



State of Kansas

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House Judiciary Committee, SB 500, neutral testimony

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Chairwoman Humphries and members of the committee, thank you for allowing me to testify on SB 500.

Most of my testimony relates to the amendment that was added to SB 500 in the Senate Judiciary committee and the effects that it will have on current operations in the court system and traffic dockets.

Currently, statute allows an individual to petition the court to waive payment of fines or fees. If the court determines that the amount due will impose manifest hardship on a person or their immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.¹ Courts have established forms for this petition and the Judicial Council also has a form on their website.² Courts currently utilize monthly payment plans or may set a due date out into the future to allow an individual more time to pay.

The proposed statute strikes this current provision and adds new language by creating a “hardship payment plan”. This plan could be a request for a hardship waiver of part, or all of the balance owed. The waiver must also include options for monthly instalment payments and credits, or both. Credits can be earned by a person doing community service and attending court approved classes, or both. The bill requires the court to calculate a monthly payment amount that is the greater of \$10 or 2% of a person’s annual net income divided by 12. The person’s net income is determined using their most recent tax return.

¹ K.S.A. 8-2110(e)(2).

² <https://kansasjudicialcouncil.org/legal-forms/traffic/motion-waive-or-reduce-traffic-fines-costs-or-reinstatement-fees>

There are some concerns I ask the committee to consider:

- Under the new provision, the hardship waiver may be requested by contacting the court. Current statute explicitly requires an individual to petition the court to waive or reduce the payment. For clarity for our clerks and individuals, we would request that the individual be required to petition the court and not “contact the court.”
- The bill refers to a “hardship payment plan,” a “hardship waiver,” a “uniform hardship waiver application,” and a “hardship petition.” We would ask for clarification and uniformity of those terms.
- When an order restricts or suspends a license per the language under new subsection (g), the judge’s order must then outline a plan allowing the individual to comply with the original traffic citation and then later make a finding that the individual has substantially complied with the court’s order. You should be aware that each judge will have discretion to determine what substantial compliance means in each case.
 - Subsection (g)(2) directs the court to specify what constitutes a late or missed payment along with the penalties for late or missed payments to be imposed on the court. The court does not impose late fees or other “penalties” if a person is late in making a payment.
 - Subsection (g)(3) states the court order shall consider waiver, reduction of fees, fines and court costs and allow for payment plans for any fees, fines, and court costs. Under current law, judges are authorized to waive fees and set up payment plans per approval petition by an individual. We ask for clarification: is it the intention of the bill that the judges first make written findings as to hardship and then draft written payment plan orders? This can be done, but will require additional time for each case and possibly multiple payment plans during the span of each person’s case.
- The courts have endeavored to streamline our electronic case management system so that it efficiently communicates with the Kansas division of motor vehicles electronic processing system. Reviewing individual cases multiple times in order to determine substantial compliance will also require additional clerk hours to manually communicate each of the court’s findings to the division for purposes of suspending or restricting an individual’s license.
- The amendment changed the effective date to the *Kansas Register*. We ask that you change the enactment date to publication in the statute book. The amendments and the original bill will require significant changes in current processes. It will add additional duties on our clerks and judges as it relates to written findings of hardship, written payment plans, written findings as to substantial compliance, tracking of payment plans, community service hours, financial credit for driving classes and rehabilitative programs as well as an

increased communication with the Kansas division of motor vehicles several times throughout the lifetime of each case.

Thank you for allowing me to testify. I would be happy to answer questions.

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