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To: Hon. Kellie Warren, Chair, Senate Judiciary
From: Todd Thompson, Leavenworth County Attorney and KCDA Legislative Chair
Date: February 4, 2026

Re: Proponent testimony regarding SB: 374, Involuntary Commitment and Competency Loophole

Hon. Chairman Warren and members of the Senate Judiciary Committee:

Thank you for the opportunity to submit testimony in support of this proposed legislation amending Kansas criminal procedure related to defendants found incompetent to stand trial and the State's involuntary commitment statutes.

I do not say this lightly: this may be one of the most important criminal justice and public safety bills the Legislature considers this session. It addresses a real problem that has been needed to be addressed for years. This legislation addresses a point where mental health systems, criminal courts, and public safety intersect. It's one that other states have already learned the hard way cannot be ignored.

Across the country and in our State, events are occurring and have shown what happens when systems lack clear authority, defined procedures, and accountability once a defendant is found incompetent to stand trial. Colorado is the most visible example, and one of the last topics Charlie Kirk addressed before his murder. The issue faces the failures in competency and commitment processes preceded outcomes that shocked the public and left lasting harm. Tennessee faced similar issues and ultimately revised its laws after realizing that existing frameworks were not sufficient to protect either defendants or the public. Kansas now has the chance to act before we are forced to do so by tragedy.

Why This Bill Matters

Prosecutors' Role in Commitment Proceedings

This legislation recognizes a basic reality: decisions that affect public safety should not be made without full information. Allowing prosecuting attorneys to initiate and participate in involuntary

commitment proceedings ensures that courts have access to the defendant's criminal history, the nature of the charged conduct, and the context surrounding the case. This is not about replacing medical judgment; it is about ensuring courts are not asked to make life-altering decisions with only part of the picture.

A Clearer, Stronger Commitment Process

The bill also strengthens the involuntary commitment process by clarifying what must be included in petitions and by recognizing that dangerousness is not limited to completed crimes. Attempts, conspiracies, and solicitation tied to off-grid and serious nondrug felonies reflect real risk. Waiting until harm is completed before acting is not humane and it is not responsible.

Allowing Courts to Consider the Full Scope of Risk

Under current law, courts are often limited to a narrow medical certification when evaluating the risk a defendant may pose. This bill restores balance by allowing judges to consider prior convictions, pending charges, and the defendant's overall behavior. These are facts courts already rely on in countless other contexts. Excluding them here has not made communities safer, and it has not served defendants well either.

Avoiding Stalemate While Preserving Due Process

One of the most important parts of this legislation is the process it creates when competency restoration treatment is recommended and the defendant objects. Rather than allowing cases to stall indefinitely, the bill requires senior medical review, notice to the court, paused timelines, and a prompt judicial hearing.

This structure matters. Without it, cases fall into limbo—defendants do not receive meaningful treatment, courts lose jurisdictional clarity, and public safety risks go unmanaged. This bill creates a lawful, transparent way forward that respects rights while avoiding paralysis.

A Reasoned Approach to Dismissal

The bill's tiered approach to dismissal reflects common sense. Lesser offenses may be dismissed without prejudice, while more serious offenses require notice, hearings, and judicial findings. Off-grid and serious nondrug felonies—including attempts and conspiracies—receive the level of scrutiny they warrant. This is not overreach; it is proportionality.

Recognizing the State's Responsibility to Protect the Public

Finally, the bill acknowledges that in the most serious cases, the State has a compelling interest in continued treatment and supervision. Courts are guided to consider the seriousness of the offense, public safety concerns, and treatment history. When no compelling interest exists, dismissal remains an option. When it does, courts are no longer forced to ignore obvious warning signs until something irreversible happens.

Conclusion

This legislation does not criminalize mental illness, and it does not weaken due process. What it does is close gaps that have already failed other states and that will fail Kansas if left unaddressed. It gives courts clearer authority, defendants clearer protections, and communities greater assurance that warning signs will not be ignored.

Kansas has an opportunity to lead with foresight rather than regret. I urge the Committee to advance this bill and to recognize its importance to public safety, accountability, and humane treatment alike.

Thank you for your time and consideration.

Respectfully submitted,

Todd Thompson
Leavenworth County Attorney
Legislative Chair and Former President, Kansas County and District Attorneys Association