



TESTIMONY OF THE KANSAS ASSOCIATION OF COUNTIES  
TO THE SENATE JUDICIARY COMMITTEE ON SB 453  
MARCH 9, 2012

Chairman Owens and Members of the Committee:

The Kansas Association of Counties supports the continued work of this committee to enact a progressive legal system to handle DUIs. While we applaud your efforts in addressing this serious public safety concern, we counties are concerned about the costs associated with SB 453, specifically those associated with alcohol and drug evaluations in section 3, subsections (d) and (e) on page 8.

Subsection (d) assigns the cost of an alcohol/drug evaluation for an indigent person to the court. As you know, courts –aside from personnel costs – are funded by counties. Therefore, this cost will be covered by the county. We also find it extremely odd that this section contains a *floor* for the fee of \$150. Given that the section assigns this cost to be covered by public monies, a cap would be in better order, or the free market should set the price. We would prefer that the section be returned to its original language and direct the defendant to pay the costs instead of county taxpayers.

Subsection (e) assigns the cost of alcohol/drug evaluations to either the person or the court. This section pertains to diversions, where presumably the person is paying a diversion fee and may have retained counsel to assist in obtaining the diversion. Yet, the section assigns the \$150 cost of an alcohol/drug evaluation to either the court or the person. KAC believes that, if the person can afford diversion, the person can afford his or her alcohol/drug evaluation.

The fiscal note prepared by the Office of Judicial Administration estimates a cost of \$267,750 associated with the alcohol/drug evaluations at a cost of \$150 for each evaluation. This estimate is based on the number of traffic and criminal cases filed in FY2011 that appointed counsel to the defendant. As noted by OJA in its testimony, the fee given in the bill is "not less than \$150" and would therefore allow a *higher* fee, which would increase the fiscal impact. Also, we question whether appointed counsel is a true reflection of how many people may be declared to be indigent under SB 453, and whether the actual number could be higher.

KAC supports the amendment proposed by OJA, which would return these two sections to the original language. We are also open to other compromise language that directs or reduces the fiscal impact to counties.

Thank you for your consideration of the counties' concerns.

Respectfully Submitted,

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Attachment 3