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March 5, 2013

The Honorable Lance Kinzer, Chairman  
House Committee on Judiciary  
Statehouse, Rm. 112-N  
Topeka, KS 66612

Re: Hearing on S.B. 18

Dear Chairman Kinzer and Members of the Committee:

I am the Assistant Riley County Counselor. I would like to speak in support of S.B. 18 as amended by Senate Committee.

If a temporary restraining order (TRO) is issued without prior notice to the adverse party, proposed subsection "(a)(3)" makes it a prerequisite that notice of the TRO issuance must be provided to the Attorney General if the State is the adverse party. Just like the State, TROs may be issued against a county or city without notice. Counties, with service on the county clerk, and cities, with service on the city clerk, have been provided the same notice by the Senate Committee.

The Senate Committee amended subsection "(f)" exempting the state, from posting security prior to the issuance of a TRO, and providing the judge with discretion to waive the security requirement for counties and cities. This will allow counties and cities to use TROs for public health, safety, and welfare issues.

Current injunction statutes reference "temporary injunction" not "preliminary injunction." To avoid confusion, the Senate Committee replaced preliminary injunction with temporary injunction in subsection "(c)" and deleted it from subsection "(f)" since K.S.A. 60-905 provides for the issuance of a temporary injunction with adequate notice and security requirements.

Sincerely,

  
Craig Cox  
Assistant Riley County Counselor

cc: Nathan Eberline, KAC  
Steve Phillips, Assistant A.G.