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Testimony in Support of HB 2026
Provided by Greg Benefiel, McPherson County Attorney,
On behalf of Kansas and County District Attorneys Association

Chairwoman Warren and members of the Senate Judiciary Committee, thank you for the opportunity to provide written testimony in support of HB 2026, regarding creating a certified drug abuse treatment program for people on diversion and providing for supervision by court services or community corrections.

I am writing in support of HB 2026 on behalf of the Board of Directors of the Kansas County and District Attorneys Association and myself as McPherson County Attorney. Before getting into why this bill should be adopted, I want to address the Fiscal Note and how I believe the budgetary impact is overstated.

The Fiscal Note suggests that HB 2026 could have an impact on both operational costs of the Judicial Branch and the Department of Corrections. While there is certainly a possibility of having some fiscal impact, I respectfully suggest the impact may be overstated. The individuals that are going to enter into a drug diversion program are already charged with a felony drug crime. It may be true that 100% of these people are not ultimately convicted of a felony, but my experience is that the vast majority of them are. Once convicted they are going to be screened for the SB 123 drug treatment program and supervised by either court services or community corrections. So, while there may be a few additional persons being screened for drug treatment and supervised, based on my experience as a prosecutor, the number of additional people entering the system will be small. The need for additional prison beds would be essentially nonexistent as, again, the vast majority of those entering into drug diversion would otherwise be ultimately convicted of a drug felony.

HB 2026 should be adopted. While HB 2026 would affect prosecution of drug possession charges specifically, it is important to note that substance abuse in general is an underlying issue in so many of the cases Kansas prosecutors deal with daily. This proposal comes at a time many prosecutors throughout Kansas are embracing opportunities for criminal justice

reform, including expansion of diversion opportunities. My experience with placing individuals on diversion for drug possession charges is that they fail because they do not have access to the resources that would make it possible for them to succeed.

It is my belief HB 2026 would offer those resources that would give defendants an opportunity to succeed. Many individuals suffering substance issues can be contributing members of the community if they can successfully break the cycle of addiction. Helping those without a prior criminal record to avoid that first felony conviction through this program benefits the criminal justice system and the community.

The criminal justice system is benefited by providing a prosecutor the tools to offer diversion to an individual charged with possession of drugs. Diversion programs can reduce court hearings by allowing a person to enter into diversion prior to a preliminary hearing or arraignment. This would also give the defendant an earlier opportunity at a drug treatment program than is currently available and potentially a greater chance at success.

Diversion supervision is an important part of HB 2026 as it is as equally important to a defendant's chance for success on drug diversion as the treatment aspect of HB 2026 is. Almost every person with a substance abuse addiction will stumble during the road to recovery and having a system of accountability and support increases the likelihood of success. These two aspects of the proposal are integral to the other for success of drug diversion. While some larger jurisdictions may have the resources to provide such programming, the vast majority of Kansas counties do not, which makes this proposal so important.

There is every reason to support HB 2026 as it provides one more opportunity to intervene in the life of an individual with a substance abuse issue and to intervene earlier than we are presently able to offer assistance. This can be done with little or no additional costs to the State. Again, KCDA and I support HB 2026 and urge you to adopt it.

Thank you for your time and attention to this important matter.

Respectfully,

Gregory T. Benefiel
County Attorney