



Kansas County & District Attorneys Association

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To: Hon. Fred Patton, Chair, House Judiciary
From: Brandon L. Jones, Franklin County Attorney and KCDAAs President
Date: January 22, 2021

Re: Testimony in Support of HB 2078

Hon. Chairman Patton and members of the House Judiciary Committee:

Thank you for the opportunity to provide testimony in support of HB 2078. My name is Brandon L. Jones and I am the Franklin County Attorney, but I am appearing on behalf of the Kansas County and District Attorneys Association (KCDAAs) as the current President of that organization.

HB 2078 is KCDAAs proposed legislation to amend K.S.A. 22-3402 to deal with the massive state-wide criminal case backlog that has been created by the unprecedented Covid-19 global pandemic. This bill would stay statutory speedy trial deadlines until May 1, 2024, for all criminal cases that are already on file at the time of the passage of this bill. It would also repeal statutory speedy trial deadlines for all new criminal cases filed after the effective date of this bill.

Sedgwick County District Attorney Marc Bennet has provided you with just some of the staggering statistics illustrating the criminal case backlog in some of the counties in the state at this time. Therefore, I will not repeat them here. Suffice it to say, this is an unprecedented situation that needs immediate action to prevent hundreds of serious criminal cases from being dismissed with prejudice for statutory speedy trial violations.

Our organization greatly appreciated all of your efforts in the passage of House Substitute for Senate Bill 102 last March that gave the Chief Justice of the Kansas Supreme Court the authority to suspend deadlines within the criminal justice system. The Chief Justice used that power to enact Administrative Order 2020-PR-016 which suspended the statutory speedy trial time limits and prohibited the use of jury trials until a safe jury trial plan could be put together and approved by the county health directors for each county and the Kansas Supreme Court.

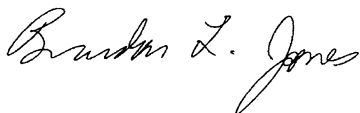
Here, in the Fourth Judicial District, a jury trial plan has not yet been approved. In Franklin County, we have one district court judge who is assigned to hear all felony criminal cases. We currently have around 35 jury trials that are past arraignment and waiting to be tried to a jury. With only one judge, four prosecutors, a very limited number of qualified criminal defense attorneys, and a total population of around 25,000 people from which to draw prospective jurors, there is simply no way that even half of these cases will be able to be tried in the 150 or 180 days mandate by K.S.A. 22-3402 once 2020-PR-016 is lifted. The same or similar situation is present in almost every county in the state.

HB 2078 would provide the courts the time to get these cases calendared and tried once courts across the state are able to safely do so. Priority would of course be given to those defendants who are in custody. In my testimony I would be remiss to not discuss the problems with K.S.A. 22-3402 even before the global pandemic. The statute provides no flexibility for delays that are not the fault of the State. The realities of life occur in the criminal justice system like they do elsewhere in real world. Snowstorms, illnesses, unexpected deaths, etc. can occur and necessitate the need to continue a trial. The courts' busy dockets more often than not lead to the scheduling of trials near the end of the statutory speedy trial time limits with that time being counted against the State, despite the fact the State has very little control over the scheduling. Should a murder case be dismissed because the court's calendar did not allow the setting of the trial until 140 days out from arraignment and then when the judge got sick or a snowstorm prevented the trial from proceeding as scheduled the case was, by necessity, continued beyond 150 days? Is that justice for the victim and his or her family? Does that keep Kansas communities safe? Finally, the majority of the continuances and delays in the criminal justice system occur at the request of the defendants themselves, and/or their attorneys.

In closing, it is KCDAAs sincere hope that this committee will see the unprecedented need for amending K.S.A. 22-3402 in light of the Covid-19 global pandemic. It is also our hope that this committee will see the issues with this statute aside from the pandemic. Our association is seeking a sensible solution to an issue created by forces beyond our control with the aim of making sure justice continues to be served and community safety continues to be a top priority in the state of Kansas.

Thank you for the opportunity to appear and testify in support of HB 2078. I respectfully request that the committee report HB 2078 favorably for passage. I am available for questions at the appropriate time.

Respectfully submitted,

A handwritten signature in cursive script that reads "Brandon L. Jones". The signature is written in black ink and is positioned above the typed name and title.

Franklin County Attorney
President, Kansas County and District Attorneys Association