

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The Chairman called the meeting to order at 9:35 A.M. on January 26, 2011, in Room 548-S of the Capitol.

All members were present

Committee staff present:

Lauren Douglass, Kansas Legislative Research Department  
Robert Allison-Gallimore, Kansas Legislative Research Department  
Jason Thompson, Office of Revisor of Statutes  
Tamera Lawrence, Office of Revisor of Statutes  
Theresa Kiernan, Committee Assistant

Conferees appearing before the committee:

Ed Klumpp, KS Assn. of Chiefs of Police, KS Sheriffs Assn., KS Peace Officers Assn.  
Sarah M. Hansen, Executive Director Kansas Association of Addiction Professionals  
Frank Harris, MADD  
Christopher Mann, MADD  
Corey F. Kenny, City of Lenexa, KS, Prosecutor

Others attending:

See attached list.

The Chairman opened the hearings on **SB 7 -- Driving under the influence.**

The Chairman announced that the fiscal note for **SB 7** was not yet available and that he did not intend to work the bill until after it becomes available.

Ed Klumpp testified in support of **SB 7 (Attachment 1)**. He stated that:

- The high incidence of recidivism by DUI offenders clearly indicates a great need to strengthen the DUI laws
- The increased use of ignition interlock devices has proven to reduce DUI related accidents in several states
- Criminalizing the refusal to take a DUI test acts as a deterrent to such test refusals
- There is a need for funding for the KBI for costs attributable to record-keeping and the central computer system
- There is a need for funding for the Department of Corrections for any prison bed impact

Mr. Klumpp expressed concern relating to the availability of local jail space and for the cost associated with housing additional DUI offenders.

Senator King asked whether criminalizing the refusal to take a test raises a 5<sup>th</sup> Amendment issue?

Mr. Klumpp responded that the language in **SB 7** is modeled after the Nebraska statute which has not been overturned.

Senator King stated that the issue of limited jail space is not limited to the five counties with the highest population. He asked if a centralized drug and substance abuse center would alleviate the jail space issue?

Mr. Klumpp stated he was not qualified to answer the question.

Senator Bruce asked what the current law is relating to interlock devices?

Mr. Klumpp was not sure, but noted that other states have shorter periods of suspension of driving privileges tied with mandatory use of ignition interlock devices.

## CONTINUATION SHEET

MINUTES OF THE Senate Judiciary Committee at 9:35 A.M. on January 26, 2011, in Room 548-S of the Capitol.

Sarah M. Hansen testified in support of **SB 7** ([Attachment 2](#)). The key provisions of the bill she requested the committee to support are:

- The requirement for participation in an alcohol and drug evaluation conducted by a licensed provider with a DUI specialty
- The use of a standardized substance abuse evaluation approved by the secretary of Social and Rehabilitation Services
- The direct payment of evaluation to the provider at the time of service.

Frank Harris testified in support of **SB 7**. He stated that the ignition interlock device is the most effective way to stop drunk driving. Mr. Harris included information from the Pacific Institute for Research and Evaluation (PIRE) supporting the use of ignition interlock devices in his testimony ([Attachment 3](#)).

Christopher Mann testified in support of **SB 7**. He stated that the penalty provisions in the bill are not too tough on the first-time offender; the bill is a sound and necessary start to the strengthening of Kansas DUI laws ([Attachment 4](#)).

Corey F. Kenny testified in support of **SB 7** ([Attachment 5](#)). He urged the committee to support the following provisions of the bill:

- The criminalization of test refusals as a major step in holding DUI offenders accountable
- Increased sentences for repeat offenders
- The central repository which provides an additional too that allows the prosecution system to act upon reliable information regarding an offender's prior record
- Increased use of the ignition interlock device

Mr. Kenny expressed concern with the provisions of **SB 7** which would eliminate the life-time look-back provision and which allow for the expungement of DUIs and test refusal offenses.

Jason Thompson, Staff Revisor, distributed information showing the current law and the changes proposed in **SB 7** relating to administrative penalties for DUI test refusals and DUI test failures ([Attachment 6](#)).

Written testimony in support of **SB 7** was submitted by:

- Pete Bodyk, Kansas Department of Transportation ([Attachment 7](#))
- Steve Montgomery, Kansas Bureau of Investigation ([Attachment 8](#))
- Patrick Lewis, Criminal Defense Attorney ([Attachment 9](#))
- Todd Thompson, Leavenworth County Attorney ([Attachment 10](#))
- Paul R. Marques, Pacific Institute for Research and Evaluation (PIRE) ([Attachment 11](#))
- Major Mark Bruce, Kansas Highway Patrol ([Attachment 12](#))
- Matt Strausz, Kansas Ignition Interlock Association ([Attachment 13](#))

The Chairman called the committee's attention to the Prison Bed Impact Statement for **SB 7**.

The Chairman announced that the hearings on **SB 7** would be continued until January 27<sup>th</sup>.

Meeting adjourned at 10:29 A.M. The next meeting is scheduled for January 27, 2011.