

I have been asked to comment on the DUI statute KSA 8-1567 and how the revised law has affected the court and the current offenders. First of all, let me comment on a particular case presented in Grant County, Ulysses, Kansas. The Defendant was charged with a felony DUI when in fact it was his 11th conviction under this statute. If the defendant had been stopped after the July 1st, 2011 date, it would have been his 2nd DUI conviction which is a Class A Misdemeanor. That said he is still only serving the maximum sentence for a 3rd time DUI or 11th, of one year in the County Jail.

Here in lies the problem. If a defendant received a DUI conviction in his early teens and then later on at his 25th year high school reunion, then this new statute would be suited. But the way it is written, the habitual violators of driving while intoxicated are the ones that benefit the most. The public is the only ones that have the most to lose.

Further, the interlock device that is presently ordered by statute for 1st time or 3rd or more DUI convictions is very hard to regulate. We are seeing several defendants charged with failure to have an interlock device installed after their conviction. Unless these people are stopped for a traffic citation, they drive without the regulated device and no one is the wiser. Also, the section that allows them to drive during employment using their employee's vehicle is exempt from having an interlock device installed. There are several that simple are given permission by their employers to use their work vehicle, in order to keep them eligible to drive.

We also find that in Southwest Kansas there are no facilities licensed for inpatient treatment with the new law that requires master level licensing.

I find it hard to believe that the law makers make a third time driving while suspended defendant serve a 90 day jail sentence, while a felony level driving under the influence is only required to serve 5 days with the remainder 85 days allowed to be served on house arrest or with electronic monitoring. The experience of this court and after having visited with my court service officer, the defendants that receive this sentence are serving their sentence on vacation in their own homes. Here they have been found to consume more alcohol during that 85 day stint than if they had not been sentenced to the house arrest. It is not surprising, consequently, that we have discovered there has not been any improvement in the defendant's situation of abuse of alcohol. If anything it has gotten worse.

The problem of people drinking and driving will not get any better until we make the penalties much more lasting and severe. We all have the possible threat of being maimed or killed by a drunk driver every day of our lives.

Judge Margaret Alford
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Grant County