

House Corrections and Juvenile Justice Committee
February 4, 2020

House Bill 2475
Testimony of the Kansas Association of Criminal Defense Lawyers
Proponent

Dear Chairman Jennings and Members of the Committee:

This organization has been raising concerns about the Kansas Offender Registration Act (KORA) since at least 2006. We were one of the three conferees opposed to the addition of drug offenses in 2007 SB 204. The drug registry is costly and drains resources with no science, studies, or data to justify it. To people on the registry, it is akin to having two sentences, with registration sometimes being harsher than the requirements of and/or the sentence for the underlying offense for which the person registers. With HB 2475, the registry would be accessible to only law enforcement, and for a shorter period of time. This would go a long way in addressing many of the problems the drug registry creates.

Background on drug offenses' inclusion in KORA

In 2007, what started as SB 14 would have added the crimes of manufacture and possession of precursors to the list of registrable offenses. An amendment to add distribution offenses was offered on the Senate floor and passed. Once on the House side, this idea was supported by some who thought that what had been added was distribution of methamphetamine within 1,000 feet of a school. But that was not the case – it was drafted and offered as the entire sale/possession with intent to sell statute. This was concerning to the KBI, which suggested that the amendment be removed and a more thorough discussion held the following year.¹

¹ From Testimony from KBI to House Judiciary Committee, March 14, 2007:

It is certainly true that drug trafficking, in any form and any drug, can be a very dangerous profession. And it is true that innocent bystanders are shot or injured when deals go bad or retribution is attempted. However, our first concern is resources – we estimated 100-200 meth cooks who would need to register, a number we could absorb. But there may be 1000 to 2000 convictions each year for sale, attempted sale and possession with intent to sell under K.S.A. 65-4161. . . . Obviously, additional personnel and resources will be necessary.

Our second concern would be the impact on the local sheriff offices. While the bill contemplates collecting a fee, that might be problematic with some offenders. Furthermore, even with a fee, the number of registrants might strain the support staff at many sheriff offices.

Third, there is a question about dilution – we need to keep the registry workable so that the public can readily find the registrants that concern them. Too many people on the list will make it unwieldy and less useful.

Nevertheless, the provisions ended up in SB 204 - it required that people convicted of manufacturing, possession of precursors, and drug distribution or possession with intent to distribute (regardless of amount; marijuana is not included) must register for ten (now 15) years. This includes people who give drugs to their friends, sell drugs to police informants or undercover officers, and sell drugs to support their own addictions. It also includes people with qualifying drug convictions from other states or federal courts to register, even though there is no registry requirement for federal drug crimes and no other state (that we know of) registers distribution offenses by requiring a person to take affirmative steps to comply.

Because SB 204 had no triggering date, the drug offender provisions were applied to people who had been convicted months to years earlier, when no one envisioned this consequence. This remained the case until 2013 SB 20, which amended KORA to apply to people convicted after July 1, 2007.

KORA and drug offenses today

Kansas is an outlier - we have found no other state with anything like our drug registry.² To our knowledge, there is no research, study, data, or other evidence-based assessment on whether including thousands of people with convictions for distribution or possession with intent to distribute on a public registry does anything to reduce recidivism or increase public safety. There was none in 2007 and none today.

What at least one proponent (KBI) and the opponents said in 2007 would happen, has happened: 1) law enforcement resources have been strained to comply with KORA requirements; 2) the registry has been diluted; 3) having thousands of registrants who have been convicted of distribution-related offenses is expensive; and 4) registrants have a hard time getting jobs (employment being the main predictor of success/not recidivating, according to the DOC and others), housing, being with their families, participating in positive life activities, etc.

Despite its strain on its resources, law enforcement appears to want to maintain the drug offender registry — they say it is a tool for them. HB 2475 would make registration open to law enforcement only. This is actually how the registry was when it began — in 1993, when the habitual sex offender registry started, it was open to law enforcement only. Making registration private would address some of the problems KORA creates.

Thank you for your consideration,
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² <https://www.themarshallproject.org/2018/03/08/convicted-of-a-drug-crime-registered-with-sex-offenders>