

Kansas Professional Bail Bond Association, Inc.

TESTIMONY REGARDING SB 176

Chairman Owens, members of the committee, my name is Shane Rolf and I am on the executive board of the Kansas Professional Bail Bonds Association. I thank you for allowing me to submit written testimony in support of SB176.

As informed observers of the pre-trial portion of the criminal justice system, we agree wholeheartedly with the intent of this bill. Too often we have witnessed situations wherein defendants who are not legally present are granted PR bonds only to be released to I.C.E. for deportation action. Sometimes these defendants secure their release from Immigration and appear as ordered. However, all too often, these defendants are actually deported and never seen again [or seen several years later after having once again illegally entered the United States and once again crossed paths with law enforcement]. In the meantime, the case and any victims therein are left to languish.

Many of the other factors the Courts are supposed to consider are of minimal value when dealing with illegal aliens. For example, prior criminal history and prior incidents of failure to appear - two of the most critical factors in determining future court appearance - are often meaningless as relates to illegal aliens (because prior criminal history may have occurred in another country). Adding a requirement that the Court consider legal presence will help to counter this inherent problem.

However, a requirement that the Court consider legal presence is not the same as a prohibition against granting illegal aliens more lenient, and ineffectual, forms of release such as Personal Recognizance. Further, since there is no formal definition of residency associated with 22-2802, a curious dichotomy can be created wherein a defendant is considered a Kansas resident with no *discernable* criminal history and still be an illegal alien with a violent criminal history in his country of origin.

Over the years, we have witnessed the Courts fashion these discretionary features of bond to their own purposes, often ignoring what appear to be clear dictates of the statute. For example, Johnson County's rubric for evaluating ORCD eligibility specifically considers only "prior non-traffic bond forfeitures," when the statute prohibits this type of release for defendants who have any "history of failure to appear for any court appearance." Similarly, Shawnee County has adopted very lenient local rules that allow certain defendants to be released on PR bonds if they meet a series of conditions, such as a current telephone bill and a job in Shawnee County for at least 3 months¹. Thus leaving the phone company and a short-term employer to be the arbiters of who qualifies for lenient release.

Therefore, we agree with the intent and purpose of the bill - presumably, to insure that illegal immigrants charged with crimes are present to answer to those crimes. However, we question whether

¹ To be fair, Shawnee County restricts this type of Automatic Bond Schedule release if a defendant has a detainer from Federal authorities, presumably, this would include an ICE hold. However, not all illegal aliens have a detainer from ICE.

the simple insertion of a requirement that the Court consider legal presence is sufficient to accomplish this goal, particularly given certain Courts' and certain Judges' propensity and desire to utilize government-run and taxpayer-financed programs, to attempt to secure appearance, rather than the tried and true method of traditional bail.

Although I am not physically available today, other members present and can answer any questions you may have. Thank you again for your consideration of SB176.