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House Committee on Judiciary  
The Honorable John Barker, Chairman

Re: *HB 2115, aka Mija Stockman's Law*

Mr. Chairman, Committee Members:

Thank you, Chairman Barker and Committee Members, for the opportunity to appear before you today to testify in support of HB 2115, also known as Mija Stockman's Law. My name is David A. Page; I am the elected McPherson County Attorney. I prosecuted the drunk driver who struck and severely injured Mija Stockman on December 20, 2013.

The Defendant in this case was convicted on May 27, 2014 of one count of Aggravated Battery while DUI—causing great bodily harm—in violation of K.S.A. 21-5413(b)(3)(A), a Severity Level 5 Person Felony. The penalty, established by this Legislature, for a Severity Level 5 Felony is between 31 to 136 months imprisonment and a fine not to exceed \$300,000.00.

Despite having a prior conviction for *Illegal Transportation of Liquor* in 1984 (Hutchinson, Kansas, Municipal Court); a prior conviction for *Driving While Intoxicated* in 1995 (Zachary, Louisiana, Municipal Court); and a prior conviction for *Operating a Vehicle While Intoxicated* in 1999 (East Baton Rouge District Court), the Defendant fell into a criminal History Category of "I" for sentencing purposes. A Category "I" is the lowest category on the Sentencing Guideline Grid. The Defendant's sentencing classification was in a "border box", with a sentencing range between 31 to 34 months; the Defendant was eligible for being placed on probation without the Court "departing" from the Guideline Sentence.

After hearing testimony and taking evidence during a lengthy sentencing hearing—with the Courtroom filled to capacity—the sentencing Judge denied probation and imposed the Guideline Sentence of 34 months—the *maximum* sentence allowed under current law—with 5.1 months of good time credit to be earned, and a post release supervision duration of 24 months. I used every tool available under the law to try and bring about a swift and just resolution to this case; however, in the end, a 34 month sentence is the maximum the law would allow. Pursuant to his sentence, the Defendant is due to be released from prison on April 27, 2016—next year.

When I compare the Defendant's relatively light sentence to that of the devastation his actions brought upon the Stockman and Lysell Families, I cannot help but stand in disbelief. Consider for a moment that the Defendant is the only person responsible for the automobile crash on December 20, 2013. Yet, as the Defendant looks forward to his release in just over a year, Mija Stockman and her family are looking at a future filled with struggle—struggle which will literally last their lifetimes.

Increasing the Severity Level of Aggravated Battery while DUI—when a permanent disability is suffered by a victim—to a Severity Level 4 Person Felony, is a good first step to correcting this type of injustice. The Guideline Sentence for a Severity Level 4 Felony is between 38 to 172 months imprisonment, the post release supervision period is for 36 months, and—most importantly—there is no “border box” for a Severity Level 4 Felony, which technically removes probation as an option, absent a court “departing” from the Guideline Sentence.

I encourage each of you to support HB 2115 because it is right for you to do so *and* it is altogether appropriate that this Bill bear the name of Mija Stockman.

Thank you, Mr. Chairman. May God bless you, this Committee, and this Honorable Institution.

I am prepared to stand for questions.



David A. Page  
McPherson County Attorney