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**Testimony to the House Corrections and Juvenile Justice Committee  
Opposing HB2146  
February 10, 2021**

Our associations oppose HB2146 based on the following concerns.

The bill proposes expanding the presumptive probation boxes across the entire spectrum of prior offense categories of severity level 5 of the drug grid. This is in addition to a separate proposal to reduce the length of sentences across this same severity level of the drug grid in HB2139.

We recognize that severity level 5 of the drug grid is primarily simple possession cases. We have supported bills to divert this level of offender to treatment programs where appropriate. However, we also know that drug use and the need to financially support drug addiction is often an underlying motive for committing property crimes and in some cases violent crimes such as robberies. Being under the influence of some drugs can also lead to a higher propensity to commit other violent crimes. We are concerned with making categories A through D presumptive probation. These are prior offense categories involving person felonies. A drug offender with a history of violent (person) crimes is placing themselves in a position to be more likely to reoffend. Categories C and D are currently border boxes allowing courts to use discretion when the offender has one prior person felony or one prior person felony with one prior nonperson felony. We believe that level of judicial discretion is appropriate. But those with 2 or more person felonies simply aren't getting the message and we do not believe presumptive probation is appropriate. In addition, this severity level also includes:

- Conducting financial transactions involving proceeds of drug crimes of up to \$5,000. [KSA 21-5716]
- Distributing drug paraphernalia to a minor [KSA 21-5710(c)]
- Distributing drug paraphernalia on school property [KSA 21-5710(c)]

The bill also proposes changing the border boxes in severity level 4 drug felonies from border boxes to presumptive probation for categories G through I. Those categories can include a person with 1 nonperson felony in category G and those with no prior felony convictions in categories H and I. Crimes in this severity level are primarily crimes of distribution of drugs involving the smallest of the four level of quantities of the distributed drugs. This severity level also includes:

- Conducting financial transactions involving proceeds of drug crimes of \$5,000-\$100,000. [KSA 21-5716]
- Distributing drug paraphernalia to a minor [KSA 21-5710(b)]
- Distributing drug paraphernalia on school property [KSA 21-5710(b)]

Another proposal included in this bill is changing severity level 3 drug crimes in categories H and I from presumptive imprisonment to presumptive probation and in category G from presumptive probation to a border box. The crimes in drug severity level 3 are crimes involving the 3<sup>rd</sup> tier of the four tiers of quantities of the distributed drugs. These crimes typically will represent a higher level of distributor than those in severity level 4. However, the changes are with those offenders with only one or less nonperson felony convictions or only prior misdemeanor convictions. This severity level also includes:

- Conducting financial transactions involving proceeds of drug crimes of \$100,000-\$250,000. [KSA 21-5716]
- Distributing drugs on school grounds [KSA 21-5705(d)(3)(A), (d)(2)(A), or (d)(1)(A) and (d)(5)]

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