

February 10, 2025

**Testimony of Malia Brink, Policy Director, and David Anderson, Director, Day One  
Campaign  
Deason Criminal Justice Reform Center  
Dedman School of Law  
Southern Methodist University**

The Deason Criminal Justice Reform Center at the SMU Dedman School of Law recommends that SB 99 not pass unless amended to exempt the State Board of Indigent Defense Services.

**Summary**

The State Board of Indigent Defense Services (BIDS) is working hard to address the dire shortage of public defenders in Kansas's rural communities. Public defender shortages increase court backlogs. The hiring cycle of a public defender takes more than 180 days. BIDS has spent significant time and resources recruiting several new attorneys who will graduate from law school in the spring, take the bar exam in the summer, and start at rural BIDS offices in the fall. Eliminating these positions would waste those efforts, decreasing – rather than improving – efficiency, as well as severely hamper BIDS' ability to address public defense shortages.

**About the Deason Criminal Justice Reform Center**

The Deason Criminal Justice Reform Center (the "Deason Center") is a nonpartisan center for criminal justice research and advocacy. Launched in 2017 with founding gifts from the Deason Family Foundation and the Charles Koch Foundation, the Deason Center conducts, supports, and publishes research with sensible recommendations for criminal justice reform. The Center also educates about criminal justice issues and advocates for the implementation of best practices. The Deason Center focuses on the Sixth Amendment right to counsel, the operation of rural criminal legal systems, and the use of prosecutorial charging discretion. Of particular relevance to this testimony, Deason Center faculty and staff are nationally recognized experts on rural lawyer shortages and access to counsel.

**Kansas Has a Critical Shortage of Public Defenders**

Kansas has a constitutional obligation to provide counsel to any arrested person who cannot afford to hire a private attorney.<sup>1</sup> BIDS ensures this right for people in Kansas

---

<sup>1</sup> U.S. Const. Amend. VI; Kansas Const., Bill of Rights, § 10.

charged with a felony. Attorney shortages threaten Kansas's ability to fulfill this core constitutional right.

As detailed in the recent report by the Kansas Rural Justice Initiative, Kansas has a severe shortage of attorneys, particularly in its rural counties.<sup>2</sup> In 2022, nearly half of Kansas's population lived in rural areas, but only 20% of its lawyers lived outside its six largest counties.<sup>3</sup> By 2023, two rural counties—Wichita County and Hodgeman County—had zero attorneys.<sup>4</sup>

BIDS struggles to recruit new public defenders – particularly for its more rural offices. The shortage of public defenders threatens the functioning of Kansas's criminal justice system. Kansas public defender offices were forced to refuse new felony appointments 26 times in 2020.<sup>5</sup> In 2023, three public defender offices had to refuse new cases for most of the year.<sup>6</sup> Eliminating positions at BIDS would likely mean that such case refusals would continue, if not increase, in the future.

### **SB 99 Would Force BIDS to Rescind Employment Offers and Hinder Future Recruiting Efforts**

BIDS has been working hard to improve recruitment and fill open positions – and their efforts have paid off. Several law students have been offered positions at BIDS offices beginning this fall. This includes several students from law schools outside of Kansas who are planning to start as rural public defenders. SB 99 would require BIDS to rescind these offers of employment and harm its ability to recruit law students in the future.

New lawyer recruitment often starts years before a person will begin their first attorney position. Students commonly work for future employers as interns during their law school summers, allowing employers to evaluate potential hires. Successful interns are typically offered positions shortly before the start of their third year of law school – more than a year before they will actually begin the position. For students who do not

---

<sup>2</sup> See generally, Kansas Rural Justice Initiative, [Committee Final Report to the Kansas Supreme Court](#) (Dec 2024).

<sup>3</sup> Kansas Rural Justice Initiative, [Fact Sheet](#), Office of Judicial Administration (Nov. 30, 2022).

<sup>4</sup> See note 3, supra.

<sup>5</sup> The [Kansas State Board of Indigents' Defense Services, A Report on the Status of Public Defense in Kansas](#) at 22 (Sept 2020) ("In FY 2020, our public defender offices had to shut down to new cases a total of 26 times. Although these shutdowns involved most of our offices at one point during the year or another, our offices in Topeka, Salina, and Wichita had the most frequent refusals to take new cases primarily due to turnover issues and overwhelming caseloads.")

<sup>6</sup> The Kansas State Board of Indigents' Defense Services, [FY 2025 Budget Proposal Narrative \(328-00\)](#), at p. vii. According to the BIDS, due to the staffing shortages, the public defender office in Shawnee limited cases for all 365 days of FY 2023 (100% of the year), although it continued to accept some cases; the public defender office in Johnson County refused cases for 205 days (56% of the year), and the Salina Regional Public Defender Office limited the flow of cases coming into their office for all 365 days (100% of the year). According to BIDS, in FY 2020, two offices partially or totally refused cases for more than half of the year. The Northeast Kansas Conflicts Office in Shawnee County refused cases for 51% of the year. The Salina Regional Public Defender Office refused cases for 55% of the year.

intern, hiring for public defense positions typically begins early in the fall semester and concludes by March or April.<sup>7</sup> These students graduate law school in May, take the bar exam in July, and typically begin their positions in the fall.<sup>8</sup>

If passed, SB 99 would eliminate attorney positions that BIDS has already offered to current third-year law students for fall 2025 employment. According to BIDS, these offers include at least four attorneys from out-of-state law schools who would serve in hard-to-fill, rural public defense positions:

- Two new attorneys (one from the University of Michigan Law School and one from the University of Arkansas School of Law) who accepted positions in the newly formed Pittsburg office that serves Crawford, Labette, and Cherokee counties.
- One new attorney from the University of Oklahoma College of Law who accepted a position in Independence that serves Chautauqua and Montgomery counties.
- One new attorney from the University of Arkansas School of Law who accepted a position in Salina that serves Saline and Ottawa counties.

Bringing these new attorneys to rural Kansas would not only help to ensure the functioning of Kansas's justice system but also help recruit more new lawyers to rural Kansas. These new lawyers can go back to their law schools and talk about their experiences in Kansas. They can serve as resources for other students interested in pursuing public defense in Kansas, but perhaps hesitant about rural practice.

In contrast, if these positions are eliminated under SB 99, BIDS will be forced to rescind these offers. These law students – and their law schools – will likely view BIDS as an unreliable employer. They may steer students away from considering Kansas public defense positions in the future.

## **Conclusion**

Kansas has too few public defenders. If passed, SB 99 would require BIDS to rescind offers to current students who have accepted public defender positions for the fall and make it harder for BIDS to recruit new lawyers in the future. For these reasons, SB 99 should be amended to exempt the State Board of Indigent Defense Services.

---

<sup>7</sup> See NALP, [What is the timetable for legal recruitment?](#), last visited Feb. 9, 2025 (“State and local government hiring typically does not begin until November/December and can extend into March or April.”) Note, this is likely also true for new lawyers seeking to work for the Kansas Attorney General’s Office.

<sup>8</sup> Kansas bar exam results are released approximately six weeks after the exam. In 2024, the results of the July bar exam were released on September 6, 2024.