



To: Senate Judiciary Committee
From: Nathan Eberline, Kansas Association of Counties
Date: February 2, 2012
Re: Senate Bill 321 – Appearance Bond Conditions

Thank you for the opportunity to speak in opposition to Senate Bill 321, which will alter the criminal procedures for bonds and cause a rise in jail populations across Kansas. SB 321 adds requirements that an individual must meet in order for a magistrate to grant release upon the person's own recognizance ("OR Bond"). Under the proposed legislation, the courts lose the capacity to assess each case as the individual and unique situation that it is. More significant—as it relates to counties—these changes will ensure more accused-but-not-convicted individuals stay in jail during the wait for the next step of judicial process. This will place a new burden on the jails and the counties without funding to compensate. Fewer people released on OR bonds will result in the taxpayer supporting more defendants in jail.

The result of this legislation will steer defendants to primarily two options. The first is to pay for an appearance bond and the second is to stay in jail. The proposed restrictions on OR bonds will prompt defendants with sufficient funds to pay the bondsman, and the rest will stay in jail while adding cost to the taxpayer. Alternatively, the current system allows judicial discretion to assess the individual case. The judges already consider the factors proposed in SB 321 when determining OR bonds, but the language would bind the judges' decision and shift the burden to the counties to care for the defendants when the accused cannot afford appearance bonds.

The current system has multiple safeguards in place to assure high-risk defendants stay confined. With the prosecutor advocating on behalf of community interest and the judge assessing the principles of justice, there is a protective process in place to balance the community's need for safety. The system also accounts for the practical need of reducing overcrowded jail cells and the principled needs to assess each defendant's case independently.

Please take the counties' economic considerations and the valuable principles of judicial discretion into account when evaluating SB 321. The Kansas Association of Counties asks that you oppose the bill and maintain the system as it relates to OR bonds. Thank you for your consideration.