



STATE OF KANSAS
Tenth Judicial District

OFFICE OF DISTRICT ATTORNEY

STEPHEN M. HOWE, DISTRICT ATTORNEY

March 9, 2021

Senate Judiciary Committee
Attention: Senator Warren, Chairwoman
State Capitol, Room 166W
Topeka, Kansas 66612

Re: House Bill 2078

Dear Chairwoman Warren and members of the Senate Judiciary Committee,

Please consider this supplemental testimony in support of HB 2078. On February 4, 2021, I appeared before this committee in support of SB 57. At the conclusion of the hearing, several members had some concerns about the current draft of the bill and asked that the KCDAA to work on a compromise with opponents of this bill. I am here to report that we were successful in working out a compromise with Jessica Glendening, who represented the Kansas Association of Criminal Defense Lawyers. This agreement was then placed into HB 2078, which is before you to consider.

The main points of this compromise are: 1) There is no repeal of the statute, 2) There are a list of factors that the court should consider in scheduling these trials, 3) The May 1, 2024 date to stay the statutory speedy trial clock is retained.

The constitutional right to a speedy trial is still guaranteed by both the Sixth Amendment to the U.S. Constitution and Section 10 of the Kansas Bill of Rights. Prosecutors, as administrators of justice, have a duty to ensure we bring cases to trial in a timely manner. We have no interest in delaying justice. Frankly, delays do not help prosecutors, but hinder us in presenting our cases. Prosecutors across the state will be working very hard over the next three years to bring about justice for all.

Several senators asked why we needed three years to eliminate the backlog. In Johnson County, we have eight courts assigned to handle criminal cases. We

currently have approximately 400 cases set in a pre-trial posture. If each criminal court in Johnson County District Court conducted a jury trial every single week, it would take 50 consecutive weeks to eliminate the low estimate of our backlog. This is not feasible because:

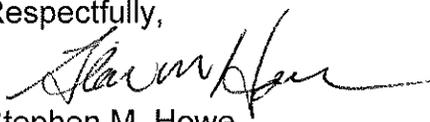
- Holidays are mixed in throughout the year.
- Some jury trials take more than a week to complete. I have a capital murder trial scheduled for 2 months.
- For the foreseeable future, the courts may need to cap how many jurors we bring into the courthouse. A typical trial may need 50 to 100 potential jurors. Bringing in a large pool of potential jurors in one day seems unadvisable at this time and this may not change until a large percentage of our population is vaccinated.

Additionally, while the courts are hearing jury trials, they also have to handle all of the other required hearings including first appearances, pleas, sentencings, revocations of probation hearings, trials to the court, motion hearings, preliminary hearings and a variety of other types of settings.

The most likely scenario we will see is a rotation where half of the courts do jury trials one week and the other half the following week. It is not hard to imagine this scenario playing out for the rest of 2021 and beyond. That pace would put us out to beyond two years before we can eliminate the current backlog. All the while, we have new cases coming into the court system. My office files nearly 6,000 criminal cases a year. Those filed cases over the next couple of years would then become part of the backlog. This is an example of why we are asking for three years. This situation is going to play out across the state no matter the population of the county.

This request has nothing to do with politics. It is not a Democratic or Republican issue. It is an issue impacting all Kansans. The passage of HB 2708 is needed to afford justice to both the victims, the accused and the community. Without its passage, many victims will not receive justice and there is a potential of dangerous criminals not being held accountable. I urge you do the right thing for all Kansans and pass this bill out of your committee.

Respectfully,



Stephen M. Howe
Johnson County District Attorney