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To: Chairman Barker and Members of the House Judiciary Committee

Re: Testimony in Favor of House Bill 2289

Dear Chairman Barker and Members of the House Judiciary Committee

I am a solo practitioner that specializes in representing clients charged with criminal offenses. Over half of my practice consists of DUI cases, in which most face the potential of losing their driving privileges following an arrest for failing or refusing an alcohol breath test. I can not describe how difficult it is to explain to my clients that no evidence resulting from an illegal traffic stop (lack of reasonable suspicion) can be used against them in their criminal proceedings on the DUI charge, but the same set of facts can be used by the State to suspend their driving privileges. Many ask how the State of Kansas can excuse law enforcement's violation of their constitutional rights for any purpose, even in a non-criminal proceeding. For this, I have no good answer. I respect that holding a driver's license in Kansas is a privilege, not a right which requires the full panoply of constitutional guarantees. However, those granted a license should not be in jeopardy of any loss, constitutional or otherwise, from a breach by a law enforcement officer.

Please adopt this bill for the citizens of Kansas, and for those that travel in Kansas by automobile. My clients do not deserve to be confused any further about when an officer can lawfully stop their vehicle. It is hard to understand when it appears the State is talking out of two sides of its mouth; it guarantees its citizens to be free from unlawful seizures by law enforcement, but it will excuse law enforcement's unlawful conduct when it comes to a person's driving privileges. The protections in the constitutions of the United States and Kansas must apply in all circumstances.

Your attention to this matter is greatly appreciated.

Sincerely,



Kevin Shepherd, KS #19947