



**OFFICE OF THE DISTRICT ATTORNEY
EIGHTEENTH JUDICIAL DISTRICT**

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**Testimony Regarding HB 2121
Submitted by Marc Bennett, District Attorney, 18th Judicial District
and on behalf of the Kansas County and District Attorneys Association**

Honorable Chairwoman Warren and Members of the Senate Judiciary Committee:

Thank you for the opportunity to address you regarding House Bill 2121. On behalf of the Kansas County and District Attorneys Association, I come to ask you to clarify how our state will resume statutory speedy trial rights once the current moratorium ends on May 1, 2023.

As a brief reminder, the legislature took timely and forward-thinking action in 2020 and 2021 to provide an opportunity for courts, prosecutors, and defense counsel to address the unprecedented disruptions that accompanied the COVID pandemic. The shutdowns, social distancing, and unexpected absences due to illness, etc. put tremendous strain on the criminal justice system. Without these prior amendments to K.S.A. 22-3402, the well-documented increase in violent crime that occurred in the wake of the pandemic (particularly gun and domestic violence) would have overwhelmed the statutory speedy trial framework that existed pre-COVID, resulting in the release of countless violent offenders into our communities.

It also bears noting the speedy trial rights afforded every defendant under the Constitution of the United States and the State of Kansas have remained in full effect in Kansas throughout the intervening three years, and neither the prior amendments nor this bill seeks to (or could) abridge or interfere with those rights.

The state's prosecutors proposed several amendments in the house to address long-standing issues with the speedy trial bill. After much discussion between the prosecutors association and the defense bar failed to reach consensus, the House Judiciary Committee elected to move forward with only one change -- to extend the stay on statutory speedy trial until the 2024 legislative session.

The need for this extension starts with an issue that has been drawn into sharp focus in recent years as the number of attorneys available to handle criminal cases has declined (both prosecution and defense). Whether due to smaller class sizes at law schools, the "Great Retirement" of recent years, or other factors, the number of lawyers in criminal law has diminished. BIDS reports having lost 1 in 5 public defenders in FY2022.

As a result, the remaining defense attorneys carry increasingly higher caseloads. Some public defender offices have repeatedly "shutdown" or stopped taking cases for weeks or months at a

time due to expanded caseloads. These shut downs in turn overload the limited remaining private defense bar. Many prosecutor's offices across the State have vacancies that remain open for months awaiting applicants. All this makes it more difficult to avoid attorneys with multiple jury trial settings on a given week.

In the event any of the members of the committee are concerned that an extension will only give the courts and counsel free rein to indefinitely delay trials, I'd like to share a few statistics from Sedgwick County as an indication of how hard the criminal justice system in this state has continued to work even while statutory speedy trial rights have been suspended over the past three years.

As of January 25, 2023, just under 99% of cases filed in 2018 and 2019 (the vast majority of cases pending in March 2020) are now resolved. Amidst shuttered jury rooms, plexiglass barriers and zoom calls, over 92 % of cases filed in 2020 and 79% of cases filed in 2021 have also been resolved. It also bears pointing out that rather than ignoring the wholly unique context in which we found ourselves, we filed roughly one third fewer cases in 2020 and 2021 by focusing solely the most violent and repeat offenders--which tend to face longer sentences and take more time to resolve. The less serious cases are now being filed in a special docket implemented to resolve lower level cases. This docket is the product of a cooperative effort between BIDS, my office and our courts to process the backlog of cases left uncharged in the past two years -- and those moving forward -- by expediting discovery and plea negotiations. In short, the record reflects that our courts, prosecutors, and defense counsel are more than capable of resolving cases efficiently despite unprecedented hurdles.

The stay of statutory speedy trial agreed to by the House in HB 2121 will allow practitioners across the state the ability to continue this work.

Thank you for your time, attention and consideration in this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marc Bennet". The signature is fluid and cursive, with a long horizontal stroke at the end.

Marc Bennet
District Attorney