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House Committee on Corrections and Juvenile Justice
February 7, 2024

House Bill 2630
Testimony of the BIDS Legislative Committee
Presented by Lindsie Ford
Opponent

Chairman Owens and Members of the Committee:

HB 2630 will create adverse consequences for both defendants and domestic violence victims. For these reasons, as more fully explained below, the BIDS Legislative Committee respectfully opposes the bill.

I spent more than a decade working with victims of domestic violence before taking on my current role as a Public Defender. While most people would assume the transition from victim advocacy to criminal defense would be a significant adjustment, in most of the ways that matter, very little about my work has changed. My clients are the same. They are all experiencing overwhelming amounts of trauma and systemic barriers. The biggest difference is that my clients now run into law enforcement first, instead of a social worker.

While this bill presumably intends to make it easier for prosecutors to secure convictions in domestic violence cases, the potential for abusers to weaponize this against victims is concerning. Imagine a scenario in which a victim is charged after a domestic violence incident with a co-parent. That is common enough. Law enforcement does its best to investigate on the scene but these are often tense, stressful interactions. Domestic violence is complex and involves nuanced social dynamics that are not always apparent to outsiders, including law enforcement. Innocent people plead guilty to crimes every day for many reasons. In situations like this, victims might be facing long, drawn-out custody fights and do not have the energy to fight wrongful criminal charges too. Their abuser may coerce them into the plea. If the victim then takes a plea, they are now more vulnerable to future allegations by an abuser. The idea that they could then be locked into a cycle where they end up with multiple convictions, and possibly a felony, based on that first plea they took, when they were presumably desperate, is chilling.

Additionally, any assessment on whether or not someone should take a plea will have to factor in his or her risk of the State using that plea as evidence in future cases if HB 2630 passes. This could lead to more people taking cases to trial and subjecting victims to having to come to court and testify for the State to secure a conviction. While the law seems designed to help victims, it

actually incentivizes a course of action that could further traumatize them.

Additionally, district courts liberally place domestic violence designations under K.S.A. 22-4616 on criminal cases where the underlying facts are only tangentially related to an actual domestic violence allegation. For example, people may have theft or burglary cases that are designated as domestic violence offenses. Again, it is easy to imagine a scenario where, during a contentious divorce, one spouse attempts to remove his or her own belongings out of the marital home and the other spouse contacts law enforcement to report them. When law enforcement arrives, it could appear to be a domestic violence allegation and result in a criminal case with a domestic violence designation. HB 2630 ignores the nuance of domestic violence and how Kansas treats domestic violence. It would allow in propensity evidence of prior convictions where it was not proved beyond a reasonable doubt that domestic violence occurred. Instead, any prior criminal conviction that has been designated as a domestic violence offense, regardless of any proof of actual domestic violence, would be admissible against the defendant. This is contrary to the very purpose of K.S.A. 60-455.

Proponents of this bill may argue that it could address recidivism in people who commit domestic violence. There is no data to support the idea that criminal convictions create a deterrent effect for any violent crime. In a report from the Bureau of Justice Statistics in 2018, 67,966 randomly selected prisoners to represent the 401,288 state prisoners who were released in 2005 from prisons in 30 different states. At the 9-year mark, approximately 83% of released offenders were arrested at least once. Those most likely to reoffend were individuals who had previously served time for property crimes. Individuals who had previously been in prison for violent offenses were less likely than other classifications of prisoners to be arrested again, even at the nine-year mark. This includes those previously in prison for property, drug, or public order offenses. Convictions for violent crimes did not make anyone statistically more likely to put the public at risk. Conversely, when looking at data related to potential public safety risks, mental health treatment seems to be the optimal path for actually ensuring the safety of the public.[1]

For the above reasons, we oppose this bill.

Thank you for your time and consideration.

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[1] Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014: 2018 Update on Prisoner Recidivism: A 9-year Follow-up Period (2018); J. Silver et al., A Study of the Pre-Attack Behaviors of Active Shooters in the United States Between 2000 – 2013 (2018).