

HOUSE COMMITTEE ON CORRECTIONS AND JUVENILE JUSTICE

John Rubin, Chairman
Ramon Gonzalez – Vice Chairman
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Room 152-S
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TESTIMONY ON BEHALF OF KANSAS DISTRICT JUDGE'S ASSOCIATION IN OPPOSITION OF HB 2070

Thank you Mr. Chairman and committee members for extending me the opportunity to appear and present testimony in opposition to HB 2070. I am Mike Keeley, President of the Kansas District Judges Association and Chief Judge of the Twentieth Judicial District which includes the counties of Barton, Ellsworth, Rice, Russell and Stafford.

I have been a district judge for twenty years and I have experienced all areas of the law including that part of the criminal law which deals with first appearances and the setting of bonds for the defendants when first brought before the court. House Bill 2070 is a bill which does nothing for the citizens of the State of Kansas unless you are a bail bondsman. This bill would be a financial benefit only to those promoting the bill, the bail bondsmen. It will cause unnecessary time delays and expense in the judicial process. These delays and expenses will affect state employees, such as court service officers, and counties, including county jails and citizens of the State of Kansas.

This is a fairly strong statement but one that needs to be said. The practical experiences of judges, district attorneys/county attorneys and defense counsel shows that there are a small percentage of people who fail to appear on their bonds. From my own personal experience, those defendants who

have qualified on Own Recognizance Bonds (OR) are not the class of defendants who fail to appear for court. Those who fail to appear in any type of case is a very small percentage and is not a large problem. The people this bill is attempting to affect falls within the category of those who are normally given OR bonds and are not at risk of not appearing in court or a danger to the community. The purpose of a bond, by statute, is to insure the appearance of the defendant in court and to protect the safety of the community from the defendant.

The first objection from the Kansas District Judge's Association to HB 2070 is the bill attempts to limit the judicial discretion of judges when determining who should or should not qualify for an OR Bond. Normally the procedure to establishing a bond occurs when the judge, the prosecutor and the defense counsel meet to discuss the amount of the bond and the bond conditions. In this discussion, facts of the case are looked at including the incident in question, past criminal history as determined by the prosecutor, local knowledge of the defendant and any prior failing to appear or probation violations, as well as ties to the community. Based on that information, a bond is set. Who better to make the bond decision than your local judge? Under this bill, the judge's discretion is attempting to be taken away by those who have a strictly financial interest in the case without any specific knowledge regarding the particular facts of the case. This erosive process of continuing to limit judges' discretion needs to be reviewed closely. This is at least a second attempt in the last few years trying to restrict judges' discretion. As an example, in my own 20th Judicial District our local court bonding system was recently eliminated.

The second objection deals with time delays this bill will cause regarding the judicial process. Under the proposed bill, a person may only be released on an OR bond if a certain list of qualifications are met. Some of these qualifications require someone to do a pre-sentence investigation on the defendants criminal history score, whether he has a prior history of failing to appear and is lawfully present in the United States. This would cause a delay while a court service officer runs these

background checks. This delay could be anywhere from 3-4 four days or longer to obtain a complete listing of these requested statutory requirements. This additional work takes a court service officer away from his regular duties of preparing pre-sentence investigative reports and probation violation reports of those defendants who have already been convicted. It takes them away from their supervisory obligations of probationers thus causing safety risks to the citizens of Kansas.

The third objection is this delay causes additional costs to the counties by having to house these defendants in the county jails while waiting for these court service officers or someone to complete their investigations. A fairly common expense that does occur is, while incarcerated, the county has an obligation to pay for any medical bills of the defendant. It is surprising the number of defendants who attempt to receive medical treatment while incarcerated. In my experience, I have been contacted by the county jail on numerous occasions to allow OR bonds for those requiring medical treatment. If we are unable by statute to grant someone in need of medical attention an OR bond due to not have his criminal history, the county would incur a substantial medical bill.

In regards to the costs of the citizens of Kansas as a practical matter, these defendants who are charged with misdemeanors and low level felonies normally are local citizens who do have jobs and pay taxes. These are not the class of defendants that we need to be concerned with not appearing in court. Obviously there are exceptions to the rule. One of two scenarios will occur, the first is they will be unable to come up with the bond amount, and as a result of sitting in jail pending a possible OR bond, may lose their job. The second scenario is some family member or friend bonds them out and this cost paid to the bondsman will not be able to be used to pay for their court costs, fees and restitution to victims. It would be better for these defendants to use the money saved by an OR bond to pay back court costs and restitution to the victims and the state rather than the surety bondsman.

It is interesting to note an additional restriction in the new proposed bill requires out of state sureties or agents to contract with local sureties before they are allowed to apprehend any wanted

defendant from another state. In this day and age when the State of Kansas is promoting business from out of state this is an interesting request to restrict out-of-state business. I do understand that perhaps the reason is to prevent bounty hunters from coming into our state without knowledge of our laws and illegally apprehending defendants who are residing in the state.

In summary, HB 2070, attempts to infringe upon judicial discretion and alleges to fix something that is not broke. This area of the law doesn't need more government restriction and interference, just the use of common sense from those who deal with it on a day-to-day and case-by-case basis. Let judges be judges and do their job.

Thank you for this opportunity to present our position on House Bill 2070.

Respectfully submitted,

Mike Keeley

President KDJA

Chief Judge, Twentieth Judicial District