

**House Corrections and Juvenile Justice Committee  
February 10, 2022**

**House Bill 2607  
Testimony of the Kansas Association of Criminal Defense Lawyers (KACDL)  
Presented by Clayton Perkins  
Neutral**

Dear Chairman Owens and Members of the Committee:

Last year the Kansas Association of Criminal Defense Lawyers (KACDL) opposed the passage of HB 2190, which would have substantively amended parts of K.S.A. 60-1507 dealing with the examination of new evidence in actual innocence claims and successive motions. HB 2190 also contained the language addressing K.S.A. 60-1507's statute of limitations that is the sole focus of HB 2607. The KACDL generally disagrees with the one-year statute of limitations imposed by K.S.A. 60-1507(f), which interferes with the right to file a writ of habeas corpus protected by the Kansas and Federal Constitutions. That said, the language in HB 2607 works as a clarification of the statute of limitations that already exist. As such, we are neutral on this change.

However, whenever we tinker with the statute of limitations in K.S.A. 60-1507 we run the risk of inadvertently denying defendants access to habeas relief. This happened in 2003 when this legislature originally added the one-year time limit for filings under 60-1507. After that amendment, some courts began denying K.S.A. 60-1507 motions as untimely filed by retroactively applying the statute of limitations and saying the time for filing had already expired before the limit even existed. Ultimately, in *Hayes v. State*, 34 Kan. App. 2d 157 (2005), the Kansas Court Appeals held that the implementation of K.S.A. 60-1507(f) required a one-year grace period after its effective date to give defendants reasonable notice and opportunity to file pre-existing claims.

While we think the Kansas Courts would apply a similar rule to HB 2607, it is a better practice to make that rule clear in the bill itself. We suggest that HB 2607 be amended to include language stating:

“The amendments made to this section by HB 2607 shall not be applied retroactively to bar actions brought within one year of the effective date of HB 2607.”

This language would ensure adequate notice to defendants and prevent unnecessary and protracted litigation regarding this clarification of the statute of limitations.

Thank you for your time.

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