



# CITY OF TOPEKA

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To: House Committee on Judiciary  
From: Kelly Trussell, Chief of Prosecution  
Date: 2/7/2023  
Re: HB 2216 Proponent Testimony

I would like to thank Chairman Patton and the Committee for allowing the City of Topeka the opportunity to testify today in support of HB 2216.

Every year our Governing Body crafts a legislative agenda focused on issues that affect our local citizens. The list can vary from year to year, but, it is driven by needs seen by our elected officials, citizens, and staff.

The bill in front of you is the perfect example of this. As Chief of Prosecution, I interact daily with citizens on their best and worst days. We work hard at the City to provide an equitable judicial system; however, continually, we see a reoccurring issue that does not seem equitable. We brought this issue to our Governing Body who included it in this year's legislative agenda and is now in front of you today.

K.S.A. 8-262, provides the penalties for driving while a license is canceled, suspended, or revoked. The law requires that when an individual is convicted of driving on a canceled, suspended or revoked license, that individual be sentenced to at least five days imprisonment and fined at least \$100. Upon a second offense, a minimum of five days of imprisonment is mandatory and not eligible for parole or a suspended sentence. In light of recent changes eliminating the requirement for mandatory imprisonment for first time DUIs, adopted during the 2022 legislative session, this penalty for driving while a license is suspended seems excessive. This mandatory five days imprisonment imposes very real hardships on individuals trying to get out of the cycle of poverty.

Here are some examples of cases we have seen in the last year. These are very representative of the type of case we see on a weekly, if not a daily basis.

Example One: Defendant had two pending cases: Driving while suspended 3rd and 4th convictions. After 13 months of making payments on the many thousands of dollars in fines (collections fees escalates the debt exponentially), she finally was able to get a restricted license. Her cases were amended to fines because she was able to obtain a restricted license, but she was originally facing five days in jail for each case (10 total). She is the exception, because most of the time, the defendants cannot dig out financially to get their license back in time to avoid additional convictions in court.

Example Two: Defendant, single mother of 3 children. One child was in the NICU at Children's Mercy for the past nine months (since birth); she was sentenced to the mandatory five days and could not afford house arrest as an option.

Example Three: Defendant, single mother of 1 child. Sentenced to 10 days house arrest as to not miss work (this is a very expensive option). She is a waitress in town and house arrest was an additional financial hardship imposed upon her.

We have worked with law enforcement to create a very narrow fix to this inequity that would not require the mandatory five day imprisonment for individuals who have had their license suspended for violations of K.S.A. 8-2110 (failing to appear in court or failure to pay fines and fees). We believe this change strikes an appropriate balance between public safety and returning citizens to legal driving statuses.

Currently, the mandatory jail sentences for the convictions ultimately carry the risk of loss of employment because the individual is incarcerated, or the individual faces the high financial burden of house arrest in order to keep their employment and/or care for their children. These are potentially devastating outcomes that carry a ripple effect throughout the community. Often these citizens are in low income and one income households.

Removal of the mandatory jail sentences for these convictions is a sensible step to increasing the number of citizens achieving the goal of correcting the violations and reinstating their licenses to a valid status. This offense will continue to be a misdemeanor and we have full faith that the discretion over sentencing can be appropriately handled at the municipal level, on a case-by-case basis, without mandatory imprisonment. Through the use of discretionary suspended sentences and parole, we will be better able to accomplish our goal of helping our citizens to reinstate their licenses and get back to legally driving.

Thank you for your time and your consideration on this very important issue. I urge you to pass HB 2216 to the full House for its consideration and I am happy to stand for questions at the appropriate time.