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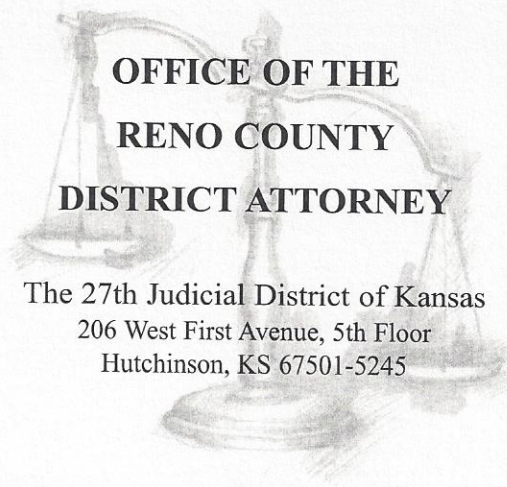
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TO: The Honorable Senators of the Judiciary Committee

FROM: Thomas R. Stanton
Deputy Reno County District Attorney
Chairman of the Drug Section
Kansas County and District Attorneys Association

RE: House Bill 2318

DATE: January 31, 2012

Chairman Owens and Members of the Committee:

Thank you for allowing me to submit testimony regarding House Bill 2318. This bill creates a new sentencing structure for drug distribution crimes based on the quantities of controlled substances possessed for sale or sold in Kansas.

The bill was drafted by the Recodification Committee, and established four levels of liability for drug distribution crimes. The bill was amended in the House to include a five-level drug grid. This five-level grid is required for this legislation to work as proposed by the Recodification Committee.

The drug grid currently in use contains four levels. Drug distribution and manufacturing crimes are designated in levels one through three of the grid, while crimes involving the simple possession of certain drugs are designated as level four crimes.

House Bill 2318 without the modification to add the five-level drug grid proposed that possession of small amounts of controlled substances for sale, or sale of those substances, would be level four drug crimes, the same level as simple possession for personal use. It makes no sense to punish those convicted of possession for personal use at the same level as those convicted of possessing drugs for sale. Thus, the five level drug grid allows a level for the simple possession of drugs. The sentences

in level five of the proposed grid are identical to the sentences now proscribed in level four. Thus, the sentences for simple possession of controlled substances would not change under the new grid.

The proposed grid creates a level of sentencing which falls precisely between the current first and second levels of the current drug grid. I have attached the proposed grid with an explanation as to the assignment of crimes for each grid level.

The proposed grid was added after our testimony in the House. I had the opportunity to speak to Professor Stacy and Judge White at that hearing, and they both indicated they were in favor of the change. Additionally, it is my understanding the Kansas Sentencing Commission has adopted the five-level grid as its recommendation.

I urge you to pass the amended version of HB 2318.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Stanton', with a long horizontal flourish extending to the right.

Thomas R. Stanton

	A	B	C	D	E	F	G	H	I
	3 + person felonies	2 person felonies	1 person & 1 nonperson felony	1 person felony	3 + nonperson felonies	2 nonperson felonies	1 nonperson felony	2 + misds	1 misd or no record
I	204 194 185	196 186 176	187 178 169	179 170 161	170 162 154	167 158 150	162 154 146	161 150 142	154 146 138
II	144 136 130	137 130 122	130 123 117	124 117 111	116 111 105	113 108 101	110 104 99	108 100 96	103 98 92
III	83 78 74	77 73 68	72 68 65	68 64 60	62 59 55	59 56 52	57 54 51	54 51 49	51 49 46
IV	51 49 46	47 44 41	42 40 37	36 34 32	32 30 28	26 24 23	23 22 20	19 18 17	16 15 14
V	42 40 37	36 34 32	32 30 28	26 24 23	22 20 18	18 17 16	16 15 14	14 13 12	12 11 10

Levels

Meth, cocaine

- 1 Sale > 1,000 grams
- 2 100 to 1,000 grams
- 3 3.5 g - 100 g
- 4 < 3.5 grams

Heroin

- Sale > 100 grams
- 3.5 g - 100 g
- 1.0 g - 3.5 g
- < 1.0 gram

Marijuana

- Sale > 30 kg
- 450 g - 30 kg
- 25 g - 450 g
- < 25 grams

Manufacture

- 1st - Methamphetamine
- 1st - Other than meth

21-5709

- 21-5709(a)
- 21-5709(b) - 1,000' of school

Simple possession

2nd offense - Simple poss.

21-5709(b)

Violation of 21-5706(a) with respect to any controlled substance designated in K.S.A. 65-4105, 65-4107, 65-4109 OR 65-4111 distributed by dosage units would be as follows:

- Level 1: over 1,000 dosage units
- Level 2: 100 to 1,000 dosage units
- Level 3: 10 to 100 dosage units
- Level 4: less than 10 dosage units

The severity level for cultivation of marijuana will be as follows:

- Level 1: over 100 plants
- Level 2: 50 to 100 plants
- Level 3: 4 to 50 plants