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**Testimony to the House Committee on Corrections and Juvenile Justice in Opposition of
House Bill 2146
February 9, 2021**

Chair Jennings and Members of the Committee:

The Johnson County Sheriff's Office opposes **HB2146**. It appears that there is a trend this legislative session to reduce criminal penalties for certain crimes. Drug crimes are often the target of this type of effort. There have been a multitude of opinions on how drug crimes are "victimless" crimes. There has been a movement to decriminalize and/or lessen penalties for drug crimes because of these beliefs.

HB2146 would make all Level 5 drug crimes presumptive probation. The stated goal is to free up bed space in our prisons. But the current bedspace projection for FY2021 is that they will be under capacity by 1287 inmates. This bill would free up another 295 by FY2022. Projections for that fiscal year are that prisons in Kansas will be under capacity by 1241 inmates. Given the last several years of projections, which show overpopulation, we fail to see the urgency to reduce bedspace. While the COVID-19 pandemic is largely responsible for this, the fact remains that there is sufficient bedspace.

Our experience in Johnson County is that drug crimes are not victimless crimes. We have had teenagers shot over the sale of THC vape cartridges. We have had occasions where someone went to buy marijuana and instead decided to forcibly take the drug from their dealer. It happened in our county in April of last year. The drug dealer was killed by the buyer. We have had situations where the seller decided to rob the buyer. These types of activity happen frequently in the Kansas City Metro area. These are not victimless crimes.

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Drug offenders frequently reoffend after release from prison. According to national statistics, 76.9% of convicted drug offenders reoffend within five years of being released from prison.¹ It is easier to reoffend when a convicted drug user is not imprisoned. We do not expect every drug offender to be incarcerated. In some cases, treatment options should be used. These options are available in prison as well. However, entering a treatment program does not guarantee success. The person in the program must want treatment for it to succeed. We see this in our Veteran's Treatment Court in Johnson County. There have been many success stories because of that program.

While we support more treatment options, we do not support changing all level 5 crimes to presumptive probation. We do not feel that there is such a bedspace crunch that this is needed. We would ask the committee to not pass **HB2146** as written.

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¹ Matthew R. Durose, Alexia D. Cooper, Ph.D., Howard N. Snyder, Ph.D., Recidivism Of Prisoners Released In 30 States In 2005: Patterns From 2005 To 2010 – Update, Bureau of Justice Statistics, April 22, 2014.