

MINUTES OF THE HOUSE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE

The meeting was called to order by Chairman Pat Colloton at 1:30 p.m. on February 16, 2011 in Room 144-S of the Capitol.

All members were present except Representative Kay Wolf

Committee staff present:

Sean Ostrow, Office of the Revisor of Statutes  
Jason Thompson, Office of the Revisor of Statutes  
Lauren Douglass, Legislative Research  
Robert Allison-Gallimore, Legislative Research  
Jackie Lunn, Committee Assistant

Conferees appearing before the Committee:

Kevin Barone, Kansas Alternative Corrections Association  
Tom Stanton, KCDDA  
Jeremiah Morris, Senior Forensic Scientist, Johnson County Sheriff's Office  
Ed Klumpp, KS Assoc. of Chiefs of Police, KS Sheriffs Assoc., KS Peace Officers Assoc.  
Sarah M. Hensen, KAAP  
Brandy Taylor, Private Citizen  
Debra Billingsly, Board of Pharmacy

Chairperson Colloton called the meeting to order and opened the floor for consideration of **HB 2044- Amending the requirements for action and notification upon motor vehicle accident.**

Sean Ostrow, Office of the Revisor of Statutes explained a balloon on the bill. (Attachment 1) Karen Whittman, Assistant Attorney General, presented "written only" comments on the balloon. (Attachment 2) **Representative Roth moved the bill out favorably. Representative Kelly seconded.** **A discussion followed with Representative Pauls moving to adopt the balloon and include the DUI changes offered by the Attorney General's Office. Representative McCray-Miller seconded. Motion carried.**

A discussion followed.

**Representative Brookens moved an amendment on Pg. 3, line 22 to add stricken language putting back to original language. Representative Moxley seconded. Motion carried.**

**Representative Brookens moved an amendment on Page 1, line 25 to change to a person felony level 6. Representative Moxley seconded. Motion carried.**

**Representative Roth moved to pass the bill out favorably as amended. Representative Kelly seconded. Motion carried.**

Chairperson Colloton opened the hearing on **2249-Health information; Kansas health information technology and exchange act.** The following testified as a proponent of the bill and presented written copy of their testimony, which can be found in its entirety in the offices of Legislative Administrative Services:

- Jeremiah Morris, Senior Forensic Scientist, Johnson County Sheriff's Office (Attachment 3)
- Tom Stanton, KCDA (Attachment 4)
- Ed Klumpp, KACP, KSA, KSPOA (Attachment 5)
- Brandy Taylor, Relative of Victim, "written only" (Attachment 6)
- Sarah N, Hensen, KAAP, "written only" (Attachment 7)
- Chief James Hill, Salina Police Department, "written only" (Attachment 8)
- Debra Bilingsly, Kansas Board of Pharmacy, "written only" (Attachment 9)
- State Representative Kay Wolf, "written only" (Attachment 10)

A discussion followed. With no others to testify or speak to the bill, Chairperson Colloton closed the hearing on **HB 2249.**

**Representative Cassidy moved to declare an emergency and put HB 2249 up for consideration. Representative Goodman seconded. Motion carried.**

**Representative Smith moved to pass HB 2249 out favorably for passage. Representative Roth seconded. Motion carried.**

Chairperson Colloton opened the hearing on **HB 2319-Authorizing house arrest for certain misdemeanors and nongrid felonies and updating definitions.** The following testified as proponents of the bill and presented written copy of their testimony, which can be found in its entirety in the offices of Legislative Administrative Services:

- Kevin Barone, Kansas Alternative Corrections Association. ([Attachment 11](#))
- Tommy Hendrickson, Vanguard Offender Management, Inc., “written only”. ([Attachment 12](#))
- Christopher Joseph, Criminal Defense Attorney, “written only”. ([Attachment 13](#))
- P.A. Forbes, Private Home Detention, Inc., “written only”. ([Attachment 14](#))

A question and answer session followed. With no others to testify or speak to the bill, Chairperson Colloton closed the hearing and opened the floor for consideration of **HB 2059-Requiring second-hand stores to verify identity of sellers and record such information.** Sean Ostrow, Office of the Revisor of Statutes, explained the bill.

**Representative Cassidy moved the bill out favorably. Representative Smith seconded.** A discussion followed. **Representative Kinzer moved to strike subsection A and B. Chairperson Colloton seconded. Motion carried.**

**Representative Brookens moved an amendment on Page 2, line 6, after \$100 add working first violation. Motion carried.**

**Representative Kinzer moved to pass the bill out favorably as amended. Representative Colloton seconded. Motion failed.**

Chairperson Colloton adjourned the meeting at 3:15 pm with the next meeting scheduled for February 17, 2011 at 1:30 pm in room 144-S.

## HOUSE BILL No. 2044

By Committee on Corrections and Juvenile Justice

1-19

1 AN ACT concerning motor vehicles; relating to requirements after a  
2 collision; amending K.S.A. 8-1604 and K.S.A. 2010 Supp. 8-1602, 8-  
3 1605 and section 292 of chapter 136 of the 2010 Session Laws of  
4 Kansas and repealing the existing sections; also repealing K.S.A. 2010  
5 Supp. 8-1603 and 8-1606.

6  
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2010 Supp. 8-1602 is hereby amended to read as  
9 follows: 8-1602. (a) The driver of any vehicle involved in an accident  
10 resulting in injury to, great bodily harm to or death of any person *or*  
11 *damage to any attended vehicle or property* shall immediately stop such  
12 vehicle at the scene of such accident, or as close thereto as possible, but  
13 shall then ~~forthwith~~ immediately return to and in every event shall remain  
14 at the scene of the accident until the driver has fulfilled the requirements  
15 of K.S.A. 8-1604, and amendments thereto. ~~Every such stop shall be~~  
16 ~~made without obstructing traffic more than is necessary.~~

17 (b) A person who violates this section ~~which results in:~~

18 (1) ~~Total property damages under \$1,000 shall be guilty of a~~  
19 ~~misdemeanor and, upon conviction, shall be punished as provided in~~  
20 ~~K.S.A. 8-2116, and amendments thereto.~~

21 ~~(1)(2) Injury to any person or total property damages in excess of~~  
22 ~~\$1,000 shall be guilty of a class A person misdemeanor.~~

23 ~~(2)(3) Great bodily harm to any person shall be guilty of a severity~~  
24 ~~level 10 8, person felony.~~

25 ~~(3)(4) The death of any person shall be guilty of a severity level 9 5,~~  
26 ~~person felony.~~

27 (c) The director may revoke the license or permit to drive or any  
28 nonresident operating privilege of any person so convicted.

29 (d) *The driver shall comply with the provisions of K.S.A. 2010 Supp.*  
30 *8-15,107, and amendments thereto.*

31 Sec. 2. K.S.A. 8-1604 is hereby amended to read as follows: 8-1604.  
32 (a)(1) The driver of any vehicle involved in an accident resulting in injury  
33 to or death of any person, or damage to any *attended* vehicle or ~~other~~  
34 ~~property which is driven or attended by any person,~~ shall give such  
35 ~~person's driver's~~ name, address and the registration number of the vehicle  
36 such ~~person driver~~ is driving, and upon request shall exhibit such ~~person's~~

subsection (a)  
when an accident

of less than

or more

1 driver's license or permit to drive, the name of the company with which  
 2 there is in effect a policy of motor vehicle liability insurance covering the  
 3 vehicle involved in the accident and the policy number of such policy to  
 4 any person injured in such accident or to the driver or occupant of or  
 5 person attending any vehicle or other property damaged in such accident,  
 6 and shall give such information and upon request exhibit such license or  
 7 permit and the name of the insurer and policy number; to any police  
 8 officer at the scene of the accident or who is investigating the accident.  
 9 and

10 (2) Such driver, insofar as possible, shall render to any person injured  
 11 in such accident reasonable assistance, including the carrying, or the  
 12 making of arrangements for the carrying of such person to a physician,  
 13 surgeon or hospital for medical or surgical treatment if it is apparent that  
 14 such treatment is necessary, or if such carrying is requested by the injured  
 15 person.

16 ~~(b) In the event that none of the persons specified are in condition or~~  
 17 ~~present to receive the information to which they otherwise would be~~  
 18 ~~entitled under subsection (a) of this section, and no police officer is~~  
 19 ~~present, the driver of any vehicle involved in such accident, after~~  
 20 ~~fulfilling all other requirements of K.S.A. 8-1602, and amendments~~  
 21 ~~thereto, and of subsection (a) of this section, insofar as possible on such~~  
 22 ~~person's part to be performed, shall forthwith immediately report such~~  
 23 ~~accident to the nearest office of a duly authorized police authority and~~  
 24 ~~submit thereto the information specified in subsection (a) of this section.~~

25 (c) Unless the insurance company subsequently submits an  
 26 insurance verification form indicating that insurance was not in force, no  
 27 person charged with failing to provide the name of such person's  
 28 insurance company and policy number as required in subsection (a), shall  
 29 be convicted if such person produces in court, within 10 days of the date  
 30 of arrest or of issuance of the citation, evidence of financial security for  
 31 the motor vehicle operated, which was valid at the time of arrest or of  
 32 issuance of the citation. For the purpose of this subsection, evidence of  
 33 financial security shall be provided by a policy of motor vehicle liability  
 34 insurance, an identification card or certificate of insurance issued to the  
 35 policyholder by the insurer which provides the name of the insurer, the  
 36 policy number, make and year of the vehicle and the effective and  
 37 expiration dates of the policy, or a certificate of self-insurance signed by  
 38 the commissioner of insurance. Upon the production in court of evidence  
 39 of financial security, the court shall record the information displayed  
 40 thereon on the insurance verification form prescribed by the secretary of  
 41 revenue, immediately forward such form to the department of revenue,  
 42 and stay any further proceedings on the matter pending a request from the  
 43 prosecuting attorney that the matter be set for trial. Upon receipt of such

shall immediately make  
 efforts to determine whether  
 any person involved in such  
 accident was injured or  
 killed, and

(b) If no police officer is present, the  
 driver of any vehicle involved in such  
 accident, or any occupant of such  
 vehicle 18 years of age or older, shall  
 immediately report such accident, by  
 the quickest available means of  
 communication, to the nearest office  
 of a duly authorized police authority if:  
 (1) there is apparent property damage  
 of \$1000 or more;  
 (2) any person involved in the  
 accident is injured or killed; or  
 (3) the persons specified in  
 subsection (a) are not present or in  
 condition to receive such information.

1 form the department shall mail the form to the named insurance company  
 2 for verification that insurance was in force on the date indicated on the  
 3 form. It shall be the duty of insurance companies to notify the  
 4 department within 30 calendar days of the receipt of such forms of any  
 5 insurance that was not in force on the date specified. Upon return of any  
 6 form to the department indicating that insurance was not in force on such  
 7 date, the department shall immediately forward a copy of such form to  
 8 the office of the prosecuting attorney or the city clerk of the municipality  
 9 in which such prosecution is pending when the prosecuting attorney is not  
 10 ascertainable. Receipt of any completed form indicating that insurance  
 11 was not in effect on the date specified shall be prima facie evidence of  
 12 failure to provide proof of financial security and violation of this section.  
 13 A request that the matter be set for trial shall be made immediately  
 14 following the receipt by the prosecuting attorney of a copy of the form  
 15 from the department of revenue indicating that insurance was not in force.  
 16 Any charge hereunder shall be dismissed if no request for a trial setting  
 17 has been made within 60 days of the date evidence of financial security  
 18 was produced in court.

19 Sec. 3. K.S.A. 2010 Supp. 8-1605 is hereby amended to read as  
 20 follows: 8-1605. (a) The driver of any vehicle which collides with or is  
 21 involved in an accident with any vehicle or other property which is  
 22 unattended, resulting in any damage to ~~such other~~ any vehicle or  
 23 property, *including such driver's vehicle*, shall immediately stop and shall  
 24 then and there either locate and notify the operator or owner of such  
 25 vehicle or other property of such ~~person's~~ driver's name, address and the  
 26 registration number of the vehicle such ~~person~~ driver was driving, or  
 27 shall attach securely in a conspicuous place in or on such vehicle or other  
 28 property a written notice giving such ~~person's~~ driver's name, address and  
 29 the registration number of the vehicle such ~~person~~ driver was driving, and  
 30 without unnecessary delay shall notify the nearest office of a duly  
 31 authorized police authority. ~~Every such stop shall be made without~~  
 32 ~~obstructing traffic more than is necessary.~~ Violation of this section is a  
 33 misdemeanor.

34 (b) The driver under subsection (a), if possible, shall comply with  
 35 the provisions of K.S.A. 2010 Supp. 8-15,107, and amendments thereto.

36 Sec. 4. Section 292 of chapter 136 of the 2010 Session Laws of  
 37 Kansas is hereby amended to read as follows: Sec. 292. In addition to  
 38 the provisions of section 291 of chapter 136 of the 2010 Session  
 39 Laws of Kansas, and amendments thereto, the following shall  
 40 apply in determining an offender's criminal history  
 41 classification as contained in the presumptive sentencing  
 42 guidelines grids:

subsection

and, upon conviction, shall be  
 punished as provided in K.S.A.  
 8-2116, and amendments

h-1

(a) Every three prior adult convictions or juvenile adjudications of class A and class B person misdemeanors in the offender's criminal history, or any combination thereof, shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes. Every three prior adult convictions or juvenile adjudications of assault as defined in subsection (a) of section 47 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, occurring within a period commencing three years prior to the date of conviction for the current crime of conviction shall be rated as one adult conviction or one juvenile adjudication of a person felony for criminal history purposes.

(b) A conviction of criminal use of weapons as defined in subsection (a)(8) or (a)(13) of section 186 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, or possession of a firearm on the grounds or in the state capitol building as defined in section 194 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, will be scored as a select class B nonperson misdemeanor conviction or adjudication and shall not be scored as a person misdemeanor for criminal history purposes.

(c) (1) If the current crime of conviction was committed before July 1, 1996, and is for subsection (b) of K.S.A. 21-3404, as in effect on June 30, 1996, involuntary manslaughter in the commission of driving under the influence, then, each prior adult conviction or juvenile adjudication for K.S.A. 8-1567, and amendments thereto, shall count as one person felony for criminal history purposes.

(2) If the current crime of conviction was committed on or after July 1, 1996, and is for a violation of subsection (a)(3) of section 40, and amendments thereto, or if the current crime of conviction was committed on or after July 1, 2011 and is for a violation of K.S.A. 8-1602, and amendments thereto, each prior adult conviction, diversion in lieu of criminal prosecution or juvenile adjudication for: (A) An act described in K.S.A. 8-1567, and amendments thereto; or (B) a violation of a law of another state or an ordinance of any city, or resolution of any county, which prohibits the act described in K.S.A. 8-1567, and amendments thereto, shall count as one person felony for criminal history purposes.

(d) Prior burglary adult convictions and juvenile adjudications will be scored for criminal history purposes as follows:

(1) As a prior person felony if the prior conviction or adjudication was classified as a burglary as defined in subsection (a)(1) of section 93 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.

(2) As a prior nonperson felony if the prior conviction or adjudication was classified as a burglary as defined in subsection (a)(2) or (a)(3) of section 93 of chapter 136 of the 2010 Session Laws of Kansas,

1 and amendments thereto.

2 The facts required to classify prior burglary adult convictions and  
3 juvenile adjudications shall be established by the state by a  
4 preponderance of the evidence.

5 (e) Out-of-state convictions and juvenile adjudications shall be used  
6 in classifying the offender's criminal history. An out-of-state crime will be  
7 classified as either a felony or a misdemeanor according to the convicting  
8 jurisdiction. If a crime is a felony in another state, it will be counted as a  
9 felony in Kansas. The state of Kansas shall classify the crime as person or  
10 nonperson. In designating a crime as person or nonperson comparable  
11 offenses shall be referred to. If the state of Kansas does not have a  
12 comparable offense, the out-of-state conviction shall be classified as a  
13 nonperson crime. Convictions or adjudications occurring within the  
14 federal system, other state systems, the District of Columbia, foreign,  
15 tribal or military courts are considered out-of-state convictions or  
16 adjudications. The facts required to classify out-of-state adult convictions  
17 and juvenile adjudications shall be established by the state by a  
18 preponderance of the evidence.

19 (f) Except as provided in subsections (d)(3)(B), (d)(3)(C), (d)(3)(D)  
20 and (d)(4) of section 291 of chapter 136 of the 2010 Session Laws of  
21 Kansas, and amendments thereto, juvenile adjudications will be applied  
22 in the same manner as adult convictions. Out-of-state juvenile  
23 adjudications will be treated as juvenile adjudications in Kansas.

24 (g) A prior felony conviction of an attempt, a conspiracy or a  
25 solicitation as provided in section 33, 34 or 35 of chapter 136 of the 2010  
26 Session Laws of Kansas, and amendments thereto, to commit a crime  
27 shall be treated as a person or nonperson crime in accordance with the  
28 designation assigned to the underlying crime.

29 (h) Drug crimes are designated as nonperson crimes for criminal  
30 history scoring.

31 (i) If the current crime of conviction is for a violation of subsections  
32 (b)(2) through (b)(4) of K.S.A. 8-1602, and amendments thereto, each of  
33 the following prior convictions committed on or after July 1, 2011 shall  
34 count as a person felony for criminal history purposes: K.S.A. 8-235, 8-  
35 262, 8-287, 8-291, 8-1566, 8-1568, 8-1602, and 40-3104, and  
36 amendments thereto, and subsection (a)(3) of section 40 and section 41  
37 of chapter 136 of the 2010 Session Laws of Kansas, and amendments  
38 thereto.

39 Sec. 5. K.S.A. 8-1604 and K.S.A. 2010 Supp. 8-1602, 8-1603, 8-  
40 1605, 8-1606 and section 292 of chapter 136 of the 2010 Session Laws of  
41 Kansas are hereby repealed.

42 Sec. 6. This act shall take effect and be in force from and after its  
43 publication in the statute book.

8-1605,

or a violation of a city ordinance  
or law of another state which  
would also constitute a violation  
of the such sections.

I am very sorry I will not be able to attend the work session for HB 2044 due to a prior engagement...however I  
would like to offer a suggestion:

I have reviewed the balloon sent to me by Sean Ostrow and I agree with the suggestions made but I do have one suggestion:

the list in Section 4 subsection (i) **should include K.S.A. 8-1567--DUI statute**

the way it is written now the driving convictions that would become a felony are as follows:

K.S.A. 8-235--No Driver's License

K.S.A. 8-267-Driving while cancelled suspended or revoked

K.S.A. 8-291 -driving in violations of restrictions

K.S.A. 8-1566-reckless driving

K.S.A. 8-1568-fleeing and eluding

K.S.A. 8-1602 -hit and run

K.S.A. 40-3104 -no proof of insurance

the list does not include DUI and it definitely should.

Thank you for your request for further input from me. If my assistance is needed further...feel free to contact me. Good Luck in your work.

--

Please wear your seatbelt!!

Karen C. Wittman  
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DUTY HONOR SERVICE

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Date: February 16, 2011

To: Chairperson Colloton, Vice-Chairperson Patton, and distinguished members of the Corrections and Juvenile Justice Committee

My name is Jeremiah Morris and I am a Senior Forensic Scientist with the Johnson County Sheriff's Office Criminalistics Laboratory. I offer testimony today in support of House Bill 2249 which seeks to amend K.S.A. 65-4105 to add the general chemical class of substituted cathinones to the list of Schedule I controlled substances.

Cathinone and methcathinone are both listed as schedule I controlled substances federally and in the State of Kansas. Both are stimulants to the central nervous system. Cathinone is the active constituent of the plant *khat* while methcathinone is structurally similar to methamphetamine.

In the summer of 2009, the Johnson County Sheriff's Office crime lab identified 4-methylmethcathinone (mephedrone, 4-MMC) in a case submission. This was the first of a number of substituted cathinones to be submitted to the crime lab in case submissions. These compounds are often found in a class of novelty products commonly sold as "bath salts." To date, a number of substituted cathinones have been detected nationally and internationally in bath salt products. These include mephedrone, 4-fluoromethcathinone (flephephone), 3,4-methylenedioxymethcathinone (methyphone), 3,4-methylenedioxypyrovalerone (MDPV), butylone, and naphyrone, to name a few. All of these compounds have a stimulant effect on the central nervous system and are currently not covered by Kansas or Federal statutes.

In addition to calls to poison control centers, emergency room visits, over-doses, and suicides, the compounds in the bath salts products have been directly linked to several harmful physical and psychological conditions. Specifically, mephedrone has been linked to dependence, psychosis, methaemoglobinaemia, myocarditis, and serotonin syndrome, to name a few. Since the beginning of 2010, mephedrone has been directly linked to 48 deaths in England, Scotland, and surrounding localities. Limited data on other substituted cathinones indicate they have a strong potential for similar adverse effects.

House Bill 2249 takes a proactive approach to controlling substituted cathinones. Rather than list compounds individually, this bill proposes controlling these compounds using a general chemical class approach. The benefit of this approach is numerous substituted cathinones will be controlled immediately. These include compounds currently available on the market and several others with a strong potential to make it to the market. Manufacturers of these bath salts understand the law and know several compounds are available to them. Regarding the issue of synthetic cannabinoids, the past year has demonstrated their determination to stay several

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steps ahead of the law by transitioning away from scheduled compounds to uncontrolled compounds. The general chemical class approach has been used for years in the United Kingdom and is being considered by several States for substituted cathinones and synthetic cannabinoids. Forensic laboratories in Kansas agree that this is the best and most effective means of controlling substituted cathinones

In summary, the Johnson County Sheriff's Office Criminalistics Laboratory supports House Bill 2249 and the amendment to K.S.A 65-4105 to add the general chemical class of substituted cathinones to the list of Schedule I controlled substances. This bill will prohibit illicit possession and abuse of these substituted cathinones but not restrict legitimate research, either.

Respectfully,  
Jeremiah Morris  
Senior Forensic Scientist, Johnson County, KS Sheriff's Office



Kansas County & District Attorneys Association

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TO: The Honorable Representatives of the Committee on Corrections and Juvenile Justice

FROM: Thomas R. Stanton  
Deputy Reno County District Attorney  
On behalf of the Kansas County and District Attorney Association

RE: House Bill 2249

DATE: February 16, 2011

Chairman Colloton and Members of the Committee:

Thank you for allowing me to submit testimony regarding House Bill 2249. This legislation modifies K.S.A. 65-4105 to include classes of substances which have been shown to have serious mood-altering affects to those who use them, and which have no current medical use.

Last Christmas, a young Hutchinson man drove his vehicle wildly through the streets of the city, driving on the wrong side of the road, speeding, and eventually crashing into a tree. He was found outside the vehicle, acting and talking in a very bizarre manner. The young man was extremely fortunate that neither he, nor an innocent citizen, were injured or killed that night. It was determined he had used "Black Mamba," a substance sold as "incense," and sold in packaging indicating it was not for human consumption. The product was, in fact, a synthetic cannabinoid, which was purchased and used for the purpose of getting high. I believe that those who sell the product know very well the purpose for which it is being purchased.

You have previously heard testimony regarding a young man's use of "bath salts" in Salina, resulting in that young man's death. "Bath salts," and some similar substances being marketed to our young people as safe, legal substances which can be used to get high, are in reality dangerous drugs related to cathinone and methcathinone, two substances which are already controlled under the uniform controlled substances act.

Bills have been introduced in the past few years to criminalize dangerous substances which have resulted in serious injuries and death when used by the citizens of this State. These substance, such as salvia divinorum, gypsum weed, BZP, and substances found in what came to be known as "K-2,"

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were used more and more by young people to obtain altered states of consciousness, often resulting in tragic consequences. These substances were used because they were marketed as "legal," meaning, of course, that they had not yet been scheduled as controlled substances.

The attempts to control the use of dangerous new drugs seemed always to be reactionary, rather than attempts to get ahead of the situation. This was because every time we were successful in scheduling a drug, some chemist somewhere would find a way to slightly alter a drug's chemical configuration, creating a new drug which fell outside the specific controlled substance while maintaining the mood-altering affects of the drug. These altered chemical configurations are being marketed by unscrupulous, greedy drug dealers masquerading as legitimate merchants as "potpourri" or "incense" or "bath salts." In reality, the substances are synthetic cannabinoids and analogs of the controlled substances cathinone and methcathinone.

House Bill 2049 took a new approach to the issue, resulting in a proactive piece of legislation. That bill would outlaw classes of substances known as synthetic cannabinoids, and eliminate the ability of chemists to get around the law by simple modification of existing base substances. The legislation controls classes of chemical structures which represent the base structure of the drugs which our young people are using.

House Bill 2249 uses the same approach with regard to analogs of cathinone and methcathinone. I worked with Chris Riddle of the K.B.I. to develop the language for this bill. The language mirrors the manner in which the United Kingdom has dealt with this issue. The legislation uses the same theory as did House Bill 2049 in identifying classes of drugs which would be controlled. This bill has the same proactive effect on the issue of controlling these designer drugs. Please support House Bill 2249.

Respectfully submitted,

Thomas R. Stanton



**Kansas Association of  
Chiefs of Police**

PO Box 780603  
Wichita, KS 67278  
(316)733-7301



**Kansas Sheriffs  
Association**

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Salina, KS 67402  
(785)827-2222



**Kansas Peace Officers  
Association**

PO Box 2592  
Wichita, KS 67201  
(316)722-8433

**Testimony to the House Corrections and Juvenile Justice Committee  
In Support of HB2249  
February 16, 2011**

Chairperson Colloton and Committee Members,

During the testimony on HB2049 you heard compelling testimony from Jim Hill, Chief of Police in Salina and two citizens who had witnessed firsthand the devastation of synthetic drugs, including "bath salts." The human toll of these currently legal but very dangerous compounds laced with synthetic drugs is unimaginable.

Since the testimony provided by Chief Hill, I have been contacted by law enforcement officials in two other areas of the state where they are starting to see "bath salts" issues. None have reached the critical levels seen in Salina. But we know it is only a matter of time, and probably not far in the future, when this problem will be statewide.

We believe this is a case where there will actually be few criminal cases evolve. We believe passage of this bill will primarily create a deterrent effect by taking these dangerous chemicals off the shelves from these retailers who have little concern of the impact of their profiteering.

We are asking you to carefully consider the solutions put forth in HB2249 and to pass this bill favorably. The quicker we get on this growing problem fewer Kansans will suffer from its devastating effects.

I have attached a summary focusing on the "bath salts" issue from the testimony presented by Chief Hill in January.

Ed Klumpp  
Kansas Association of Chiefs of Police, Legislative Committee Chair  
Kansas Sheriffs Association. Legislative Liaison  
Kansas Peace Officers Association, Legislative Liaison  
E-mail: eklumpp@cox.net  
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House Corrections and Juvenile Justice  
Committee  
2011 Session  
Date 2-16-11  
Attachment # 5

TO: House Corrections and Juvenile Justice Committee

FROM: Brandy Taylor

DATE: February 15, 2011

RE: Support for HB 2249

Thank you for allowing me to submit written testimony for HB 2049. I cannot speak as to the prescribed drugs' terms that this bill addresses as anything other than by their street names, bath salts and potpourri. I can only speak using these terms because I only came to know them through my little brother, Elijah, who was killed in an accident in association with these substances. I know of my brother being on the two of these substances two times and the second time killed him.

The first time he was on these substances was over Thanksgiving break, he came home shaking and said that a girl had said it was similar to cocaine, but lasted longer (bath salts). The next day he cried as he told a friend and me that he knew it was because all the positive chemicals in his brain had been used up the day before and that he just could not help but cry. His best friend quickly became addicted to the bath salts and now lives with the knowledge that his addiction to these "safe" substances may have had something to do with Elijah's death. On his first day back home for Christmas break, Elijah started his day off with his best friend offering him bath salts and in order to combat the "down" that is so often associated with amphetamine, they began smoking the potpourri, a lot of it. Elijah became disoriented and began having a panic attack, hallucinating and screaming. He physically fought with his best friend and ended up being left on the side of the interstate, with no coat, no glasses and no cell phone. When he tried to wave down a car, he had no depth perception and was struck by a van.

We sat by his side in the hospital praying for a miracle because some guy got the bright idea to "invent" drugs to sell legally. There is no difference in any regard between these substances and meth-amphetamine. These substances are in the hands of devastatingly irresponsible people, describing these substances by the "high" they give you in order to sell them anyone old enough to buy cigarettes. I fear that these same people that make and sell them will find a way around any restrictions or laws passed, similar to what they did in response to K2, altering them slightly in order to continue to make a profit. Please work to make this impossible for them. I don't what happened to my brother to happen to any other young person. These substances are unregulated, untested, highly addictive and dangerous. There is no reason for these drugs to stay available. Elijah was a Human Biology major at KU and lived with me in Lawrence. He was not a partier or a crazy negligent youth, he was under the influence of deadly substances and peer pressure and because of that he is no longer with us. His death is a loss to not just my family but all of society as he would have made a great worker, father and community member. Thank you again for allowing me to submit testimony on HB 2049.

House Corrections and Juvenile Justice  
Committee  
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Attachment # 6



**Kansas Association of Addiction Professionals**

**Kansas Association of Addiction Professionals**

**107 SW 6th Ave, Ste. 200  
Topeka, KS 66603  
785-235-2400**

**February 16, 2011**

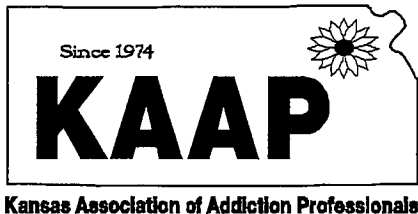
**House Corrections and Juvenile Justice Committee**

**House Bill 2249: Adding chemical compounds known as "bath salts"  
to the controlled substances schedule**

**Sarah M. Hansen, Executive Director**

**Kansas Association of Addiction Professionals**

For Additional Information Contact: Stuart Little, Association Lobbyist, Little Government Relations, LLC, 800 SW Jackson St, Ste 914,  
Topeka KS 66612, (785) 845-7265 or Sarah Hansen, Association Executive Director, (785) 235-2400.



## **Kansas Association of Addiction Professionals**

**107 SW 6th Ave, Ste. 200  
Topeka, KS 66603  
785-235-2400**

February 16, 2011

House Corrections and Juvenile Justice Committee

House Bill 2249: Adding chemical compounds known as "bath salts"  
to the controlled substances schedule

Chairwoman Colloton and committee members:

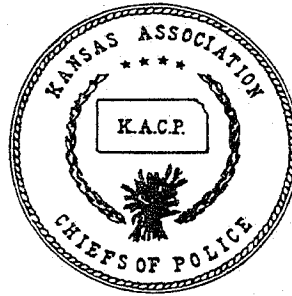
I thank you for the opportunity to provide testimony today related to the proposed House Bill 2249. My name is Sarah Hansen and I am here today representing the Kansas Association of Addiction Professionals. Our association is comprised of nearly 500 addiction treatment and prevention professionals across the state of Kansas. We appear today to issue our support of the public safety elements presented in the bill.

The association works with addiction treatment providers all around the state. Our providers are often at the front lines viewing first hand the harmful consequences of new drugs of abuse. We are hearing reports of abuses, particularly among juveniles, of "bath salts." This substance, which often contains MDPV (Methylene Dioxy Pyrovalerone) or Mephedrone is of great concern. The impact of this usage, far from taking extended usage to manifest, is swift and traumatic. Many who inject, smoke, or inhale bath salts require immediate medical attention. Younger people appear to be the primary users of this substance. As treatment providers, the appearance of this new and powerful drug also increases the financial burden in the already funding-starved system.

We in the treatment provider community welcome your attention to this growing national and Kansas issue. We support HB 2249 which adds the chemical compounds found in "bath salts" to the controlled substance schedule and encourage your efforts to move the bill forward in a timely manner.

Thank you for your time and I would be pleased to respond to questions at the appropriate time.





#### OFFICERS

Jim Daily  
President  
Newton Police Dept.

Mike Keller  
Vice President  
Andover Police Dept.

Sean Wallace  
Sergeant at Arms  
Arkansas City Police Dept.

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James Hill  
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Salina Police Dept.

Todd Ackerman  
Immediate Past President  
Marysville Police Dept.

Doyle King  
Executive Director  
KACP

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Vernon Ralston

**Testimony of Chief James D. Hill, City of Salina  
To House Corrections and Juvenile Justice Committee  
In Support of HB2249  
Dangerous, Unregulated Drugs  
Sold as Bath Salts  
February 16, 2011**

Law enforcement and medical personnel in Salina have experienced an alarming number of emergency calls to assist citizens whom, after ingesting herbal blends of synthetically altered potpourri and/or bath salt compounds, require immediate medical attention.

The recent appearance of synthetically altered potpourri and bath salts is not limited to Salina; this relatively new drug trend has also been noted by other Kansas law enforcement agencies across the state. It is unclear as to whether the phenomenon of synthetic cannabinoids and bath salts is a passing fancy or a long-term substance abuse trend that will remain in vogue. What is clear is that these mind altering "legal, designer drugs" have proven to be very profitable for the people manufacturing and selling them and devastating to the people who choose to ingest them.

Depending on the mixture, the strength of these clandestine drugs range from weak to an extremely high potency. The physical effects on persons ingesting the compounds vary drastically.

Synthetic drug use in Salina and elsewhere across Kansas has resulted in reports of individuals experiencing severe adverse effects, to include agitation (which can be severe and require sedation), anxiety, elevated blood pressure, intense hallucinations, numbness, pallor, tachycardia, tingling, vomiting and, in some cases, tremors and seizures.

Bath salts sold by retailers in Salina, innocuously labeled as "Ivory Wave" or "Vanilla Sky," are dangerous drugs that should not be confused with any type of common bath product. One of the chemicals commonly found in the "salts," 3,4-Methylenedioxypyrovalerone (MDPV), has no currently accepted medical use in the United States. It is very similar to methamphetamine and it is ingested in the same manner as methamphetamine or cocaine.

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Herbal potpourri drugs are smoked from pipes commonly used to smoke marijuana. The "bath salt" drugs are ingested by placing the compounds directly in the mouth, smoking in glass "rose bud" type methamphetamine pipes, snorting or injecting the powder substance, or mixing the compounds in drinks. It is not uncommon for individuals to smoke potpourri and ingest bath salts.

MDPV was directly linked to the death of a young male in St. Joseph, Missouri last year. We are currently awaiting toxicology results to determine if the December 20, 2010 death of Elijah Taylor, a 21-year-old University of Kansas student home on Christmas break, involved synthetically altered bath salts and/or potpourri. A friend who was with the decedent until just prior to his death told Salina police investigators that the decedent became very high after smoking herbal blend potpourri and "lost his mind." He was struck and killed after running in front of a vehicle traveling southbound on I-135. He was found to be in possession of a container of bath salts, which he had also reportedly ingested prior to his death.

Manufacturers and distributors deceptively market these dangerous products as potpourri, herbal blends and bath salts and label them "not for human consumption" to evade law enforcement scrutiny. The Kansas Association of Chiefs of Police believes that immediate steps must be taken to regulate the manufacture, distribution, sale, use and possession of compounds such as Methylenedioxypyrovalerone (MDPV) and other compounds used in what is currently marketed as "bath salts," and is in full support of HB2249.

Very little is known about the pharmacology, toxicology, and safety profile of these compounds in humans. There appear to be significant health and public safety risks involved in ingesting these compounds, which have the potential to be extremely harmful due to their methods of manufacture and high pharmacological potency.

During a January 2011 discussion concerning synthetic drugs with the medical director and other administrators of Salina Regional Health Center, Salina police learned that Salina Regional's Emergency Room personnel began seeing an increase in medical emergencies involving patients who ingested these synthetic drugs in September of 2010. Although the medical director said that the number of medical emergencies has somewhat tapered off recently, he reported that the ER had been treating approximately one case every other day. The most serious patient seen was a teenage boy brought in by ambulance from rural Saline County, who was found to be unresponsive and in respiratory distress. He was placed on a respirator and spent 10 days in the Intensive Care Unit. The ER physician advised that he was surprised that the boy survived, and that he would have died without immediate medical care.

These synthetic, designer drugs present a clear and present danger to the health, safety and welfare of every Kansan and every community, urban or rural, in our great state. On behalf of the Kansas Association of Chiefs of Police, I urge this committee and the Kansas legislature to close the legal loopholes that allow these dangerous drugs to be sold to our citizens.

800 SW Jackson St., Suite 1414  
Topeka, KS 66612



phone: 785-296-4056  
fax: 785-296-8420  
pharmacy@pharmacy.ks.gov  
www.kansas.gov/pharmacy

Debra L. Billingsley, Executive Secretary

Board of Pharmacy

Sam Brownback, Governor

Testimony concerning HB2249 Amending the Controlled  
Substance Schedule relating to  
Cathinones  
Committee on Corrections and Juvenile Justice  
Presented by Debra Billingsley  
on behalf of  
The Kansas Board of Pharmacy  
February 16, 2011

Madam Chair, Members of the Committee:

My name is Debra Billingsley, and I am the Executive Secretary of the Kansas Board of Pharmacy. Our Board is created by statute and is comprised of seven members, each of whom is appointed by the Governor. Of the seven, six are licensed pharmacists and one is a member of the general public. They are charged with protecting the health, safety and welfare of the citizens of Kansas and to educate and promote the understanding of pharmacy practices in Kansas.

The Board met on February 10, 2011 and reviewed the proposed legislation that would amend K.S.A. 65-4105 of the Controlled Substance Act. The amendment would add synthetic cathinones to the Schedule I Controlled Substance list.

Synthetic cathinones are a hallucinogenic and stimulate the central nervous system. They have a high potential for abuse, no currently accepted medical use in treatment in the United States and are not safe for use under medical supervision. The Board of Pharmacy supports scheduling synthetic cathinones as a Schedule I drug.

Thank you for permitting me to provide testimony.

House Corrections and Juvenile Justice  
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2011 Session  
Date 2-16-11  
Attachment # 9

State of Kansas  
House of Representatives

State Capitol  
Topeka, Kansas 66612  
(785) 296-7686  
kay.wolf@house.ks.gov



8339 Roe Avenue  
Prairie Village, Kansas 66207  
(913) 649-0699

February 16, 2011

Kay Wolf  
Representative, 21st District

House Committee on Juvenile Justice and Corrections

Subject: HB 2319 - Authorizing House arrest for certain misdemeanors and nongrid felonies and updating definitions

Madame Chair and members of the Committee,

I apologize for not being able to testify in person today in support of HB 2319. You may remember I introduced it in committee a few weeks back.

I believe this bill is of the utmost importance. Our committee is well aware of the limited amount of prison bed space we currently have and with the impact of future legislation the impact appears to only worsen in the coming years.

With the advancement of house arrest technology over the past few years it only makes sense to utilize this form of sentencing when applicable. Certain offenses such as DUI's, self related drug offenses, non person felonies and domestic violence crimes are examples of potentials uses. With the advent of GPS technology and the ability to detect alcohol and/or certain drugs within a person, common sense would suggest the cost and treatment of such crimes might be better served by the use of house arrest methods rather than incarceration. This would allow for a person to continue to work and obtain treatment as needed and directed. In domestic violence cases where in a restraining order had been issued it could provide a method for tracking the offender and potentially provide more protection for the victim. An extra safety net so to speak.

Of course, the ultimate decision of when house arrest is an appropriate use would be at the discretion of the presiding judge. As legislators, we are constantly trying to find a better means of protecting our citizens and rehabilitating offenders. With our prisons overcrowded and monies dwindling for treatment programs for alcohol, drug and mental health issues, this could be another tool we could incorporate in our on-going efforts to help Kansans lead more productive lives and protect the safety of others. We also need to ask ourselves are the methods we are using today accomplishing our intended outcomes.

Thank you for your consideration.

Representative Kay Wolf

Sent from my iPod

House Corrections and Juvenile Justice  
Committee  
2011 Session  
Date 2-16-11  
Attachment # 10

KACA

405 E. 10th Topeka,  
Kansas 66612

Members:

- Vanguard Offender  
Management, Topeka

- Premier Monitoring  
Services, Wichita

- Private Home Detention,  
Inc, Parsons

## Kansas Alternative Corrections Association.

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TO: House Corrections and Juvenile Justice

FROM: Kevin Barone

DATE: Feb. 16<sup>th</sup>, 2011

RE: Support of HB2319

**Madam Chair, Members of the Committee, my name is Kevin Barone and I am here representing a group of companies that perform House Arrest duties. We want to thank you for the opportunity to testify.**

**Given today's economic climate and the recent State of Judiciary speech, it seems any option that can save the state, counties and cities money, still punishing those that have committed a crime all the while still protecting the public, we should. House Arrest is exactly that option. This option gives Judges the ability to protect the public and still punish the offender all the while giving law enforcement another tool that they can use to their benefit.**

**Allowing the Courts, in any jurisdiction, the option to have a House Arrest program that is offender paid for is what this bill is designed to do. Attached to my testimony are the number submitted to the DUI Commission this summer when the discussion was about whether to allow HA programs. As you can see the HA option for 3<sup>rd</sup> time DUI's saved the courts just under 50,000 (49159) days of incarceration.**

**One of the reasons we have heard when talking with Judges about the ability to expand HA as an option, was a belief that our statutes really only allowed the HA option for juvenile offenders and alcohol related crimes, mainly DUI's. By expanding this option to be used as the Judges see fit, will help save money at all levels and potentially help deter other crimes.**

**Once a HA option implemented, a program is put in place that outlines what the offender is able to do and where they are able to go. For example, detailing when a person may leave for work, school, treatment, etc, however the only time that counts is when the offender is in the house. If a person is given 10 days of HA, that is 240 hours that they must be at their respective area before they have completed their time, all being paid for by the offender. The current rate ranges between \$9 and \$15 a day based on what all is being monitored.**

**Having a HA program also allows other benefits, for example true tracking of an offender up to the minute, the ability to pull the data and give reports of where an offender has gone for the purpose of treatment or further protection. The ability to use the data in a beneficial way can help in many areas for law enforcement.**

**We believe expanding this option will be a great benefit to all levels of government and a savings to the taxpayers of the state. Thank you for your time and we ask for your support and pass HB2319 out favorably.**

House Corrections and Juvenile Justice  
Committee

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Date 2-16-11

Attachment # 11-1

The Capitol Lobby Group, L.L.C.  
1508 SW Topeka Blvd. • Topeka, Kansas 66612 • (785) 213-1111  
Kevin A. Barone

---

Nov. 15<sup>th</sup>, 2010

Chairman Owens,

RE: Responding to the issue of removing House Arrest option for 3<sup>rd</sup> dui's.

Chairman Owens, members of the DUI Commission, thank you for allowing me to reply to questions about the impact of removing the 3<sup>rd</sup> dui House Arrest option. I have met with house arrest companies from South-central, Southeast and Central Kansas. The current numbers for those three companies for 2010 so far are as follows:

Southeast Kansas:

Total People: 105

Total Days: 5980

South-central Kansas:

Total People: 952

Total Days: 32,040

Central Kansas:

Total People: 269

Total Days: 11,139

Most of these days and people (over 85%) would fall under the issue of a person's 3<sup>rd</sup> dui's with at least one other dui within the last 10 years. We would ask that the option for the use of house arrest on a third time DUI be allowed and the prior committee action be reconsidered.

Sincerely,

Kevin Barone

The Capitol Lobby Group, LLC



Thank you Madam Chairwoman and members of the committee for the opportunity to provide testimony supporting HB2319.

Vanguard Offender Management is a local Kansas based offender monitoring company that has been serving Northeast Kansas for the better part of the last decade. Vanguard supports HB 2319 in its intention to open up more avenues for our court system to incorporate the use of house arrest. In the last two years alone Vanguard has monitored offenders for 24,831 days saving the state of Kansas local, county and state facilities \$1,489,860 based on a daily rate of \$60.00.

While we fully support language that allows courts the freedom to utilize this cost saving option, we feel that in doing so there needs to be strict rules on how our program must operate. Vanguard provides 24 hour monitoring, seven days a week, 365 days per year. We provide real time GPS monitoring devices that are affixed to a person by an electronic bracelet. These devices have the capability to control an offenders schedule and home time.

House arrest is a necessary option for courts to be able to utilize. We also feel that as a monitoring company that we have the responsibility to the court to be accountable for where the offender is going if not at the house. House arrest is used to allow an offender to keep his job, support his family, pay fines and attorney bills and seek treatment. All of which occur outside the home. Vanguard believes that an offender on house arrest should be responsible not only for when they are home, but also, that they are doing what they are supposed to when they are not.

GPS technology is a vital part of an effective House Arrest / Electronic Monitoring program. Without house arrest an offender has no accountability for what is going on when they leave the house. GPS technology allows us to set home and work zones, allow for adequate travel time in between, block offenders from going to bars, close to schools, near their victims, or any place the court deems unacceptable. These devices can alert authorities or monitoring agents immediately through real time alerts. Technology that keeps the offender honest when given this option.

Radio Frequency (RF) should be reserved for areas that are not covered by wireless signal. We currently have operated in 80 counties and have no problems with signal. RF technology only provides a court with the ability to decipher when the offender is at home, and when they are not at home. An offender can leave the house, cut the bracelet off and leave the area without notification. Days may pass before an alert is triggered. RF technology is outdated technology that provides little, if any, accountability to an offender on the program.

Thank you for this opportunity to present testimony today and offer our thoughts as you consider this bill.

# Joseph & Hollander LLC

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M. Kristine Savage  
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Sonya L. Strickland  
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Casey Y. Meek

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Wichita, KS 67214-3514  
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TO: Committee on Corrections and Juvenile Justice

FROM: Christopher M. Joseph

DATE: February 16, 2011

RE: Support of HB2319

Good afternoon Madam Chairwoman and members of the Committee, my name is Chris Joseph and I am a criminal defense attorney. I am submitting this testimony in support of HB 2319 both personally and on behalf of the Kansas Association of Criminal Defense Lawyers.

HB2319 is designed to give judges more flexibility in sentencing. It authorizes judges to impose sentences of house arrest in place of jail or prison. Not every defendant will benefit from a sentence of prison or jail. House arrest is appropriate for a defendant who does not need the extreme structure and punishment associated with jail, but does not qualify for probation.

The law currently places limits on judge's authority to impose house arrest as a sentence, even when everyone agrees that it is an appropriate sentence. This bill clarifies that judges have broad authority to impose sentences of house arrest in place of jail or prison.

House Corrections and Juvenile Justice  
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Attachment # 13



**PRIVATE HOME DETENTION, INC.**  
**"SERVING SOUTHEAST KANSAS"**

617 N. Central Ave.  
Parsons, Kansas 67357  
620.421.5566  
Cell 620.423.6678

February 15, 2011

RE: Support of HB 2319

Madam Chairwoman and Honorable Committee Members:

My name is Paul Forbes and I am writing in support of HB2319, expansion of House Arrest programs. Properly using House Arrest programs can help keep cost down for cities and counties by expanding the use of an offender paid program.

The current technology includes per minute GPS data as well as alcohol sensing ankle bracelets, which represent a significant upgrades in house arrest technology. Engineered as a tool to verify compliance with court orders and/or for abstinence from alcohol over a given period of time, GPS bracelets are capable of detecting the presence of alcohol as well as immediate location services.

The new alcohol sensing ankle bracelets monitor and measure specific characteristics that are chemically emitted transdermally (through the skin). It is partnered with an active GPS tracking device providing real time surveillance of the offender's location.

To make sure the offender does not simply remove the monitoring bracelet, it has been equipped with body mass proximity sensors. Any sudden changes in the sensor readings would suggest tampering, removal, or excessive exposure to water.

The bracelet is worn around the ankle and is fitted close to the surface of the skin. The casing is made from a high grade ABS plastic and the straps are made of Santoprene (a high grade plastic/rubber compound). It weighs approximately 4.5 ounces. Power is supplied by a rechargeable battery system. The bracelet is light, compact, and may be worn without much discomfort.

**The Baseline**

When the alcohol sensing bracelet is installed on an offender, the initial set-up procedure requires steps where all of the sensors establish a baseline. This baseline information is uploaded to the offenders monitoring criteria in the user interface screen. The baseline will be set into the visual horizontal graphic. If the sensors detect any deviation from the baseline levels, an "alert" message is sent. The alert appears on the user interface monitoring screen.

**Private Home Detention, Inc. a Kansas Corporation since 1997 supports HB 2319.**

P.A. Forbes  
Program Administrator

House Corrections and Juvenile Justice  
Committee  
2011 Session  
Date 2-16-11  
Attachment # 14