

## Testimony

SB 403

Judge Maurice J. Ryan

Kansas City, Kansas Municipal Court

Good morning Chairman Masterson and committee members

My name is Maurice Ryan and I have been a municipal court judge for the City of Kansas City, Kansas for 17 years. I am here to speak in opposition to SB 403. I have several issues with the bill as written, especially as it impacts the City of Kansas City, Kansas and my colleagues of the Kansas Municipal Judges Association.

I understand that this bill is an attempt to impose similar safe guards that the Missouri Legislature imposed in response to the abuses of the cities in the St. Louis area. I have attached, as an exhibit, a portion of an article in the St Louis Post Dispatch from March 15, 2015 outlining the abuses in those courts. Contrary to those cities, there are very few, if any, cities in Kansas where the revenue generated from municipal court approaches 10% of the general operating revenues of the city. In Kansas City, Kansas, our revenues are less than 2% of the general operating budget. Furthermore, of the revenue we collected in 2015, about \$5.2 million, well over \$500,000 was submitted to the state for state fees and reinstatement fees. Therefore, the 10% threshold for excessive fines would not affect us.

However, the requirement that we remit 70% revenue from traffic infractions on state and national highways would severely impact us.

The first issue is where do you designate the location of a traffic ticket? If you limit the designation to limited access highways, such as I-70 and I-35, there is little question. However, when you include lesser state highways, the issue becomes more problematic. For example, In Kansas City Kansas, we have several national and state highways that are essentially urban streets, many of which are maintained by the Unified Government. **I have included a map of the highways in our county with this testimony.**

My primary concern is the ability to differentiate the location of the traffic infraction. For example, along 7<sup>th</sup> street (Highway 69/169), 18<sup>th</sup> Street (Highway 69) Leavenworth Road (K-5), K-32 and K-7, there are over 200 intersecting streets. If a person violates a traffic control signal on one of these intersecting streets, does the violation occur "on a state or national highway"? Does this change if there is an accident as a result of the traffic infraction at the intersection? If an offender is turning onto a highway from an intersecting street, does this change the location?

While 200 intersecting streets may be unusual, the same issue applies in many cities throughout the state. For example Kellogg in Wichita; Business-69 in Pittsburg; Business-40, Highway 57 and Highway 18 in Junction City and others. All of these are urban streets with many intersections.

Another issue is the fairness in taking yet more money from our court without a corresponding benefit. This legislature has passed several bills recently that offer little or no benefit to municipal courts but extract high costs. In recent years the legislature passed a bill requiring municipal courts to remit all \$2,500 of the fines in each human trafficking case. We now submit \$250 for each DUI to the state to operate community corrections, which only deals with 3<sup>rd</sup> time offenders. This totals \$130,000 the past 2 years. Likewise, SB 403 would drain money from us without a corresponding benefit. About 10% of citations issued by our police department occur on one of the streets covered by this bill. If you assume that this represents 10% of our revenue, it would be a net loss of approximately \$330,000. We would still have the same costs to process and prosecute and also incur more time and money to comply with the reporting requirements.

The next section that is problematic is the prohibition on issuing Failure to Appear citations for traffic infractions, found in Section 5(h)(6). The Justice Department was critical of Ferguson because they used their police department, and the threat of arrest, as a collection practice.<sup>1</sup> Correspondingly, the Justice department criticized Ferguson because they did not routinely have a procedure to determine a defendant's ability to pay.<sup>2</sup> When a person fails to appear on a traffic infraction, how are you to compel their attendance in court? How will you able to conduct a hearing on a defendant's ability to pay?

K.S.A. 12-4306 states that if a defendant "fails to appear after service of notice to appear, any law enforcement officer...may serve the bench warrant issued for the person **and may collect from the person a cash appearance bond in the amount stated in the warrant....**" [Emphasis added] What if the arrestee does not have the money for a bond? The police would then be required to arrest them and book them in jail. In our city, our police department has an unwritten policy that they do not arrest defendants, regardless if they have misdemeanor or traffic cases, unless their bond is greater than \$1,000. Instead, they issue Failure to Appear citations. If one of these citations is issued, the defendant's warrants are set aside and a new court date is set. We also have a policy of allowing a defendant to post a bond of \$100 or more (depending on previous bond forfeitures) in order to set aside their warrants without receiving a Failure to Appear citation. Arresting and booking them in jail only adds to the costs to the government, in our case, about \$92 per day. To prohibit the issuance of Failure to Appear citations would only leave the option of booking them into the jail, adding to our costs and

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<sup>1</sup> [http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf) see page 56

<sup>2</sup> Ferguson report pp.57-58

expenses<sup>3</sup>, or sending a message that there can be the possibility of no consequences for violating traffic ordinances and then flaunting the system by refusing to show in court.

The bottom line is that this bill, as presented, while admirable, is a cure looking for a disease. There is no evidence of abuse, similar to what occurred in the St Louis area, takes money away from the cities with no corresponding benefit and shackles the ability of the courts to enforce the law.

On behalf of the Unified Government and other municipal courts, we would ask that you vote in opposition to this bill.

Thank You

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<sup>3</sup> Our municipal court processed 3,881 Failure to Appear citation in 2015. If you assume each one of those spends at least 12 hours in jail, some probably more if picked up on a weekend, the cost to the Unified Government would be an additional \$357,052.