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Thursday, January 20, 2011

Senator Tim Owens  
300 SW 10<sup>th</sup> Avenue, # 559S  
Topeka, Kansas 66612-1519

RE: DUI Commission Bill

To Whom It May Concern:

I would like to have testified today, but I have a hearing in front of the Kansas Supreme Court and with the size of our staff we are unable to send another person. As proponents of the proposed DUI Commission Bill, we would like to express our support for the proposed legislative changes and our county's experience with DUI prosecution under the current legislation. Recently, we have had a number of serious DUI offenses including both offenders with significant criminal histories and traffic collisions involving serious injury or death. While we have prosecuted these cases to our fullest capabilities, the current statutory guidelines have severely limited our ability to gain meaningful convictions and punishments.

On July 6, 2009, a 66 year old Leavenworth man, Edsel Hess, committed his 11<sup>th</sup> DUI offense in our community. Mr. Hess' BAC was .171 grams of alcohol per 210 liters of breath approximately an hour after striking the car of a young female and leaving the scene of the accident. Mr. Hess had 10 prior DUI convictions occurring between 1980 and 2002, all but two occurring in Leavenworth. Even with Mr. Hess' significant history of drinking and driving, the current law only provided a maximum sentence of one year. Mr. Hess was sentenced in December to 10 months in jail.

On September 22, 2010, a 27 year old man, David Matthews, committed his 7<sup>th</sup> DUI on I-70 in Leavenworth County. Mr. Matthews was stopped by Highway Patrol for traveling 117 miles per hour on the highway. All of Mr. Matthews' DUIs occurred within nine years, with the most recent three offenses occurring within a seven month period. Mr. Matthews plead to the offense, however once again the Court was limited by the current statute and Mr. Matthews was only sentenced to 1 year in custody.

Leavenworth County has also faced multiple DUI collisions resulting in serious injuries or fatalities. While we are diligently pursuing prosecution of the involved parties, we are limited by the current statute. The Leavenworth County Attorney's Office would like to see an increase in penalties for those with multiple prior DUI convictions, as outlined in the DUI Commission Bill. The current statute simply doesn't provide sufficient sentences for offenders with multiple priors. The current one year sentence does little to ensure community safety, prevent further offenses, and properly punish offenders.

Senate Judiciary

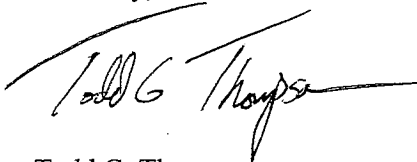
1-26-11

Attachment 10

Additionally, the increased time from two to three hours for a per se violation, as outlined in the Bill under Sec 21. K.S.A. 8-1567(a)(2) would provide sufficient time for law enforcement to obtain necessary testing on major collisions. The current two hour limit for per se violations often poses the most problems for prosecution in cases with serious traffic collisions where additional steps must be taken by law enforcement. The extension of time, while minimal, would better serve prosecution on our most serious DUI cases.

Thank you for your attention in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd G. Thompson". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Todd G. Thompson  
County Attorney  
Leavenworth, Kansas