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Kansas Judicial Center  
301 S.W. Tenth Street, Suite 140  
Topeka, Kansas 66612-1507

Telephone (785) 296-2498  
Facsimile (785) 296-1035

judicial.council@ks.gov  
www.kansasjudicialcouncil.org

EXECUTIVE DIRECTOR  
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**TO: House Judiciary Committee**

**FROM: Kansas Judicial Council – Ed Klumpp, Retired Chief of Police & Member of the Criminal Law Advisory Committee**

**DATE: February 16, 2021**

**Re: Testimony in Support of 2021 H.B. 2387 Concerning Operating an Aircraft Under the Influence**

2021 H.B. 2387 was introduced at the request of the Judicial Council’s DUI Advisory Committee. Due to a request from then-House Judiciary Chairman, Representative Blaine Finch to study topics related to driving under the influence, the Judicial Council formed the DUI Advisory Committee (“the Committee”). The Committee began meeting in December 2018 and continued to meet through 2020. A list of the Committee’s members is included at the end of this testimony.

Kansas’ current statutes governing the crime of operating an aircraft under the influence of drugs or alcohol<sup>1</sup> were enacted in 1981 and have never been updated. The Committee conferred with the federal aviation administration and others with expertise in this area. When someone suspects an aircraft is being operated under the influence, the person is to contact the local law enforcement agency. Having comprehensive and updated state statutes are critical for local law enforcement to properly investigate allegations, as well as collect evidence. The work of the local law enforcement agency is necessary for any criminal charges and administrative action taken by the federal aviation administration.

The Committee presumes that if the alcohol or drug testing procedures for operating an aircraft under the influence are challenged in court, the courts will look to the DUI case law for

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<sup>1</sup> K.S.A. 3-1001 *et seq.*

guidance. In order to provide consistency for law enforcement officers and to protect people's constitutional rights, it is important that the process and penalties for operating an aircraft under the influence closely resemble the DUI process and penalties. The statutes should also be updated because the statutes may be applied to drone operators in the future.

If the amendments to the DUI sentences in H.B. 2377 Section 7 are passed, the Committee asks that where applicable, the sentencing provisions in this bill be updated to mirror the provisions in the DUI statute.

The members of the Judicial Council DUI Advisory Committee are:

Rep. Brad Ralph, Chair; Dodge City, Kansas  
*State Representative, 119<sup>th</sup> District and City Attorney for Dodge City*

Aaron Breitenbach; Wichita, Kansas  
*Sedgwick County Assistant District Attorney*

Hon. Cindi Cornwell; Overland Park, Kansas  
*Overland Park Municipal Court Judge*

Prof. Jeffrey Jackson; Topeka, Kansas  
*Washburn University School of Law*

Corey Kenney; Topeka, Kansas  
*Assistant Kansas Attorney General*

Ed Klumpp; Tecumseh, Kansas  
*Retired Topeka Chief of Police*

Chris Mann; Lenexa, Kansas  
*Mann Law Firm, Attorney and Member of the Kansas Sentencing Commission*

Jay Norton; Overland Park, Kansas  
*Norton Hare Law Firm, Defense Attorney*

Hon. William Ossmann; Topeka, Kansas  
*Shawnee County District Court Judge*

Jeremiah Platt; Manhattan, Kansas  
*Clark & Platt Law Firm, Defense Attorney*

John Rapp; Wichita, Kansas  
*Hinkle Law Firm, Defense Attorney*

Ted Smith; Topeka, Kansas  
*Attorney for the Kansas Department of Revenue*

Roger Struble; Salina, Kansas  
*Blackwell & Struble Law Firm, Defense Attorney*