

To: Senate Judiciary Committee

From: Trey Cocking, Deputy Director

Date: March 21, 2019

RE: Support for HB 2211

I want to thank Chairman Wilborn and the members of the Committee for allowing the League of Kansas Municipalities the opportunity to provide testimony in support of HB 2211. In 2017, the Kansas Supreme Court established the Ad Hoc Committee on Bonding Practices, Fines, and Fees in Municipal Courts. This committee was made up of municipal court judges from across the state from communities of all sizes. Also serving on the committee was Representative Brad Ralph to represent the city attorney perspective, and Amanda Stanley, representing the League of Kansas Municipalities. This committee was charged with reviewing pretrial bonding practices in Kansas municipal courts, as well as the fines and fees levied against defendants. This included an examination of methods used by courts in other jurisdictions to reduce the likelihood that serious adverse consequences are imposed solely for non-payment of fees and fines. The committee was directed to develop a "best practices" model for Kansas municipal courts.

The ad hoc committee issued its recommendations to the judicial administrator and the executive director of the League of Kansas Municipalities in September 2018. One of these recommendations has resulted in HB 2211 which gives municipal court judges the authority to order the waiver of reinstatement fees when it is clear the defendant does not possess the ability to satisfy the court's orders.

The final report issued by the committee explained that under KSA 8-2110, if a defendant fails to comply with a traffic citation, the defendant's driver's license may be suspended. Compliance with a traffic citation means both appearing and paying in full. This a very effective tool for obtaining compliance, especially if the defendant lives in another state thanks to the Driver License Compact. The report also found that, unfortunately, this procedure is also very effective in trapping indigent defendants into a vicious cycle. "It begins with the defendant being indigent and therefore incapable of paying the fine. The defendant's driver's license is then suspended for failing to pay the fine. The defendant is unable to travel to work because of the suspended driver's license and is still incapable of paying the fine."¹

¹ Ad Hoc Committee on Bonding Practices, Fines and Fees in Municipal Courts, 2018 Page 48

In Kansas in 2017, 51% of all suspensions occurred due to failure to comply with a traffic citation.² Once the defendant's license is suspended, the defendant will not only have to satisfy the original charge or charges, but also will be required to pay a \$122 reinstatement fee per charge. Since the fee is added for each charge, these fees can add substantially to the burden of the defendant and contribute to the cycle of indigency. To address this cycle, the ad hoc committee recommended that judges should have the authority to allow defendants to perform community service or other tasks to satisfy their costs and reinstatement fees and municipal court judges should also be given the authority to order the waiver of reinstatement fees when it is clear the defendant does not possess the ability to satisfy the court's orders.

HB 2211 seeks to implement this committee's recommendation by permitting a person to petition the court for waiver or reduction of the reinstatement fee upon a showing the fee will impose a manifest hardship on the person or the person's immediate family. This concept of "manifest hardship" is one that appears in other statutes that permit consideration of financial resources when imposing certain costs and fees (see, e.g., K.S.A. 12-4509; K.S.A. 22-4529; K.S.A. 22-4513).

The ad hoc committee believes that making the driver's license reinstatement process more affordable will help indigent persons get back to legally driving on the road. This is often a necessity for maintaining gainful employment and meeting daily needs. It may also serve to encourage payment of fines if the court can offer a reduction or waiver of the reinstatement fee once those fines are paid.

For these reasons, we respectfully ask this Committee pass HB 2211 favorably to the entire Senate for its consideration.

² Licensing a Driver and the Consequences that Follow. Presentation by Ted Smith, Deputy General Counsel for Department of Revenue. This percentage reflects 11,629 suspensions for driving while impaired and 78,760 suspensions for other reasons. The total of all suspensions was 90,389 and the total suspensions for failure to comply with a traffic citation was 46,531.