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**Testimony in Opposition of House Bill 2535
Changing the number of days within which a criminal defendant shall be brought to trial
from 150 to 90**

**Presented to the House Corrections and Juvenile Justice Committee
By Assistant Solicitor General Natalie Chalmers**

February 5, 2018

Chairman Jennings and Members of the Committee:

Thank you for the opportunity to provide written testimony on behalf of Attorney General Derek Schmidt in opposition of House Bill 2035. The Attorney General's Office opposes this bill because it needlessly endangers criminal convictions.

Kansas' statutory speedy trial rights are already far more favorable to defendants than constitutionally required. This is most evident by the fact that defendants need not show any kind of prejudice prior to their charges being dismissed. In contrast, under the federal constitutional speedy trial right, whether the defendant is prejudiced by the delay is an important factor in determining whether a speedy trial violation occurs. *Barker v. Wingo*, 407 U.S. 514, 532 (1972). Further, the federal caselaw recognizes "the reality that defendants may have incentives to employ delay as a 'defense tactic': delay may 'work to the accused's advantage' because 'witnesses may become unavailable or their memories may fade' over time." *Vermont v. Brillon*, 556 U.S. 81, 90 (2009).

The fact that Kansas defendants do not have to prove any prejudice to secure dismissal of their charges is important in opposing this bill because, as written, this bill risks being a get out-of-jail-free pass to any defendant whose trial did not occur within 90 days of his or her arraignment. This is because changes to the speedy trial statute have been deemed procedural and retroactive. E.g. *State v. Dupree*, 304 Kan. 43, 57 (2016).

Thus, this bill endangers multiple convictions where the State reasonably relied on the 150-day deadline, as well as pending cases that will surpass the proposed 90-day deadline if the law takes effect. Justice would be not served by that endangerment.

For the above reasons, the Office of the Attorney General opposes this bill. Thank you for your time.