

REPORTS OF STANDING COMMITTEES

MADAM PRESIDENT:

The Committee on **Judiciary** recommends **HB 2555**, as amended by House Committee of the Whole, be amended on page 1, in line 21, by striking "open to the"; by striking all in lines 22 and 23; in line 24, by striking "be public court records after such execution" and inserting "made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the defendant or the defendant's counsel for such disposition as either may desire"; by striking all in lines 25 through 34;

On page 2, by striking all in lines 1 through 19 and inserting:

"(c) Affidavits or sworn testimony in support of the probable cause requirement of this section shall be open to the public, as provided in this subsection, upon completion of the preliminary hearing and arraignment in felony matters and after arraignment in misdemeanor matters. Any request for such affidavits or testimony shall be made to the court in writing. Any requester shall also provide proper notice, in writing, to the prosecuting attorney. Prior to release of any such affidavits or testimony, the prosecuting attorney, the defense and the court shall be allowed to review the request. The court shall determine if good cause exists to either deny the request in its entirety or redact certain sections of such affidavits or testimony pursuant to the criteria specified in subsection (f) of K.S.A. 22-2502, and amendments thereto.";

On page 3, in line 37, by striking "subsection" and inserting "subsections"; also in line 37, after "(d)(2)" by inserting "and (d)(3)"; in line 38, by striking "Except as provided in subsections (e) and (f),"; in line 42, by striking "(A)"; in line 43, by striking the semicolon and inserting "."; following line 43, by inserting:

"(3) The affidavits or testimony, redacted in accordance with the criteria specified in subsection (f), shall be made available to:";

On page 4, in line 1, by striking "(B)" and inserting "(A)"; also in line 1, by striking "30 days after"; in line 2, by striking "the warrant has been" and inserting "when the warrant is"; in line 3, by striking "(C)" and inserting "(B)"; in line 4, by striking "30 days after the"; in line 5, by striking "warrant has been" and inserting "when the warrant is"; by striking all in lines 6 through 36 and inserting:

"(e) Any person may file a written request with the clerk of the court to disclose affidavits or sworn testimony in support of the probable cause requirement of this section at least 14 days after execution of the warrant using the following procedure:

(1) The clerk of the court shall provide written notice of the request to the law enforcement agency who executed the warrant and the prosecuting attorney of the county where the warrant was executed. The law enforcement agency and the prosecuting attorney shall have seven days after receiving such notice to file any objection with the court.

(2) The magistrate who signed the warrant shall review the disclosure request.

(3) If the prosecuting attorney or the law enforcement agency objects to the disclosure, the court shall allow the prosecuting attorney or the law enforcement agency to present the reasons for such objection to the court for an in camera review.

(4) If the court finds it is more probably true than not that disclosure would violate one or more of the criteria listed in subsection (f), the court may: (A) Deny disclosure and advise the requester of such decision in writing; or (B) permit disclosure of affidavits or testimony redacted in accordance with the criteria specified in subsection (f).

(f) The court may deny disclosure of the affidavits or sworn testimony in support of the probable cause requirement of this section, or permit disclosure of redacted affidavits or testimony, if

disclosure of such affidavits or testimony would:

(1) Endanger the life, jeopardize the safety, cause emotional and psychological distress or public humiliation of a victim, witness, confidential source or undercover agent, or cause the destruction of evidence;

(2) reveal information obtained from a court-ordered wiretap;

(3) reveal any pending or prospective law enforcement action, criminal investigation or prosecution;

(4) reveal confidential investigative techniques or procedures not known to the general public;

(5) endanger the life, physical safety or cause emotional and psychological distress or public humiliation of any person;

(6) reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense as described in article 55 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto;

(7) reveal the name of any minor; or

(8) reveal any personal telephone number, driver's license number, nondriver's identification number, social security number, employee identification number, taxpayer identification number, vehicle identification number or financial account information.";

Also on page 4, in line 37, by striking "(f)" and inserting "(g)";

On page 5, in line 7, by striking "(g)" and inserting "(h)"; and the bill be passed as amended.

Chairperson