

Testimony presented to the Joint committee meeting of the Kansas Senate Judiciary
Committee and the House Corrections and Juvenile Justice Committee
January 25th, 2012
By the Hon. Phillip B. Journey

I first want to commend this body for enactment of the current law. Senate Bill 6 is a change in policy that should help make Kansas a safer place. Since enactment I have prepared a continuing education presentation for the legal profession and delivered them to District Judges and Magistrates. I also have made the presentations for CLE credit to members of the Wichita and Johnson County Bar Associations. We are currently scheduling a new presentation for the Kansas Bar Association here in Topeka.

Not all fines were increased by \$250.00. While not every fine was increased does that mean that not every case will have proceeds go to KDOC? I have not been able to find the projections for revenue and costs. If it is necessary to generate more revenue all minimums and maximums should be increased by the same \$250.00 increment. It is unclear which \$250.00 goes to KDOC the first paid or the last? If it is the last there is not going to be the same amount generated as the first \$250 paid. The delay waiting for the last payment would delay revenue for the fund a more than a year.

The minimum penalty for a 3rd and subsequent offense has caused a lot of consternation. Is it really 10 days on house arrest or 90 days in jail, this really needs to be clarified.

8-1567(a)(6) Habitual Drug use DUI

This needs to be repealed or it needs to be clarified. The elements of crime are not defined. It does not seem to require intoxication at the time of vehicle operation.

Is it intended for patients who are prescribed drugs for chronic problems even though they do not suffer side effects to the degree that would justify conviction for 8-1567 (a),(3)?

Is it a crime if someone smokes pot at night before they drive or only, if they smoke daily?

Please get treatment prisons up and running. The option of sending an offender to treatment prison with the judicial option of granting probation after the successful completion of treatment has the potential of saving significant funds over the cost of incarceration. Simply jailing offenders without remedial programs and treatment does little to reduce recidivism and only postpones the inevitable. Modification of human behavior requires both positive and negative reinforcement the as effective as possible.

8-1567(b)(3) Parole violation procedures are undefined. With the shift from KDOC supervision of those on conditional release to Community Corrections supervision it will soon become a pressing question who, where, when and how parole violations will be disposed of.

Is it a Morrissey hearing?

Who is to be the Hearing Officer?

What is their legal authority to conduct the hearing and what are the remedies?

Clarify impoundment process for motor vehicles. Who does the Judge issue the order to?
Is the only way to enforce it by contempt?

8-1567 (b),(4) Provide for the indigent to get the evaluation needed to hold their sentencing hearing and assess the cost of that evaluation as costs of the case.

8-1567 (i) Is the driver's license record or abstract really necessary? If so who is to request it & 74-2012 who is to pay for it? If so it is to be retained, you should direct courts order it at finding of guilt.

8-1567(b)(3) If we are paperless is a Cert. Journal Entry really necessary to ISO/CSO intake? Or is it for KDOC and Sherriff's Office for custody authorization? In Sedgwick County improvements have been made but it still takes a few days to get Journal Entries of Judgment prepared and the judge's worksheet is the guide for staff until the final paperwork is prepared and executed.

Who designates the multi disciplinary team care coordination agency?

8-1567(p) revoke license plate (what good is this?) how is it to be enforced? Do I send the attorney out to the parking lot with a screw driver? What about the spouse's or child's use of car? What if the car used in the offense is owned by a third party at the time?

Respectfully submitted

Phillip B. Journey

