

**Senate Judiciary Committee
March 15, 2022**

**House Bill 2607
Testimony of the Kansas Association of Criminal Defense Lawyers (KACDL)
Presented by Clayton Perkins
Neutral**

Dear Chair Warren and Members of the Committee:

The Kansas Association of Criminal Defense Lawyers (KACDL) generally disagrees with the one-year statute of limitations imposed by K.S.A. 60-1507(f), which interferes with the right to file a writ of habeas corpus protected by the Kansas and Federal Constitutions. That said, the language in HB 2607 works as a clarification of the statute of limitations that already exists in K.S.A. 60-1507(f). And, because criminal defendants typically have no right to counsel when initially filing a K.S.A. 60-1507 motion, it is a statute where having particularly clear deadlines can help *pro se* defendants understand those deadlines. As such, we are neutral on this change.

In addition, in the hearing on this bill before the House Committee on Corrections and Juvenile Justice we raised a concern with the fact that HB 2607 slightly changes when the one-year statute of limitations begins following an appeal from a previous habeas motion. Particularly, HB 2607 has the one-year period start when an appellate court issues its opinion, whereas current caselaw has the one-year period start when the appellate court issues the mandate following the opinion, usually 14 to 21 days after the opinion. That change could have created situations where criminal defendants missed the chance to file a K.S.A. 60-1507 motion because they were relying on the current time limits. To fix this concern, the House Committee on Corrections and Juvenile Justice added subsection (g) to implement a one-year grace period after HB 2607's effective date to give defendants reasonable notice and opportunity to file pre-existing claims. This is consistent with *Hayes v. State*, 34 Kan. App. 2d 157 (2005), where the Kansas Court Appeals held that the original implementation of K.S.A. 60-1507(f) required a one-year grace period after its effective date to give defendants reasonable notice. The bill, as amended, now resolves the remaining concerns with had with HB 2607's implementation.

Thank you for your time.

Clayton J. Perkins
claytonjperkins@gmail.com
(913)526-1219