

# Kansas County and District Attorneys Association

TO: The Honorable Senators of the Senate Committee on Judiciary

FROM: Patrick Vogelsberg  
Kansas County and District Attorneys Association

RE: House Bill 2318

DATE: March 21, 2011

Chair Owens and Members of the Committee:

Thank you for allowing me to submit testimony regarding House Bill 2318. This bill creates a new sentencing structure for drug distribution crimes based on the quantities of controlled substances possessed for sale or sold in Kansas.

The bill was originally drafted by the Recodification Committee, and established four levels of liability for drug distribution crimes. The House Corrections and Juvenile Justice Committee amended the bill to incorporate a 5-level drug grid. The KCDAA supports a 5-level drug grid and urges this committee to support HB 2318.

The current drug grid only contains four levels. Currently, drug distribution and manufacturing crimes are designated in levels one through three of the grid, while crimes involving the simple possession of certain drugs are designated as level four crimes. With the four-level grid that was originally offered, possession of small amounts of controlled substances for sale, or sale of those substances, would be level four drug crimes, the same level as simple possession for personal use. It makes no sense to punish those convicted of possession for personal use at the same level as those convicted of possessing drugs for sale.

HB 2318, as amended, would modify the law to encompass the five-level grid as I have proposed. The new grid creates a level of sentencing which falls precisely between the current first and second levels of the drug grid. This would alleviate the internal inconsistency which currently exists in HB 2318.

The five-level grid has an additional benefit. There has been concern expressed by some over the years that a level one designation for manufacture of methamphetamine is too harsh. My proposal would make the first-time conviction for manufacture of methamphetamine a level two

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drug felony, which is the level that falls between the current levels one and two of the grid. This deals with the proportionality issue that has been raised regarding this crime. A second-time conviction for manufacture of methamphetamine would then be sentenced as a level one drug felony. The House chose to continue with first time drug manufacturing being at a level one. The KCDA will leave it to the wisdom of this committee to decide where to place first time manufacturers on the five level grid.

I urge you to pass HB 2318 with the five level drug grid.

Respectfully submitted,

Patrick Vogelsberg