



Jim Howell
Commissioner – Fifth District
Board of County Commissioners
Sedgwick County, Kansas

PROPONENT TESTIMONY HB2629

02/17/2022

Chairman Proehl and members of the Committee,

Over the last several years, I have become very aware that there are enormous number of Kansan's who currently have their Driver's License Suspended. Most of these suspensions are consequences of poverty and a system that strips a driver's license as a punishment.

You may doubt this number so please get an update from KDOR. They track this monthly. Last time I checked, KDOR reported that there were about 70,000 suspended drivers in Sedgwick County alone. SgCo has topped 80,000 suspended driver's licenses in the recent past. That is about half the entire state's number of suspended drivers.

Last summer and several times since, I met with people in the Sedgwick County community that are struggling with their own suspended license history and they find it nearly impossible to climb out of the hole they dug.

I am not defending the bad choices these people make but out of desperation, we know many of them feel that they have no legitimate practical options. Put yourself in their shoes for just a moment:

BAD CHOICES: Many of these people, out of desperation, choose to drive despite their DL status because they feel that they must go to work and/or take care of their kids. Driving While Suspended (DWS) carries significant penalties including jail time. Since Kansas does not have robust public transportation options, if a person cannot get to work, a lengthy license suspension penalty with mandatory jail usually causes the person to lose their job.

The initial issue may have been an unpaid speeding ticket (they did not pay because they did not have enough funds) but that turns into a suspension. Then with a suspension, their insurance becomes completely unaffordable. If they do the wrong thing and chooses to drive at this point, things can get very bad very quickly. For example, if they get into any accident or otherwise get caught driving, the penalties snowball. They may be tempted to flee the scene of an accident. We all know someone that has had an accident where we discover the other driver did not have insurance. Yes, bad choices based on desperation leads to more bad choices.

DWS ends up as a circular punishment. Someone cannot afford to pay a fine so his or her license is suspended. They may not even know about the suspension. Assuming they DWS and are caught, the fines escalate quickly and adds time to the suspension. Those struggling with poverty can dig a deep hole rather quickly. In addition, this is a LIFETIME consequence. Make a mistake as a teenager, it may come back to haunt you as an adult.

However, **if Kansas were not so quick to strip someone of their Driver's License** by using other forms of punishment, then perhaps this entire phenomenon might be reversed. Many of these people on suspended licenses have circumvented the system for decades because they cannot pay the many thousands of dollars in fines and threats of mandatory jail time. **The current strategy IS NOT WORKING.**

CRIMINAL JUSTICE REFORM? Here is an opportunity to make change that really helps people. The Greatest Common Factor among people with DWS charges is poverty. The most common reasons for suspensions is failure to pay a ticket or child support.

The CONSEQUENCE for DWS today: People have greater fines, more suspensions, and even sometimes jail time. People lose their ability to earn money to pay those fines. They become less independent and more dependent on government. As is, the mandatory minimum jail sentences are punitive but are actually counterproductive and make things worse.

THE SOLUTION: Compliance-based Approach to Drive While Suspended Charges

- In certain circumstances, if the defendant has managed to get their driver's license reinstated within a few months of their initial court appearance, they may be able to plea to a lesser charge which does not carry the same weighty driver's record and driver's license consequences as a DWS conviction.
- Part of the thought process behind this approach is that the defendant has now come into compliance with the law that they violated.
- Typical limitations on eligibility for this approach include car accidents, cases where other significant crimes are charged, extensive criminal history, and other considerations deemed relevant by the prosecuting attorney.
- DWS cases disproportionately affects the poorest residents the most and levy's especially punitive consequences (fines, court costs, reinstatement fees, and house arrest fees) that can result in insurmountable debt and lengthy waiting timeframes for driver's license reinstatement.
 - Meanwhile, not driving and lacking a valid driver's license can have significant economic impacts. The person may not be able to travel to and from work—a situation that can be especially dire in a community that lacks a robust public transportation system. The person also may be unable to keep or gain employment specifically because they lack a driver's license, which is required within many jobs.
 - Current DWS laws and economic realities many Sedgwick County residents face all mesh together and function to disproportionately penalize our poorest citizens and deny them vital opportunities.
- The compliance-based approach utilized by other jurisdictions provides a path forward for a person charged with DWS by allowing them to reach attainable compliance within a

matter of months. This acts as a realistic incentive for individuals to take the steps to correct course and be eligible for a reduced, proportional penalty in certain circumstances.

- DWS charges, in and of themselves, are victimless crimes. In many circumstances, a 3rd conviction of DWS carries a mandatory minimum of 90 days in custody. By way of comparison, the City's ordinances establish a mandatory minimum of 5 days in custody for a 2nd conviction of domestic violence battery.
- As a County Commissioner with more than 100,000 constituents who may be directly or indirectly impacted—and in many cases already are affected—I feel compelled to voice my concerns.



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KSA 8-262 – Driving while suspended

- 1st conviction – Class B misdemeanor
 - Minimum: 5 days' imprisonment & \$100 fine
 - Maximum: 6 months' imprisonment & \$1,000 fine
- 2nd conviction – Class A misdemeanor
 - Minimum: 5 days' imprisonment & \$100 fine
 - Maximum: 12 months' imprisonment & \$2,500 fine
- 3rd + conviction – Class A misdemeanor
 - Min 90 days' imprisonment & \$1500 fine if suspension due to:
 - 1) refusal to submit to blood/breath/urine test (pursuant to 8-1012),
 - 2) conviction for failure to provide liability insurance,
 - 3) conviction for vehicular homicide, involuntary manslaughter while DUI or any other murder/manslaughter resulting from operation of a motor vehicle, or
 - 4) **habitual violator conviction**
 - 90 days imprisonment may be served in work release or on house arrest after 48 hours in jail
 - Maximum: 12 months' imprisonment & \$2,500 fine
- Other penalties:
 - If suspension was due to DUI & defendant has been convicted of DUI, then must serve 90 days' imprisonment before any suspension of sentence, probation or parole regardless of whether 1st, 2nd, 3rd+ conviction
 - **Additional 90 day suspension added onto current suspension period for a conviction of DWS unless reason for suspension is due to violating 8-2110 (failure to comply with a traffic ticket)**