

To: House Corrections and Juvenile Justice

From: Deborah Barnes, Staff Attorney

Date: February 18, 2021

RE: HB 2277 Proponent Testimony - Written

We want to thank Chairman Jennings and committee members for allowing the League of Kansas Municipalities the opportunity of giving testimony in support of HB 2277.

HB 2277 clarifies the definition of “possession” in the Kansas criminal code, adding in “knowingly” in place of “with knowledge of” and taking out “or intent to have such control”.¹

Making this adjustment increases consistency across Kansas Criminal Statutes and gives clarity as to what kind of criminal culpability attaches to possession. The process of associating a single level of culpability for each criminal act, consistent with case law, was among the aims of the 2011 recodification of the criminal law. Another goal was clarifying how intentional acts, knowing acts, and reckless acts are distinguished from each other and which one of those states of culpability attaches to a particular offense.

The new definition would affect many offenses which are prosecuted in municipal courts. The clarification brought by the proposed change is logical and consistent with the goal of the recodification which took place in 2011. As such, the League of Kansas Municipalities supports HB 2277 and respectfully requests the Committee to pass HB 2277 favorably out of Committee.

¹ A person acts “knowingly,” or “with knowledge,” with respect to the nature of such person’s conduct or to circumstances surrounding such person’s conduct when such person is aware of the nature of such person’s conduct or that the circumstances exist. A person acts “knowingly,” or “with knowledge,” with respect to a result of such person’s conduct when such person is aware that such person’s conduct is reasonably certain to cause the result. All crimes defined in this code in which the mental culpability requirement is expressed as “knowingly,” “known,” or “with knowledge” are general intent crimes. Kan Stat. Ann. 21-5202 (West)