

House Corrections and Juvenile Justice Committee – House Bill 2429

January 28, 2020

Kansas Association of Criminal Defense Lawyers

Proponent

Chairman Jennings and Members of the Committee:

The Kansas Association of Criminal Defense Lawyers (KACDL) is a 250+ member organization dedicated to ensuring justice and due process for persons accused of crimes or other misconduct. KACDL supports HB2429, which would amend K.S.A. 21-6902 by adding a public defender to the Kansas Criminal Justice Reform Commission.

The Kansas Criminal Justice Reform Commission is doing incredibly important work reviewing the current state of the criminal justice system in Kansas and making recommendations on a wide variety of topics from sentencing to specialty courts and programs, community supervision, and department of corrections policies. This examination of the current state of our criminal justice system is crucial to ensure that we are implementing the best evidence-based policies throughout the State.

A majority of felony defendants in Kansas state courts are represented by appointed counsel, primarily public defenders. The current statute allows for one member of the criminal defense bar, however it does not require a public defender commission member. Private criminal defense attorneys generally represent individuals who retain them for representation during the pendency of their criminal case. Some private counsel also take appointed cases with indigent clients, but not all do. Public Defenders are criminal defense attorneys who only represent indigent individuals facing felony criminal charges throughout the state. The current makeup of the commission recognizes that multiple members of the prosecution are necessary (urban and rural counties) to ensure that different perspectives are represented on the commission. In the same way, we feel it is necessary to have more than one defense attorney on the commission, including one who is a public defender, because the perspectives of defense counsel representing indigent clients full time is different from that of private counsel.

Public Defenders are familiar with the myriad of issues that indigent individuals face during their involvement with the criminal justice system. Adding a public defender to the commission would provide a wealth of knowledge about the issues that indigent individuals face from the time of arrest through the pendency of the court case. Additionally, public defenders have knowledge of the challenges faced by their clients on probation, while incarcerated, and on postrelease supervision or parole. Public Defenders work to assist their clients in finding local resources for homelessness, for obtaining clothing, substance abuse

treatment, food banks, mental health resources, and community transportation in addition to advising them about legal matters. Public Defenders see the challenges that indigent clients deal with on a daily basis and are in a unique position to offer information about the challenges that indigent defendants face both during and after their involvement in the criminal justice system.

We would request one change to the language of the proposed amendment. We would ask that the language for the public defender member mirror the language for the other specific groups such as the county or district attorneys, the law professors, and the judges by allowing the executive director of the Board of Indigents' Defense Services to appoint the public defender member to the commission. The executive director of the Board of Indigents' Defense Services, like the leadership of the other groups represented on the commission, has the most familiarity with the public defenders working for the agency and will be best suited to select a public defender to represent the agency.

Adding a Criminal Justice Reform Commission member who is a public defender will ensure that the Commission has a broader knowledge base and will promote the goals of improving the criminal justice system by ensuring that the challenges and needs of the indigent accused and indigent offenders are considered during the study of the criminal justice system in Kansas. We urge this Committee to amend K.S.A. 21-6902 as proposed in House Bill 2429.

Thank you for your consideration,

Jessica Glendening
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