



LEAVENWORTH COUNTY ATTORNEY'S OFFICE

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To: Chairperson Humphries and the House Judiciary Committee

Date: March 4, 2025

Re: SB 138

As a prosecutor and a member of the Kansas County and District Attorney's Association, we are asking to allow only law enforcement to request a search warrant. As all are aware, the freedom from unreasonable intrusion by the government is considered to be one of the most important individual rights protected under the U.S. Constitution. This is a concern with the way the bill is written now. We are one of a few counties that has had a request from someone outside law enforcement for a search warrant. The idea of this escalating or continuing to occur is alarming.

This bill protects citizens from unreasonable intrusion and the risks of misuse and potential irreparable harm that the current version of the statute creates. A risk created when an affiant, either maliciously or by sheer ignorance, fails to exercise due care or lacks the knowledge necessary to draft an affidavit worthy of the intrusion it will create. A risk created by those who may be unaware of the importance and the need for a proper investigation as the basis for an affidavit that a detached neutral magistrate or judge will rely upon when issuing an order that will mandate law enforcement agents to invade someone's reasonable expectation of privacy.

Law enforcement agents are trained in proper and current standards to be used when investigating particular crimes. The investigations they conduct on a daily basis keep law enforcement agents up-to-date on current trends and methods utilized by criminal enterprises. It is their training and experience in an area that they routinely face that establishes legitimacy to the affidavits authored by law enforcement agents. It is that legitimacy that a magistrate, a judge, and the general public can trust when a search warrant is issued authorizing the government to intrude in a person's reasonable expectation of privacy.

As a byproduct, this bill also protects law enforcement agents from being forced to execute a warrant regarding a matter that may not be appropriate to pursue at that time either because of policy reasons, strategic reasons, or for the safety of its own officers and the general public.

As such, this Bill protects the reasonable expectation of privacy of all Kansans. It ensures that due care is given before a warrant is issued. And it safeguards the rights that the Constitution and the 4th Amendment require.

We ask you for our fundamental safeties to adopt the changes.

Sincerely,

Todd Thompson
Leavenworth County Attorney