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Representative Susan Humphries, Chair  
House Committee on Judiciary

**Opposition Testimony – HB 2131**

Madam Chair Humphries and members of the House Committee on Judiciary:

Thank you for giving me the opportunity to provide testimony in opposition to House Bill (HB) 2131. Although the stated goal of the bill, transparency in criminal prosecution, is a laudable one, this bill would sow confusion as the majority of its provisions are already covered in existing caselaw, statutes, or rules of professional conduct. The additional element of a centrally kept registry of witness information would increase the risk of exposure of sensitive personal information to those who could wish them harm.

The redundancies in HB 2131 with existing law include:

Requiring prosecutors to disclose witness information, including statements (K.S.A. 22-3201);

Criminal history of the witness (caselaw requiring exculpatory evidence, commonly referred to as *Brady* material as well as *Kansas Rule of Professional Conduct 3.8(d)* which imposes an ethical obligation on prosecutors to disclose exculpatory material);

The content of any cooperation agreements (this also falls under *Brady* material and *KRPC 3.8 (d)*);

Inconsistent statements, including recantations (this likewise falls under existing obligations found throughout caselaw and rules of professional conduct previously cited);

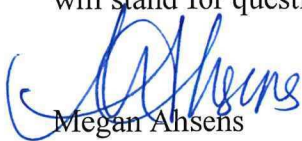
Requiring prosecutors, in a separate law, to do things they are already required to do under existing laws would create confusion and unnecessary litigation.

Further, juries are instructed under Pattern Instructions Kansas (PIK) 51.100 that “you should consider with *caution* the testimony of an informant who, in exchange for benefits from the State, acts as agent for the State in obtaining evidence against a defendant, if that testimony is

not supported by other evidence.” (*emphasis added*) This has been the law in Kansas for decades.

Finally, requiring prosecutors to maintain a database of cooperating witnesses who gained their knowledge from being in custody alongside a defendant, and then also keeping a statewide database, has the potential to create real danger for these witnesses. I would urge the legislators to remember that these are people who have come forward, sometimes at great personal risk to themselves, to cooperate with authorities. Although the bill specifies that the database would not be subject to KORA and only available to prosecutors, its existence alone would be chilling to potential witnesses, and could be hacked, placing their lives at risk.

I appreciate your time and attention and urge you to oppose the passage of HB 2131. I will stand for questions at the appropriate time. Thank you.



Megan Ahsehs

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