



29TH JUDICIAL DISTRICT OF KANSAS

February 6, 2023

The Honorable Fred Patton, Chairperson
House Committee on Judiciary

Hearing Date: February 8, 2023

**TESTIMONY OF WYANDOTTE COUNTY DISTRICT ATTORNEY MARK A.
DUPREE, SR. REGARDING HOUSE BILL 2121**

Chairman Fred Patton, Vice-Chair Mark Schreiber, Ranking Member Representative John Carmichael, Members of the Committee and staff:

In 2020, many of the County and District Attorneys across the state came to this body asking for an amendment to K.S.A. 22-2402, to toll statutory speedy trial. This was in response to the shutdowns of the various courthouses across the State of Kansas and the Nation. The granting of that request was necessary to ensure the safety of our staff, defendants, defense attorneys, victims and their families and most importantly our jurors. I come before you asking for further assistance.

I come before you today to amend the statutory speedy trial statute to be more consistent with the rulings of our United States Supreme Court providing factors for a trial court to consider if there was a speedy trial violation, and if it prejudiced the defendant.

While Wyandotte County has not experienced as many shutdowns as other counties across the State, there is still a need to evaluate when and how to resume our speedy trial statute. During the course of the pandemic my county has continued to hold jury trials. Several of our judges even refused to continue a trial when a victim or witness was positive for COVID in order to try and deal with the backlog. Despite these actions, the number of defendants awaiting trial is still immense. As of right now, all defendant's who had a preliminary hearing and were arraigned during the pandemic would have their statutory speedy trial rights starting at the same time. The sheer volume of cases that would be in need of trial would overwhelm our local court system. It will be physically impossible to have these cases tried within 150 or 180 days.

The current speedy trial statute does not account for factors outside the State's and Court's control requiring a continuance of the trial. These may include tornadoes, fires, snowstorms, and other natural disasters. Not to mention also man-made disasters. Recently, my county was subject to a cyber attack. This attack prevented the courts from conducting jury trials because summons could not be issued and there was no access to the official record of the court (FullCourt). We were unable to conduct hearings for several months until the attack was resolved. This situation is not factored in the current speedy trial statute.

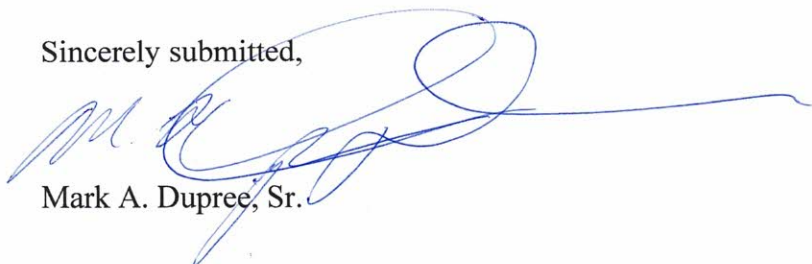
Having a uniformed manner to calculate a defendant's speedy trial is paramount to ensure that all defendants are receiving equal protection under the law across the state. Without a change to the current speedy trial statute, defendants might be treated differently across the state as there is no guidance on how it applies to defendants when statutory speedy trial resumes.

Further, the proposed changes in K.S.A. 22-2402 would be consistent with the rulings of the United States Supreme Court. The changes in the bill reflect the world we live in and not a hypothetical world. There is nothing in the bill that denies a defendant his or her statutory right to a speedy trial. It simply codifies and clarifies the defendant's right and ensures equal protection across the state.

This request does not come out of mere desire or convenience, it is one of need. District Attorneys from both parties are in agreement that the current speedy trial statute needs to be revamped. There are several instances beyond the State, Defense, and Courts control that warrant a continuance of the jury trial, however, the current statute does not take these into account. That is what the amendments would do. It preserves the defendant's right to a speedy trial and would ensure that justice may still be achieved in spite of unforeseen circumstances.

As such, I would urge this committee to continue to serve all Kansans, continue to support the administration of justice, and pass this bill so that we can serve the community to the fullest without fear that a case will get dismissed for reasons beyond anyone's control.

Sincerely submitted,

A handwritten signature in blue ink, appearing to read 'M. Dupree, Sr.', with a long horizontal flourish extending to the right.

Mark A. Dupree, Sr.