

Legislative Testimony

In **Opposition** to HB2755
Senate Committee on Judiciary
March 20th, 2024

[WRITTEN ONLY]

Dear Chair Warren and Members of the Committee,

My name is Rashane Hamby, and I serve as the Director of Policy and Research at the American Civil Liberties Union of Kansas. I am here on behalf of a nonpartisan, nonprofit organization committed to safeguarding the civil liberties of everyone in Kansas. By mandating minimum bond premiums and imposing restrictive payment requirements, HB 2755 not only deviates from the equitable treatment promised by our legal system but also challenges the very essence of the Kansas Bill of Rights, specifically Section 9, which affirms the right to bail, which affirms that "all persons shall be bailable by sufficient sureties," except in cases of capital offenses where the proof is evident or the presumption great.

This foundational principle underscores the presumption of innocence and the right to pretrial release, ensuring that bail practices are fair and not excessively burdensome. The presumption of innocence, a cornerstone of our legal system, necessitates that pretrial release be the default, barring any significant risk of flight or danger to the community. This principle is underscored by both the U.S. and Kansas Constitutions.

This approach not only infringes on the right to reasonable bail but also discriminates against those of lesser means, effectively exacerbating inequalities within our justice system. Upon reviewing HB 2755, it is clear that the proposed amendments present significant concerns regarding their alignment with the principles of justice and fairness that our task force advocates. Specifically:

Mandatory Minimum Bond Premiums: Section (d)(1)(A) of the bill mandates a minimum appearance bond premium of 10% of the face amount of the appearance bond. This provision inherently disadvantages those of lesser means, undermining the presumption of innocence and the right to reasonable bail. It restricts the ability of defendants, particularly those charged with non-violent offenses, to secure pretrial release, thereby exacerbating socioeconomic disparities within our justice system.

Restrictive Payment Requirements: The bill outlines specific payment forms that must be received before a bond can be posted (Section (d)(1)(B)). These requirements can pose significant barriers to individuals who may not have immediate access to the specified payment methods, further limiting the accessibility of pretrial release options.

Physical Presence Requirement for Bond Posting: The requirement for a compensated surety to be physically present and sign the bond at the jail (Section (d)(1)(C)) may introduce

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unnecessary delays and logistical challenges, impacting the timely processing of bonds and potentially extending the pretrial detention of individuals.

Premium Financing Agreements: While the bill allows for premium financing agreements, the stipulations around these agreements (Section (d)(2)) may not sufficiently address the financial burdens placed on defendants and their families. The focus on ensuring a minimum premium payment upfront without considering the individual's ability to pay may lead to prolonged detentions for those unable to meet these financial requirements.

Our opposition to HB 2755 stems from a fundamental commitment to upholding the principles of fairness, equity, and respect for constitutional rights within the pretrial justice system. The proposed amendments, as outlined, diverge from these principles, particularly in their potential to exacerbate socioeconomic disparities and undermine the presumption of innocence.

In light of these concerns, we urge the committee to vote no on HB 2755. Our recommendations are aimed at ensuring that pretrial practices in Kansas remain aligned with the ideals of justice and fairness for all individuals, regardless of their economic status.

Thank you.

Rashane Hamby

Director of Policy and Research