



SUPPORT FOR HB 2146 – Expanding the number of presumptive probation and border grid blocks in the sentencing grid for drug crimes.

Testimony of Kendall Seal, Director of Advocacy, American Civil Liberties Union of Kansas

House Committee on Corrections and Juvenile Justice. – February 10, 2021

Chairman Jennings and Members of this Committee,

Thank you for the opportunity to present testimony today. My name is Kendall Seal, and I am the Director of Advocacy for the ACLU of Kansas. We are a nonpartisan, non-profit organization that works to preserve and strengthen the constitutional liberties of all Kansans. We support HB 2146 because it is a step in the right direction to a more just and equitable criminal legal system.

This bill will help reduce the prison population and address some sentencing proportionality issues. As the supplemental data provided at the end of the hard copy of this testimony illustrates, racial disparities in probation sentences are prevalent in Kansas. This is particularly important given the racial inequities present in the current system, where people of color account for 33.6% of drug arrests, but they represent only 23.9% of the state's population. For Black Kansans, the racial inequity is even starker. They represent 5.6% of the state's population, and they account for 18.9% of the drug arrests.¹

Undoubtedly, allowing people to be on probation and be productive members of society is more humane and fiscally responsible compared to imprisonment, which has devastating collateral consequences. As noted in previous testimony, some aspects of the Kansas probation system set people up to fail, but we look forward to working with this Committee to address those barriers to successful probation completion, such as insurmountable fines and fees and jail time for non-criminal, technical violations.

As a broader matter, drug possession for personal use is a public health issue, not a criminal justice one. At a time when Kansas's criminal justice system is undergoing reform, we urge you to seize the opportunity to remove the stigma of criminality from personal drug use. Decriminalizing drug possession would reduce the prison population, cut probation caseloads and costs, and create a better pathway for Kansans in need of support. In Oregon, where a drug decriminalization law went into effect this year, the Oregon Criminal Justice Reform Commission estimated a reduction in the racial disparities in arrests by 95%.²

The ACLU of Kansas urges this Committee to pass HB 2146. Thank you again for the opportunity to present testimony. I am happy to answer questions from this Committee at the appropriate time.

¹ KBI data 2015-2019 and 5-year census American Community Survey data. Missing data from the following agencies: Kansas City, KS; Olathe, KS; Lawrence, KS; Douglas County Sheriff; and Topeka, KS Police Department.

<https://dashboards.mysidewalk.com/aclu-ks/arrest-disparities>

² <https://sos.oregon.gov/elections/Documents/fec/IP44-REI-Statement-Supplement.pdf>

Supplement to Testimony: FY 2012-2018 Felony Drug Probation Sentences by Race, D5 on sentencing grid

Source: <https://sentencing.ks.gov/statistical-analysis/dashboards/drugs>

Sentence imposed for D5 marijuana convictions: Probation								
By State, then County	Number of cases	White	Black	American Indian	Asian	Other	Non-Hispanic	Hispanic
Kansas	991	72.45%	25.33%	1.51%	0.71%	0.00%	89.51%	10.49%
Johnson	53	71.70%	28.30%	0.00%	0.00%	0.00%	96.23%	3.77%
Sedgwick	116	35.34%	62.93%	0.86%	0.86%	0.00%	87.93%	12.07%
Shawnee	36	52.78%	47.22%	0.00%	0.00%	0.00%	97.22%	2.78%
Wyandotte	6	66.67%	33.33%	0.00%	0.00%	0.00%	100.00%	0.00%
Douglas	13	76.92%	15.38%	7.69%	0.00%	0.00%	100.00%	0.00%
Leavenworth	8	75.00%	25.00%	0.00%	0.00%	0.00%	100.00%	0.00%
Riley	15	46.67%	53.33%	0.00%	0.00%	0.00%	100.00%	0.00%
Butler	13	92.31%	7.69%	0.00%	0.00%	0.00%	100.00%	0.00%
Reno	37	78.32%	21.62%	0.00%	0.00%	0.00%	89.19%	10.81%
Saline	58	74.14%	24.14%	0.00%	1.72%	0.00%	96.55%	3.45%

Sentence imposed for D5 cocaine convictions: Probation								
By State, then County	Number of cases	White	Black	American Indian	Asian	Other	Non-Hispanic	Hispanic
Kansas	648	47.99%	50.77%	0.62%	0.46%	0.15%	73.57%	26.43%
Johnson	95	53.68%	45.26%	0.00%	1.05%	0.00%	76.84%	23.16%
Sedgewick	159	37.11%	61.01%	1.26%	0.63%	0.00%	81.76%	18.24%
Shawnee	39	30.77%	69.23%	0.00%	0.00%	0.00%	79.49%	20.51%
Wyandotte	183	43.72%	55.74%	0.00%	0.00%	0.55%	70.88%	29.12%
Douglas	18	27.78%	61.11%	11.11%	0.00%	0.00%	94.44%	5.56%
Leavenworth	10	20.00%	80.00%	0.00%	0.00%	0.00%	100.00%	0.00%
Riley	2	0.00%	100.00%	0.00%	0.00%	0.00%	100.00%	0.00%
Butler	2	50.00%	50.00%	0.00%	0.00%	0.00%	100.00%	0.00%
Reno	3	33.33%	33.33%	0.00%	33.33%	0.00%	66.67%	33.33%
Saline	7	71.43%	28.57%	0.00%	0.00%	0.00%	57.13%	42.86%

