



TESTIMONY OF
ROBERT V. EYE
BOARD MEMBER, AMERICAN CIVIL LIBERTIES UNION OF KANSAS
IN SUPPORT OF HB 2049
KANSAS SENATE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE
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Thank you, Chairman Smith, and members of the Committee on Corrections and Juvenile Justice for holding this hearing on HB 2049 and affording us the opportunity to provide testimony on this important issue. My Name is Robert Eye, and I serve on the Board of Directors of the American Civil Liberties Union (ACLU) of Kansas, a membership organization dedicated to preserving and strengthening the constitutional liberties afforded to every resident of Kansas.

The ACLU of Kansas is pleased to **strongly support HB 2049**. By amending the penalties for simple, non-violent possession of marijuana, the bill will take a meaningful step forward in addressing one of the gravest problems facing our state's criminal justice system – the explosion in the number of Kansans who are incarcerated, even as statewide crime rates fall to historic lows.

- **As a result of unduly harsh drug sentencing laws, the prison population continues to climb to all-time highs even as crime falls to all-time lows.** Across the United States, the prison population has seen dramatic growth over the last forty years. The United States is now the world's largest jailer, with 4% of the global population and nearly a quarter of the global prison population. In Kansas, the size of the prison population has *quadrupled* since the 1970s – to roughly 10,000 – even though crime in the state has fallen steadily during the same period. This discrepancy between crime rates and levels of incarceration is explained in large part by ever-harsher sentences for drug crimes, especially for simple non-violent drug possession. Drug crimes are the leading source of admissions to Kansas state prisons, and harsh sentencing regimes keep many of those admitted for far longer than is necessary or beneficial. Drug crimes are thus a major contributor to the over-crowding currently found in Kansas prisons.
- **Many non-violent drug offenders have mental or behavioral health conditions that contribute to their offenses.** In many cases, those mental and behavioral health conditions would be better addressed through treatment and services, not imprisonment. In those cases, neither the offender nor the community is well-served through incarceration.
- **Maintaining such high levels of incarceration carries high financial, moral, and social costs.** Kansas taxpayers spend hundreds of millions of dollars each year to maintain this prison system, funds which might be better deployed for crime prevention, substance abuse treatment, or other services. In addition to the financial costs, high rates of incarceration have devastating costs to families and communities. With citizens locked in prison and unable to contribute to family life, economic growth, or the social fabric of a community,

the negative consequences are enormous. Felony drug crimes, in particular, can cause enormous long-term pain for the offender and his/her family. Those with felony records, including for simple non-violent drug possession, can struggle to find gainful employment and housing decades after their release. In addition to the moral cost carried by the refusal to believe in redemption and rehabilitation, when individuals reenter the community and are unable to find employment and housing, it creates additional costs to the community.

- **HB 2049 takes a small, manageable step in addressing the web of problems created by over-incarceration.** HB 2049 makes a relatively minor change in the statute, reclassifying second-time marijuana offenses from a felony to a misdemeanor. Since misdemeanors in Kansas do not result in prison time, while felonies do, this small step could have a significant impact on the number of people admitted to prison. Due to the way the sentencing grid works in Kansas, with criminal history contributing to sentences and felonies being weighted more heavily, this can have an impact in both in the short- and long-term. Reductions in the number of people admitted to prison will, over the long term, reduce over-crowding and costs associated with incarceration.
- **HB 2049 is consistent with a national trend towards defelonization of simple, non-violent drug possession.** There is a growing public awareness that current rates of incarceration are driven largely by unduly harsh drug sentences, rather than genuine threats to public safety. In addition, public opinion is shifting rapidly to embrace the position that prison is not the ideal remedy for most drug crimes, especially low-level non-violent possession. As a result, **14 other states have defelonized drug crimes**, reclassifying many drug crimes (not just marijuana possession) as misdemeanors. **States that have defelonized include Utah, South Carolina, and Wyoming.** There is no evidence that defelonization has led to increased drug usage or criminal activity.

We urge you to **support HB 2049** on these grounds.