



SHAWN R. DEJARNETT
CITY ATTORNEY
317 South Washington
Wellington, Kansas 67152
shawndejarnett@cityofwellington.net
(620) 326-3641

WRITTEN TESTIMONY IN OPPOSITION TO SB 318

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Dear Chairman Owens and Committee members:

Thank you for the opportunity to testify in opposition to SB 318. I have reviewed the text of the proposed bill. The troublesome language was added during the amendment on the Senate floor, which is found under section 1(b). This language places requirements on the city attorney regarding review of every audio and video recording provided by the accused (defendant) or accused person's counsel, as well as body camera and vehicle camera from law enforcement.

My background is that I have been a practicing attorney for over 30 years in rural Kansas, primarily Sumner County. I am currently the City Attorney/City Prosecutor for the City of Wellington. I have also been a prosecutor for a few smaller communities in South Central Kansas, as well as the City of Derby. I currently serve as the Municipal Court Judge for Caldwell, a position I have held for almost 25 years. I am also a Municipal Court Judge for Belle Plaine. My experience makes this issue and the impact it will have on small communities something I will experience first hand, as well as the consequences that will result if this bill is passed.

Most small communities employ their city attorneys and city prosecutors on a part-time basis. The very small communities in Kansas, such as Caldwell and Belle Plaine, may only employ their attorney/prosecutor for one or two days per month, for an hour or two. These communities can only afford a few hundred dollars per month to employ the attorney for his/her service. As you may be aware, rural Kansas has a significant shortage of attorneys, especially attorneys willing to do this service as oftentimes it involves giving up an evening with their family or going to a kids ballgame as some of these courts and councils only meet in the evenings.

For these communities, they have small budgets for these services. This change will increase the amount of time an attorney has to spend on cases for these communities. The increase in costs for attorney services will result in some communities not being able to afford attorney services.

Further, this requirement will likely cause attorneys currently serving in these roles to reconsider serving as it will strap them with the additional statutory requirement to review anything that a defendant brings in to them to determine whether it is relevant. A lot of these rural attorneys are serving multiple communities and courts. With a finite amount of time to dedicate to these communities, the additional amount of time this proposed amendment requires, may result in them eliminating some of the communities they serve. Without an attorney to

serve or the increase in costs to have said services, it may also result in some communities disbanding of municipal court altogether.

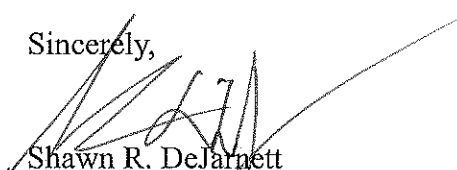
For communities a bit larger, such as Wellington, these cities typically employ their prosecutor on a part-time basis or by contracting, for several hours per week. The prosecutor is still part-time with a finite number of hours for the tasks associated with the position. Due to larger case numbers(840 cases according to Annual Report of Kansas Municipal Courts FY2023), this bill creates a more likely scenario of a significant increase in the amount of time necessary to review the evidence a defendant thinks is relevant. A review is inevitable to determine whether it is relevant or not. These communities will struggle to find the funds to pay a prosecutor more, as their time commitment increases. These communities are already struggling to pay law enforcement officers and keep those departments fully staffed. An increase in the amount of time each community may need will result in even fewer attorneys available to handle this increase.

Even the larger cities with full-time attorneys will struggle with any increase in the amount of time necessary to review evidence a defendant thinks is relevant. All these attorneys review body cam and in car video on cases that are going to trial or may have issues. Each case may have several hours of these types of videos depending on the duration of the incident and number of officers involved(since each officer has video). Annual caseload reports for municipal courts are readily available at www.kscourts.org/About-the-Courts/Municipal-Courts, which give you an idea of the sheer number of cases these attorneys are dealing with.

This ill conceived amendment is problematic in several aspects. It gives the defense the ability to overwhelm the city attorney with evidence they think is relevant and said attorney is required to review. It could easily be abused to create delay and impede trials. It is telling that there are not any similar provisions pending regarding other attorneys in the criminal justice system, such as District Attorneys or County Attorneys. This clearly would create an unduly burdensome mandate on all municipal attorneys in Kansas.

As a long time attorney, with significant prosecutor experience, I strongly oppose this proposed legislation that requires a city attorney/prosecutor to review all audio and video for a case provided by the accused.

Sincerely,



Shawn R. DeJarnett
Wellington City Attorney

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