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**Testimony to the Senate Judiciary Committee
Neutral Testimony on SB318
January 23, 2024**

Chair Warren and Committee Members:

Our associations have reviewed SB318 proposing to eliminate the mandatory collection of fingerprints for those convicted in municipal courts for the violations of unlawful acts regarding vehicle registration as provided in KSA 8-142, driving without a driver's license as provided in KSA 8-235, and driving without insurance as provided in KSA 40-3104. We will address each of those later in our testimony. It is our opinion that the passage of this bill will not have a significant negative impact on public safety.

It appears, based on the current KSA 12-4517, the mandatory fingerprinting applying to these three violations is not based on their specific inclusion when the original statute was adopted but rather based on the general provision of persons convicted of any municipal ordinance equivalent to any class A or class B misdemeanor in state statute. If that is accurate, there was probably no consideration of the public safety interest in gathering fingerprints for the three violations proposed for exemption in this bill based on their independent risk factors. We have included our analysis of each later in this testimony.

There is value in collecting fingerprints from persons convicted of even minor crimes in our pursuit to identify perpetrators of more serious, even violent, crimes. However, consideration should be given to balancing the potential value of fingerprinting a person committing the particular crime of conviction with other factors involving the collection of the fingerprints, including the time and inconvenience to the defendant, the courts and law enforcement in collecting the fingerprints. Since in most of these cases, the person would not have been taken into physical custody and booked into jail, collecting the prints is an additional step taking place after the conviction is recorded. This results in time taken by the defendant, the court, and the law enforcement agency (in some jurisdictions) that must take the fingerprints and process the prints through the system. In that analysis, we do not believe the loss of having these fingerprint records in the system has a significant negative impact on public safety. We also checked with the KBI who has advised there are no federal requirements for fingerprinting of persons convicted of the crimes proposed for exemption in this bill.

Ordinances equivalent to KSA 8-142: As we evaluated the impact of not fingerprinting those convicted of the unlawful acts in KSA 8-142, we question if taking fingerprints for those convicted of these violations is currently required. The classification of these crimes is contained in KSA 8-142 in only two of the long list of unlawful acts. The classification of the remainder of the prohibited acts is found in KSA 8-149. All the crimes listed in KSA 8-142 are unclassified misdemeanors and do not appear to us to currently be included in the fingerprint requirements of KSA 12-4517. We also checked KSA 21-2501, the statute requiring fingerprinting of persons

relating to certain state law crimes handled by district courts, and found no reference to KSA 8-142. Perhaps there is another statute requiring fingerprinting upon conviction of these violations that we failed to find. If they are not currently required, then listing them as not being required changes nothing. If they are required by some other standard, then we should point out a few provisions that might be worth retaining the fingerprint requirement for two specific violations in KSA 8-142. Those would be displaying a fictitious license plate (KSA 8-142 Second); and using a false or fictitious name or address, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any application for a certificate of title or vehicle registration (KSA 8-142 fifth). Both of those violations are strong indicators of further criminal propensity of the offender. If the reference to KSA 8-142 remains exempted in this bill, we will likely bring forth a different bill to make those two violations a class A misdemeanor, a more appropriate level of crime than an unclassified misdemeanor for those acts. But that would be a different discussion for another time, and we do not recommend intermingling such a change in this bill. What we do recommend is determining if KSA 8-142 currently requires fingerprinting, and if not, to remove it from the bill.

RECOMMENDATION: Seek advice from the revisor on whether conviction for a city ordinance equivalent to KSA 8-142 currently requires fingerprinting. If so, act on the bill with this provision included. If not, delete the reference to KSA 8-142 and act on the bill with that amendment.

Ordinances equivalent to KSA 8-235: These violations are Class B Misdemeanors. However, they simply apply to operating a vehicle without a driver's license and do not involve any fraudulent or false identification. Thus, we do not see a significant impact on public safety to not collecting fingerprints from those convicted of this crime.

Ordinances equivalent to KSA 40-3104: These violations are a Class B misdemeanor for the first offense and a Class A misdemeanor for a second or subsequent offense within three years. However, the violation is for operating a vehicle without the required liability insurance and do not involve any fraudulent or false information. Thus, we do not see a significant impact on public safety to not collecting fingerprints from those convicted of this crime.

In summary, we believe the passage of this bill will result in saving time and resources for the defendants, the courts and law enforcement without a significant negative impact on public safety. We do believe it is imperative the committee explores and considers the necessity of including KSA 8-142 as we have explained above.

SUGGESTION: Passage of this bill, as is, will create a discrepancy in the fingerprinting requirements for municipal courts (KSA 12-4517) and the fingerprinting requirements for district courts (KSA 21-2501) for convictions of the crimes exempted in the bill. We encourage the committee to give due consideration to amend KSA 21-2501 to assure equal treatment of persons convicted of these crimes whether convicted of their crimes in a municipal court or a district court.

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