



OFFICE OF THE DISTRICT ATTORNEY
THIRD JUDICIAL DISTRICT OF KANSAS
Michael F. Kagay, District Attorney

January 30, 2025

TO: Chairwoman Humphries of the House Judiciary Committee
FROM: Mike Kagay, District Attorney for Shawnee County
RE: Opponent Testimony for HB 2131

Good Afternoon Chairwoman Humphries and Members of Committee:

I serve as the Shawnee County District Attorney, and as a member of the KCDA board. I am opposed to HB 2131. The fundamental principles that HB 2131 seeks to address—disclosure of benefits to witnesses, the reliability of testimony, and the ethical responsibilities of prosecutors—are already thoroughly governed by the U.S. Constitution, Kansas state law, and the rules of prosecutorial ethics.

Brady v. Maryland (1963) and its progeny already require prosecutors to disclose any exculpatory or impeachment evidence, including benefits or leniency offered to witnesses. Kansas law provides clear discovery obligations for prosecutors regarding witness credibility. The Kansas Rules of Professional Conduct require prosecutors to act with integrity, ensuring that unreliable testimony is not knowingly introduced. HB 2131 does not fill a legal gap. Instead, it imposes unnecessary and burdensome obligations that go beyond what is required for fair trials.

Prosecutors receive regular requests from incarcerated individuals offering information in exchange for benefits. The vast majority of these requests come from individuals who are unreliable and have no credible or relevant evidence. Prosecutors recognize this and proceed in compliance with both legal and ethical disclosure requirements. HB 2131 would require prosecutors to catalog and maintain records of every such request, regardless of whether it has any merit. Further, it mandates that we forward this information to the Kansas Bureau of Investigation (KBI) and notify any government agency that had contact with the requesting individual. This would create an unmanageable administrative burden, diverting time and resources away from actual prosecution and public safety efforts. It would require law enforcement agencies to track and maintain records on every inmate who ever made a self-serving claim, further complicating investigations. The bill does not distinguish between credible witnesses and baseless jailhouse gossip, forcing the justice system to treat any unreliable statements as if they were valid. While a handful of states have enacted legislation in this area, I am unaware of any law, in any state, that has a requirement to document requested benefits by an incarcerated witness.

Given the impracticality of tracking every unverified jailhouse claim, this bill would open the door to technical violations where good-faith prosecutors and law enforcement officials are penalized for failing to meet impossible record-keeping requirements. This could lead to unnecessary litigation, suppressing evidence not because it is unfair but due to bureaucratic missteps. Meanwhile, the actual goal of ensuring fair trials and preventing wrongful convictions is already met through existing laws and ethical rules. HB 2131 does not improve justice; it only adds unnecessary procedural hurdles that will complicate legitimate prosecutions without providing meaningful protections. HB 2131 is a well-intentioned but unnecessary and impractical bill. It creates an undue administrative burden, forces prosecutors to maintain unworkable records, and duplicates protections that already exist under constitutional law, state statutes, and ethical guidelines.