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Testimony on Senate Bill 125
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My name is Rachel Wester and I am a staff attorney at the Midwest Innocence Project, which works to exonerate the wrongfully convicted in Kansas, Missouri, Iowa, Nebraska and Arkansas. Thank you, Senator Haley for introducing Senate Bill 125 to provide compensation to the wrongfully convicted.

Tragically, the wrongfully convicted have paid someone else's debt to society. While it is impossible to give back an innocent person the years that he or she lost, it is crucial that we provide a path to try to help them restore their lives.

Often, the nightmare of wrongful conviction does not end once a person is able to prove his or her innocence and is released from prison. The costs associated with reentering society are extremely onerous. Many exonerees have no financial resources. Incarcerated in the prime of their lives, they often missed out on critical economic benchmarks such as attending college, investing earnings, buying a home, creating retirement accounts, and contributing to social security.

Right now, Kansas does not have a compensation statute and the wrongfully convicted person must endure a long and difficult civil litigation process to recover damages. The burden and costs associated with litigating such a case are extremely high, successes are few and far between, and monetary relief - if any - lacks uniformity. The wrongly convicted plaintiff must not only prove that mistakes were made, but that there was deliberate and/or reckless conduct on the part of officials. In most cases, the doctrines of qualified and absolute immunity shield official actors, such as police, crime lab personnel, and prosecutors from liability for misconduct. Even if there is a successful suit, there is still no guarantee that the wrongly convicted plaintiff will recover damages. Often, smaller towns are not insured or do not have sufficient funds in their coffers to cover significant claims. Outside insurers that cover municipalities often refuse to cover the most egregious conduct carried out by official actors.

According to the National Registry of Exonerations, which tracks proven wrongful conviction cases across the country that occurred since 1989, there were five cases in which innocent Kansans were sentenced for crimes they did not commit. Eddie Lowery was the only one to successfully obtain civil damages. Mr. Lowery was a 22-year old soldier stationed at Fort Riley when he was wrongfully convicted of raping an elderly woman in Odgen. He falsely confessed to the crime after detectives interrogated him for a full day without food or water, threatened him and denied him a lawyer. Mr. Lowery spent 10 years in prison and an additional 11 years on parole and the sex offender registry before DNA evidence proved his innocence and identified the actual culprit. He endured a six-year legal battle before he reached a settlement with Riley County for his wrongful conviction.

Senate Bill 125 would ensure that wrongfully convicted Kansans who are able to prove their innocence can obtain the monetary assistance they need to recover and rebuild their lives. We would recommend that the legislation be amended to allow wrongfully convicted Kansans who pled guilty to be eligible for compensation and to permit claims to be filed two years from the time that criminal charges are dismissed or two years from the effective date of this legislation.

The victims of criminal justice system error deserve strong support from the government that harmed them – however inadvertently – to return them to where they could have been in life but for their wrongful conviction. For the few Kansans who have suffered the unique horrors of wrongful conviction, Senate Bill 125 would ensure the state makes amends for the years they lost behind bars.