



*State of Kansas*

*Office of Judicial Administration*

*Kansas Judicial Center*

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**SENATE JUDICIARY COMMITTEE**

**Honorable Senator Tim Owens, Chair**

**Neutral Testimony AND AMENDMENT on**

**SB 453 DUI**

**Chris Mechler, Court Services Specialist**

**March 9, 2012**

Thank you for the opportunity to testify on SB 453. The Office of Judicial Administration has concerns regarding Section 3 (d), relating to convictions and (e), relating to diversions, on page 8 of the bill. The bill indicates that if the convicted or diverted person is indigent, the court shall pay the cost of any alcohol and drug evaluation for such person to the provider at the time of service, and applies to both convictions and diversions.

The anticipated additional expenditures due to this bill are roughly \$268,000. We would ask that these provisions relating to court responsibility for costs be stricken, as the court system has very little money appropriated to it for anything but salaries, and certainly not the amount of money that would be needed to fund these evaluations. While the language of the bill attributes these costs to the court, counties are responsible for all non-salary expenses incurred by the courts. Therefore the additional cost would be the responsibility of the counties. A balloon amendment is attached.

Thank you again for the opportunity to testify in support of SB 453, and I would be happy to answer questions.

Office of Judicial Administration  
Proposed Amendment  
March 9, 2012

Session of 2012

**SENATE BILL No. 453**

By Committee on Federal and State Affairs

3-5

1 AN ACT concerning driving under the influence; relating to administrative  
2 penalties; crimes, punishment and criminal procedure; amending  
3 K.S.A. 8-241 and K.S.A. 2011 Supp. 8-2,144, 8-1008, 8-1014, 8-1015,  
4 8-1020 and 8-1567 and repealing the existing sections; also repealing  
5 K.S.A. 2011 Supp. 8-1020b.  
6

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

8 Section 1. K.S.A. 8-241 is hereby amended to read as follows: 8-241.

9 (a) Except as provided in K.S.A. 8-2,125 through 8-2,142, and  
10 amendments thereto, any person licensed to operate a motor vehicle in this  
11 state shall submit to an examination whenever: (1) The division of vehicles  
12 has good cause to believe that such person is incompetent or otherwise not  
13 qualified to be licensed; or (2) the division of vehicles has suspended such  
14 person's license pursuant to K.S.A. 8-1014, and amendments thereto, as  
15 the result of a test refusal, test failure or conviction for a violation of  
16 K.S.A. 8-1567, and amendments thereto, or a violation of a city ordinance  
17 or county resolution prohibiting the acts prohibited by K.S.A. 8-1567, and  
18 amendments thereto, except that no person shall have to submit to and  
19 successfully complete an examination more than once as the result of  
20 separate suspensions arising out of the same occurrence.

21 (b) When a person is required to submit to an examination pursuant  
22 to subsection (a)(1), the fee for such examination shall be in the amount  
23 provided by K.S.A. 8-240, and amendments thereto. When a person is  
24 required to submit to an examination pursuant to subsection (a)(2), the fee  
25 for such examination shall be \$25. In addition, any person required to  
26 submit to an examination pursuant to subsection (a)(2): (1) As the result of  
27 a test failure, a conviction for a violation of K.S.A. 8-1567, and  
28 amendments thereto, or a violation of a city ordinance or county resolution  
29 prohibiting the acts prohibited by K.S.A. 8-1567, and amendments thereto,  
30 shall be required, at the time of examination, to pay a reinstatement fee of  
31 \$100 after the first occurrence, \$200 after the second occurrence, \$300  
32 after the third occurrence and \$400 after the fourth *or subsequent*  
33 occurrence; and (2) as a result of a test refusal shall be required, at the time  
34 of examination, to pay a reinstatement fee of \$400 after the first  
35 occurrence, \$600 after the second occurrence, \$800 after the third  
36 occurrence and \$1,000 after the fourth *or subsequent* occurrence. No

1 district under this section prior to July 1, 2011, may continue to perform  
2 those services until July 1, 2012.

3 (d) Prior to sentencing, an alcohol and drug evaluation shall be  
4 conducted on any person who is convicted of a violation of K.S.A. 8-2,144  
5 or 8-1567, and amendments thereto, or the ordinance of a city or resolution  
6 of a county in this state which prohibits the acts prohibited by those  
7 statutes. The alcohol and drug evaluation report shall be made available to  
8 and shall be considered by the court prior to sentencing. ~~Except as~~  
9 ~~provided further,~~ the court shall order that *the* cost of any alcohol and drug  
10 evaluation for any person shall be paid by such person to the provider at  
11 the time of service, and shall not exceed \$150. ~~If the court finds that such~~  
12 ~~person is indigent, the court shall pay the cost of any alcohol and drug~~  
13 ~~evaluation for such person to the provider at the time of service. The cost~~  
14 ~~of any such evaluation, whether paid by the person or the court, shall be~~  
15 ~~not less than \$150.~~

16 (e) An alcohol and drug evaluation shall be conducted on any person  
17 whom the prosecutor considers for eligibility or finds eligible to enter a  
18 diversion agreement in lieu of further criminal proceedings on a complaint  
19 alleging a violation of K.S.A. 8-1567, and amendments thereto, or the  
20 ordinance of a city or resolution of a county in this state which prohibits  
21 the acts prohibited by that statute. The alcohol and drug evaluation report  
22 shall be made available to the prosecuting attorney and shall be considered  
23 by the prosecuting attorney. The cost of any alcohol and drug evaluation  
24 for any person shall be paid by such person ~~or the court~~ to the provider at  
25 the time of service, and shall ~~not exceed~~ *be not less than* \$150.

26 (f) All alcohol and drug evaluations conducted pursuant to this  
27 section shall utilize a standardized substance use evaluation approved by  
28 the secretary of social and rehabilitation services and be submitted in a  
29 format approved by the secretary of social and rehabilitation services. On  
30 or before July 1, 2012, the secretary of social and rehabilitation services  
31 shall promulgate rules and regulations to implement this section.

32 Sec. 4. K.S.A. 2011 Supp. 8-1014 is hereby amended to read as  
33 follows: 8-1014. (a) Except as provided by subsection (e) and K.S.A. 8-  
34 2,142, and amendments thereto, if a person refuses a test, the division,  
35 pursuant to K.S.A. 8-1002, and amendments thereto, shall:

36 (1) On the person's first occurrence, suspend the person's driving  
37 privileges for one year and at the end of the suspension, restrict the  
38 person's driving privileges for ~~one year~~ *two years* to driving only a motor  
39 vehicle equipped with an ignition interlock device;

40 (2) on the person's second occurrence, suspend the person's driving  
41 privileges for one year and at the end of the suspension, restrict the  
42 person's driving privileges for ~~two~~ *three* years to driving only a motor  
43 vehicle equipped with an ignition interlock device;