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**Testimony to the House Judiciary Committee  
In Opposition to Portions of HB2016  
February 7, 2013**

The proposal of eliminating the “One Judge per County Rule” as provided in KSA 20-301b has been a hot topic of discussion among law enforcement across Kansas. This is an issue that will have a much larger negative impact on the nearly 100 non-metropolitan counties in Kansas. It is the less populated counties that face smaller case loads. But less populated counties are also the ones that won’t have financial resources to pay the salary of eliminated judges positions as suggested in the proposed bill. It is an option that looks good on paper, but has little chance of being implemented.

Law enforcement officers across the state have needs in relation to contacting judges after normal court business hours for court business including search warrants, arrest warrants, bond hearings, etc. The absence of a judge in each county creates complications that will require additional burdens on already thin resources. The counties more affected by this will be the less populated counties where the number of officers is small. Securing scenes while awaiting presentation of an affidavit for a search warrant requires numerous officers. If you are in a jurisdiction with only one or two officers on duty, long periods of travel for face-to-face meetings with judges affects public safety response to new emergencies. Many times additional overtime may be required for either the officer traveling to meet with the judge or to call officers back to duty to cover the jurisdiction while the originating officer makes the trip.

While the legislature has authorized judges to utilize modern technology to handle these matters (see KSA 2202502), our members across broad sections of the state report to us many judges decline to allow the use of that technology. Instead they demand a face-to-face meeting between the judge and the officer. This is difficult in the existing environment. Take away the one judge per county rule and it will mean these face-to-face meetings will require more travel time and more delays. The time from discovering a situation requiring a warrant and the ability for law enforcement to acquire and serve the warrant will be extended.

The use of the authorized technology and the expansion into remote video technology is highly dependent on rural broadband capability, financial resources for equipment, and the willingness of all the parties to use the technology. While we don’t disagree that with modern technology these things can be achieved to address the law enforcement and public safety needs, we strongly believe that eliminating the “One Judge per County Rule” before taking care of the other issues

is ill advised. We first must make sure judges *will use* the technology, not just that they are *permitted* to use it. Second, we must assure adequate infrastructure is available to handle the technology. Third, we must use technology that is secure when transmitting arrest and search warrant affidavits. Fourth, we must make sure the technology can be accessible from not only the judge's office, but also the judge's home. Fifth, we must find the funding to acquire and maintain the technology without putting the financial burden on the local cities and counties.

The key provision of this bill we object to is the repeal of KSA 20-301b and KSA 20-338. Collectively or independently the repeal of those statutes coupled with the challenges of implementing the use of technology to handle these afterhours needs complicates and delays serving our citizen's public safety needs. We must make sure the necessary technology is in place, working and being utilized before repealing these statutes.

Some examples of comments and concerns voiced by law enforcement across the state include:

1. Availability and access to present affidavits for warrants (search and arrest) or provide additional information as requested by the judge or magistrate relative to those affidavits.
2. Availability of judges for immediate bond hearings when those are needed.
3. Any cost to local governments for the technology components to be in place to allow video conferencing for the handling above issues.
4. Complicating our belief the technology will address our concerns is the current refusal of some judges to allow us to use technology already permitted by statute. For example, using fax or e-mail for affidavit review and warrant authorization.
5. We run into inadequate after hours availability now, and we have resident judges.
6. We should oppose unless regional judges are required to use remote technology to receive and respond to affidavits, setting bond, etc...
7. Try to slow this train until adequate resources are provided for this possibility. Keep in mind that most rural areas do not have high speed internet which could make the use of technology impractical statewide.
8. As you well know every Friday afternoon about 1600 we get a Juvenile Case and you can't get hold of SRS and JJA. We need to have contact with our Judge and County Attorneys to get things going. These are cases can't wait for a judge that isn't here.
9. Another concern for the western counties is, if there is no funding for technology, and judges refuse to utilize it once it's available, we have a transportation issue as well. There is some concern that they may attempt to reduce staffing to one district judge and two magistrates for 6 counties from the current 6 magistrates. Without the use of video appearances it will mean leaving already understaffed agencies spread even thinner with deputies having to do transports of over 100 miles round trip to make first appearances

before a judge. Local government will be footing those transportation costs and OT to cover either staffing if the on-duty officer makes the transport, or OT to call somebody on their day off to make the transport.

10. If they are not available, i.e. Weekends or holidays, and someone is arrested and booked into jail past the 48 hour threshold, we are to complete a PC Affidavit and start calling until we make contact with one of the Judges. Once contact is made then we would drive to their location for a signature. So far we have always found a Judge. If not we will release the arrestee prior to the 48<sup>th</sup> hour. Cost: fuel, mileage, tying up an officer who has to drive to the judges location.
11. Discussions about technology installation cost and how it would be used have taken place. The type of equipment needed for video arraignments and appearances for those who have been transferred to other facilities is approximately \$6,000.00. I have been informed that the state has no money to pay for this, but they are not necessarily opposed to going this route. I feel, it would reduce our transportation cost and cut down on repeated trips.
12. On the CINC cases we contact our Judge sometimes to be able to lodge them into Detention if we feel that they are a run risk. Detention doesn't like to put CINC cases in unless we have a Judge's order because of the 24 hrs hold orders.
13. The magistrate judge wants to adopt the technology, but the long-time district judge does not.