

**House Corrections and Juvenile Justice Committee
February 7, 2017
House Bill 2088**

**Testimony of the
Kansas Association of Criminal Defense Lawyers
Proponent**

Dear Chairman Jennings and Members of the Committee:

Currently, only people convicted of “simple possession” are eligible for drug treatment under 2003 SB 123. HB 2088 would expand the eligibility for mandatory drug treatment under K.S.A. 21-6824 to include people convicted of the lowest level of possession with intent to distribute/distribution, a severity level 4 drug felony.

We support this bill because not all people who distribute drugs or possess with intent to distribute are the same, nor should they all be treated the same. When the drug grid was reconfigured in 2012 in HB 2318, distribution offenses were broken into four levels (before that, all drug distribution crimes were the same severity level). When reading through the minutes of the Recodification Committee, it is clear that members recognized a distinction between “small-time dealers” and “big time dealers.” (Sample comment: it is easier to catch small-time dealers than big-time dealers because they are often caught holding drugs, not selling them – see 9/26/07 meeting minutes). Members thought small-time dealers should be treated differently. (1/9/08 meeting minutes). That was the reason the Committee came up with severity levels based on amounts, so that proportionality could result. The minutes reflect that [one member, a prosecutor] commented that “everyone who habitually used drugs becomes a dealer at some point as a means to support their habit or help make drugs available to others.” (12/3/08 meeting minutes, p. 3).¹

Because people charged with the lowest level of possession with intent to distribute/distribution are frequently users supporting their own habit, it makes sense to at least make them eligible for mandatory drug treatment under SB 123.

Thank you for your consideration,
Jennifer Roth
co-chair, Legislative Committee, Kansas Association of Criminal Defense Lawyers
jrothlegislative@gmail.com
785.550.5365
P.O. Box 296
Lawrence, Kansas 66044

¹ For some background on Recodification, the final report is accessible here: <http://www.kansasjudicialcouncil.org/Documents/Studies%20and%20Reports/2010%20Reports/Recodification%20Final%20Report.pdf>