



KANSAS DISTRICT COURT

Chambers of
NANCY E. PARRISH
Chief Judge

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Testimony before the Joint Meeting of Senate Judiciary
Committee and the House Committee on Corrections and Juvenile
Justice regarding 2011 House Substitute for Senate Bill No. 6
January 25, 2012

Thank you for the opportunity to present concerns about House Substitute for SB 6, the new DUI legislation.

First of all, I would like to thank the DUI Commission and all the legislators who worked on this legislation. As a district judge dealing regularly with DUI issues, I appreciate the difficulty and complexity of revising the DUI statutes.

There are two major issues with which judges in our district have concerns. The first one is the issue related to the drug/alcohol evaluation required by K.S.A. 8-1008. Prior to sentencing, the court must order a defendant to obtain an evaluation and pay the cost of the evaluation (which shall not exceed \$150.00) directly to the provider. The evaluation must be completed prior to sentencing. While we have not had a lot of experience at this point with the new statute, judges in our judicial district are concerned about what will happen if the defendant is unable to pay the evaluation fee. We don't know yet if the providers will complete the evaluation prior to receiving a fee and just hope to collect it later or whether the fee will need to be paid up front. If a provider requires the fee to be paid prior to the evaluation being completed, ~~the~~ sentencing will be delayed. The court could make the payment of the evaluation fee a condition of the defendant's bond. If the defendant failed to pay, the court could revoke the bond. Unfortunately, jailing the defendant for failing to pay the fee and obtaining the evaluation is not a solution to the problem if the defendant is indigent and has no funds to pay the evaluation fee. If the defendant remains in jail, there is also the issue of finding a provider who will conduct the evaluation at the jail.

The second issue of concern is the heavily litigated issue regarding whether the legislature intended that the new look back provision would apply to offenses which occurred prior to July 1, 2011, or only to those offenses that occurred after July 1, 2011. Under K.S.A. 8-1567(j)(3) "only convictions occurring on or after July 1, 2001 shall be taken into account when determining the sentence to be imposed for a first, second, third, fourth, or subsequent."

Finally, the Third Judicial District Judges generally support the proposal by Sunflower Alcohol Safety Action Project which would authorize community based alcohol and drug safety action programs to continue to operate in the Third Judicial District (Shawnee County).

This could be accomplished by reinstating the previous language in K.S.A. 8-1008 and localizing it to the Third Judicial District.

Thank you so much for your attention.

A handwritten signature in cursive script, appearing to read "Nancy Parrish".

Nancy Parrish
Chief Judge, Third Judicial District
Division Fourteen