

Chairman Francis, Vice-Chair Resman and R.M. Rep. Weigel:

I am one of the three co-chairs of the Legislative Committee of the Kansas District Judges Association (KDJA). Joining me on that committee are the Hon. Glenn Braun, Chief Judge of the 23rd Judicial District and the Hon. Thomas Kelly Ryan, Chief Judge of the 10th Judicial District. Our president is the Hon. Daniel D. Creitz, Chief Judge of the 31st Judicial District. Because we only recently learned of the pendency of this bill before your Committee and the hearing scheduled for early next week, we are commenting by email in an effort to make sure that the Association's position is made known timely. We do not request an appearance at the hearing, either in-person or remotely, but any one of us is more than willing to discuss the matter beyond the content of this message should you so desire.

HB 2363 amends existing law by eliminating the maximum hourly rate of compensation (\$80) for attorneys providing services to indigent defendants and replacing it with a provision establishing a rate of not less than \$80 per hour. The position of KDJA is neutral on this legislation because we express no opinion as to what the hourly rate should be. However, we do wish to bring to your attention the continuing issues we face of attracting and retaining attorneys to provide indigent defense services given the current compensation level.

Although I can speak with certainty only about my own district, my colleagues across the state report similar experience. We have had a significant reduction in the number of attorneys who are willing to accept indigent defense appointments. Even more pressing is the problem of finding sufficient attorneys to accept appointments in the more serious cases which demand significant trial and practice experience. This is a particular problem in cases with multiple defendants. In visiting with our attorneys, the primary reason for the decision to no longer accept appointments is both the amount of the hourly compensation rate and the fact that total compensation is often capped at arbitrary amounts, thereby effectively reducing the nominal hourly rate. Many attorneys report to me that the combination of these factors often means that the compensation does not cover the overhead cost of maintaining an office, even if compensation to the attorney is excluded from the calculation of office overhead expense. I routinely have to go outside our appointment roster to find attorneys qualified and willing to accept appointments in major cases. A discussion with the BIDS staff and judges in other districts in an effort to find qualified counsel is a common experience for me.

Thank you for your time in considering this position statement. Please feel free to share with members of the committee. If requested, it may be provided to any party requesting a copy in the same manner that written testimony would be provided to interested parties.

Merlin G. Wheeler

