient to constitute knowledge by the owner of the lodging facility, regardless of the owner's actual knowledge, that liability might attach to the lodging establishment, which might be the only deep pocket available to the plaintiff. This would be even more true if the employee doesn't pass on the information to the owner and the owner has no actual knowledge.

In light of the inclusion of the provision in the amended bill which provides: "The provisions of this section shall not be deemed to create any civil liability for any lodging establishment, as defined in K.S.A.36-501, and amendments thereto.", the KRHA is now neutral on HB 2165.

Thank you very much for permitting me to submit this written testimony.

Seward County Attorney's Office



415 N. Washington, Suite 107 ♦ Liberal, KS 67901
Phone (620) 626-3225 ♦ Fax (620) 626-3301 ♦ Email swcoattorney@swko.net

Don Scott, County Attorney

Melissa G. Johnson, Asst.
Nic Porter, Asst.

Russell Hasenbank, Asst.
Mike Leyba, Asst.

March 16, 2009

Chairman Tim Owens
Senate Judiciary Committee

Re: Written Testimony in Opposition to House Bill 2165

Chairman Owens and Members of the Committee, thank you for the opportunity to provide written testimony regarding House Bill 2165. On behalf of the Kansas County and District Attorneys Association, I am submitting this testimony in opposition of this bill.

While prosecutors across the state clearly agree that unlawfully providing alcohol to minors is something that should be deterred, in our opinion, the proposed amendment would create an unworkable standard and one that could clearly cause parents to be prosecuted when they were not in any way actively involved in providing alcohol to minors. For example, if parents had beer in their refrigerator at home and their seventeen year old child arrived home from school while the parents were out of the house, the child could provide beer to his friends without his parents' knowledge, but could still subject the parents to potential criminal charges for that act. In effect, this legislation would create a standard that all alcohol would have to be locked away to avoid potential prosecution.

We believe that the current language in K.S.A. 21-3610c is adequate to punish criminal conduct and the addition of the element of recklessness could lead to many unintended results. I would be happy to answer any questions upon request.

Sincerely,


Melissa G. Johnson,
Assistant Seward County Attorney
Kansas County & District Attorneys Association Board Member

MGJ/nrk

Senate Judiciary

3-16-09
Attachment 7

FISCAL FOCUS

Budget and Tax Policy in  Perspective

April Holman
Kansas Action for Children
Legislative Testimony - House Bill 2201
Senate Judiciary Committee
March 5, 2009

Good morning, Chairman Owens and members of the Judiciary Committee. Thank you for this opportunity to testify in support of HB 2201.

Kansas Action for Children is a not-for-profit child advocacy organization founded in 1979. For more than 30 years, KAC has worked with lawmakers on policy solutions that improve the lives of Kansas children and their families.

We support House Bill 2201, which would strengthen current law as it relates to child support enforcement for parents holding professional licenses.

The Importance of Child Support

Child support is a critical source of support for many Kansas children growing up in single-parent households. As we look at ways to assist vulnerable Kansans with limited state and federal dollars, it is clear that child support is an effective and efficient support.

At the child development level, children whose noncustodial parents pay child support have more contact with them, potentially providing the children with emotional as well as financial support. Research indicates that children with parental contact have better grades, better test scores, fewer behavior problems, and they remain in school longer. Children living in single-parent homes with only one parent involved the child's life are at risk of a host of negative outcomes including being more likely: to experience health and behavioral problems, to become a teenage parent, to live in poverty, and to run away from home.

The Cost to the State of Child Support Non-Compliance

When custodial parents don't receive child support, often the result is a need for state and federal assistance such as TANF, food stamps and Medicare. In addition to these immediate costs, the state may incur increased juvenile and criminal court costs, special education costs and mental health costs associated with the financial and developmental impact of living in a single-parent household with only one involved parent.

The Reason for Child Support Arrearages

Although there are numerous reasons for inconsistent or no child support payments, common themes emerge. There are certain child support debtors who are very difficult for the state to communicate with and even locate. These debtors included parents with a sporadic work history, who are self-employed, or receive their wages in cash.

House Bill 2201

House Bill 2201 will strengthen current law relating to compliance with child support orders by parents holding professional licenses, and make the use of professional license sanctions more effective as an incentive to pay child support. We urge your support of House Bill 2201 as a way to increase compliance with child support orders in Kansas and ultimately improve child well-being for Kansas children in single-parent households.

ANTHONY R. BROWN
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HOUSE OF
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COMMITTEE ASSIGNMENTS

CHAIRMAN: FINANCIAL INSTITUTIONS
MEMBER: FEDERAL AND STATE AFFAIRS
INSURANCE
TAXATION

HB 2201

Thank you Mr. Chairman, and members of committee for allowing me to discuss HB 2201. Many of you know that I have been and continue to be a strong proponent of the collection of back child support.

Introduction

- I. Kansas only collects 54 cents of every dollar awarded
- II. Ranks near the middle of collection by percentage
- III. Improved efforts in recent years

Background

- I. Passed Restrictions on hunting and fishing licenses
- II. Passed Bill which allows SRS to cooperate with the Insurance Industry
 - a. Estimated additional \$700,000 annually
 - b. Limited costs absorbed by agency
- III. Professional license has been introduced before but refined this year

Content

- I. Wages of workers that draw wages can be garnished
- II. Professionals that own businesses may not draw wages but take other income
- III. This other income is often hidden from any attempt to garnish
- IV. Professionals apply for license or certification to practice in Kansas
- V. Applicant will be notified by issuing authority of delinquent back child support
- VI. Issuing authority grants 6 month temporary license with no restrictions
- VII. Professional may apply for additional 30 day hardship
- VIII. Full license will be granted when profession makes proper arrangements in court to eliminate back payments

Conclusion

- I. No additional expenditure for SGF
- II. Possibility of reducing SGF dollars to families not receiving child support
- III. Keeps both parents financial involved in Child's life

Senate Judiciary

3-16-09

Attachment 9



DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

Don Jordan, Secretary

Senate Judiciary Committee
March 5, 2009

**HB 2201 – Professional license sanctions for
nonpayment of child support**

Integrated Services Division
Janis DeBoer
Director, Child Support Enforcement

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Senate Judiciary

3-16-09
Attachment 10

HB 2201 – Professional license sanctions for nonpayment of child support

Senate Judiciary Committee
March 5, 2009

Mr. Chairman and members of the committee, my name is Janis DeBoer, and I am Director of the SRS Child Support Enforcement program. Thank you for the opportunity to appear in support of HB 2201, which I encourage you to recommend for passage.

Several years ago, the Legislature created a sanction against professional licenses that judges could apply when they found a parent in contempt of court for nonpayment of child support. HB 2201 will allow judges to use the same sanction in hearings that do not involve contempt of court, so long as child support is at least three months overdue. We believe this is a logical and moderate extension of the court's current authority.

Remedies like the professional license sanction differ fundamentally from typical support enforcement tools, such as income withholding. They are attention-getters – and quite effective in that role. It is important to note that the goal is not to deny or revoke the support debtor's license. It is to encourage the parent to pay support voluntarily, so that the sanction need never be imposed.

Self-employed parents pose special challenges for support enforcement. Sanctions against licenses, which do not depend upon the parent having an employer, are especially helpful in those cases. This measure will increase our ability to persuade a self-employed professional to voluntarily pay child support, to the ultimate benefit of the child.

This measure creates no new costs for the CSE program, but we believe it will produce a moderate increase of collections in a challenging segment of our caseload. Because the measure is not limited to our SRS cases, it may also help Kansas families avoid the need for our services or for public assistance. For these reasons, we encourage you to support House Bill 2201.

Thank you.