

**Senate Judiciary Committee –Amended House Bill 2078**  
**March 11, 2021**

**Kansas Association of Criminal Defense Lawyers**  
**Proponent**

Madam Chair Warren and Members of the Committee:

The amended version of HB 2078 would suspend the speedy trial statute for all criminal cases until May 1, 2024 in an effort to ensure that all criminal cases have an opportunity to be heard after the delay caused by the pandemic. It removes language from the original bill which would have abolished the statutory speedy trial right moving forward and includes language to guide the district courts in prioritizing cases for trial.

The Sixth Amendment of the Federal Bill of Rights and Section 10 of Kansas' Bill of Rights both guarantee an accused the right to a speedy trial. Since our earliest days of statehood, the Kansas Legislature has provided a statute for the purpose of guaranteeing and guarding those Constitutional rights. The statute protects our Constitutional rights enacted by our founders to prevent the harm of long trial delays both to the accused and to the public. The accused, who is presumed innocent under our system of laws, is harmed by excessive pretrial incarceration should they be unable to make bail, or has their liberty infringed by pretrial release conditions if they do make bail.

Both the accused and the public share many interests in maintaining the orderly and speedy processing of our court system. As time passes, evidence stales, and the memories of witnesses get cloudy. This weakens both the prosecution's potential evidence of guilt as well as the accused's potential evidence of innocence. It weakens the reliability of our jury trials. Ensuring speedy trials helps prevent those harms. The statute is there to *prevent* the Constitutional right to a speedy trial from being violated by establishing timelines that are safe harbors.

The amended version of House Bill 2078 allows the suspension of statutory speedy trial for a period of time to allow the courts to address the backlog of cases which has built up over the past year while the courts have been largely unable to conduct jury trials. It includes language for the courts to consider when prioritizing their cases for trial. Much of that language was taken from the United States Supreme Court Case, *Barker v. Wingo*, which set out the general guidance for constitutional speedy trial.

The Constitutional analysis explained in *Barker v. Wingo*, 407 U.S. 514 (1972), examines whether the right to a speedy trial has been violated by directing courts to analyze

four factors: 1) the length of the delay; 2) the reason(s) for the delay; 3) the defendant's assertion of his or her speedy trial rights; and 4) the degree of prejudice to the defendant. By including similar language in the amendment to the statute, the bill recognizes that a defendant's constitutional speedy trial rights still exist, but the more defined statutory right is temporarily suspended to give the courts time to get the backlog of cases that has built up to trial.

The amended language proposed for K.S.A. 22-3402 would allow district courts to determine which cases need to be prioritized for trial and would allow defendants to assert their constitutional speedy trial rights. It would set forth clear guidance for the district courts to manage the pending cases. We encourage the committee to pass the bill as amended by the house.

Sincerely,

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