



Lenexa Municipal Court
12400 W. 87th St. Parkway
Lenexa, KS 66215
courts@lenexa.com | www.lenexa.com/courts
Phone 913.477.7600 | Fax 913.477.7619

March 14, 2024

Senate Committee on Judiciary
Kansas Capitol Building, Room 346-S
300 West 10th Street
Topeka, Kansas 66612

Re: House Bill 2755
Written Testimony in Opposition

Members of the Committee:

As a Municipal Court Judge committed to ensuring the best interests and rights of individuals in the criminal justice system are protected, I am writing to oppose House Bill 2755, which you currently have before you for hearing.

I have served as the Municipal Court Judge in the City of Lenexa since June, 2017. Prior to receiving this appointment, I was a prosecutor at the Johnson County District Attorneys Office in the 10th Judicial District for over ten years. In both positions, I have had the opportunity to see the bonding system work, and I understand the critical position that surety bonds play in our criminal justice system. This is especially true in the district court setting where bond amounts are often sizeable and the defendant is charged with crimes that pose a much graver safety risk. In that setting, sureties provide a vital service to defendants who do not have cash readily available to post bond. In an ideal world, the sureties would also provide a vital service to the public, ensuring that the defendant is complying with bond conditions and appearing in court as scheduled.

Municipal Court is quite different from District Court, as I'm sure you know. The cases in Municipal Court include traffic offenses, code violations, and misdemeanor offenses. These cases generally involve less risk to the public; however, it is still quite important to see to it that cases are resolved in a timely manner.

When a defendant fails to appear in a municipal court, generally a warrant is issued with a set bond amount. The City of Lenexa utilizes a bond schedule that House Bill 2755 wishes to obliterate. For example, if a defendant charged with theft fails to appear in court, I will issue a warrant with a bond set at \$1000 surety or \$250 cash. That means the defendant can choose the way in which he posts his bond.

With our bond schedule, the defendant can choose to go through a bondsman to post a \$1000 surety bond. A bonding company can charge whatever percent of the bond that it chooses. These monies are paid to the bonding companies and go directly into the bonding companies' wallets. The defendant will never see that money again. In the case of a \$1000 surety bond, if the bondsman accepts 10%, the defendant would pay the bondsman a \$100 nonrefundable fee.



Lenexa Municipal Court
12400 W. 87th St. Parkway
Lenexa, KS 66215
courts@lenexa.com | www.lenexa.com/courts
Phone 913.477.7600 | Fax 913.477.7619

If the defendant chose not to go through a bondsman, under our bond schedule, he could do so. He could post a \$250 cash bond. If he posts that cash bond, the money is essentially held in trust. If the defendant appears as ordered to resolve his matter, the cash bond posted benefits the defendant. If he is found not guilty, this money is refunded to him. If he is found guilty, this money can be applied to restitution, fines and fees owing in the case. If the cash bond posted is in excess of what is owed in the case, that money can be returned to the defendant. In Lenexa, this money is refunded immediately upon conclusion of the case.

As you can see, a defendant who can post a cash bond actually benefits from posting bond in such a manner if he appears in court. The money ultimately benefits him. If he cannot post a cash bond, he can certainly utilize a surety. With the bonds set differently, we often have defendants ask about the difference of going through a surety or posting a cash bond. When we explain the difference, most routinely agree that posting a cash bond is the most beneficial option for them.

If House Bill 2755 is passed, this would require the courts to set bond the same for a defendant whether they are posting a cash or surety bond. In the theft example I just mentioned, bond would now be set at \$1000 cash or surety. First, many defendants would not have that amount of cash available to post a cash bond. Second, many would not understand that they have the option to post cash with the court. As such, as the surety lobbyist in this case wishes, individuals would start almost exclusively using sureties in municipal courts. This is NOT the best economic decision for those individuals.

There is no "public good" aspect to this bill, nor is there a current problem that the bill solves. Bonding companies will benefit from the change in the law, while others in the criminal justice system will be hurt by the change: victims of crime, defendants, courts, cities, counties and states. We ask that this bill not be passed out of committee.

Finally, I would note that there is no mention of a "grandfather clause" regarding current active warrants. If a bill is passed that includes the provision that cash and surety amounts must be the same, municipal courts would have the overwhelming burden of making adjustments to their active warrants. That would include changing the electronic and hardcopy court record, printing new hardcopy warrants for the police department, and updating warrants in the regional database. In Lenexa there are currently active warrants on 2,689 cases; the staff hours to make the updates do not exist.

Thank you for taking this information into consideration. I am strongly opposed to this bill as are many other municipal court judges and employees who have continuously struggled with the practice of bonding companies in municipal courts. While I can appreciate the need for these companies in the district court setting, I struggle to see them as equally beneficial in the municipal court setting.

Sincerely,

Erika DeMarco, Municipal Judge