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## Department of Corrections

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Mark Masterson  
Director

Presented To: Kansas House Committee on Corrections and Juvenile Justice  
Presenter: Mark Masterson, Director, Sedgwick County Department of Corrections  
Date: February 13, 2013  
RE: Testimony Opposing HB 2070

Chairman Rubin and Committee Members,

I am Mark Masterson, Director of the Sedgwick County Department of Corrections. My testimony today is offered on behalf of Sedgwick County in opposition to HB 2070.

The elected county officials in Sedgwick County have been working collaboratively for several years to build capacity for evidence-based, data-driven local justice policies and practices. The Board of Sedgwick County Commissioners established a Criminal Justice Coordinating Council composed of key system stakeholders to coordinate efforts, review practices and recommend solutions to protect public safety in the best, accountable, data-driven and cost-effective ways. The focus of this work has centered on how we use incarceration in our jail and creating less costly and more effective alternatives.

In order to be effective with front-end criminal justice resources the county funds the Pretrial Services Program. The program employs a combination of individual risk assessment, OR bonds and supervision of defendants in the community. Sedgwick County implemented the program for the purpose of lowering the inmate population in the jail by providing an effective release alternative for adult inmates who cannot afford to post bond on their own. At the discretion of the judiciary, inmates are released on their own recognizance with supervision by Pretrial Services as a condition of their bond. Conditions of bond are imposed that will reasonably assure public safety and the appearance of the person for court. Pretrial staff provides monitoring and supervision through weekly face-to-face visits, performs substance abuse testing, sends automated court reminders, uses electronic monitoring as appropriate, verifies residence, provides situational counseling and make referrals to community resources.

It is our position that the current statutes and practices works well and allows flexibility at the local level in managing detention and release decisions. By prescribing strict qualifications for a defendant to be released on their own recognizance, HB 2070 severely limits the discretion of the courts and the number of inmates who



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can obtain release without financial payment. The bail bond industry's support for HB 2070 and similar efforts around the country is apparent – every defendant released without financial conditions is one less paying customer. Commercial bail bonding companies do business with defendants who have to pay for release by collecting a non-refundable fee of 10 percent or more of the bail amount. HB 2070 is a legislative attempt by private industry to influence the local criminal justice system and judicial decisions. Best practices are a threat to their industry. It is not about bail bondsman, it is about assessing RISK and holding in jail those who are most likely to cause harm. Preventing short-term jail confinement is important for financial reasons and in preventing the elevated risk for recidivism that happen when admitted to jail for 4 or 5 days.

On February 7, 2013, there were 237 defendants being supervised in the Pretrial Services Program. If HB 2070 had been in effect on that date, only 7 of those 237 could have been released from jail on their own recognizance. The other 230 would have been required to pay for their release. As Pretrial Services targets those inmates not able to afford to post bond, it is likely that the majority of those individuals would remain in jail at a cost of \$66 per day. The Pretrial Services Program costs \$7.66 per day and served 1664 adults in 2012.

Last year when preparing to offer testimony on this issue, the District Court collected data on the use of OR bonds in Sedgwick County over a three year period. They found that out of an average of 1183 bonds in felony cases only 1.9% moved to warrant status. The data also showed that 88% of OR bonds involved charges that, if convicted, would qualify for a presumptive probation sentence under sentencing guidelines.

Sedgwick County has been successful at implementing jail alternative programs to at least delay the need to build more jail space. Since 2009 the jail population has declined by an average of 200 per day and is now at the lowest level since 2005. The number of inmates we have housed at jails around the state has been reduced but still exceeds 200 per day. We have been working with the Pretrial Justice Institute and Wichita State University to design and validate a risk assessment instrument to continue to improve our pretrial release system. HB 2070 substantially increases the number of inmates that are unable to be released from jail on their own recognizance even though many of them will be supervised in the community if convicted. At a time when Counties and States are looking for smarter ways to lower jail and prison populations, pretrial services provides an obvious way to work together. The bail bond industry deserves a strong message from this Committee to stop promoting ineffective and more costly solutions designed to increase their profits at the expense of taxpayers. We urge you to reject the changes proposed in HB 2070 and continue to allow county officials and the judiciary to establish local practices that control the inmate population and protect public safety.

Thank you again for allowing me to share our perspective. I will be happy to stand for questions.