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TO: House Committee on Corrections and Juvenile Justice
FROM: Kansas Judicial Council – Hon. Ben Sexton
DATE: February 4, 2020
RE: 2020 HB 2475 re drug offender registration

The Kansas Judicial Council and its Advisory Committee on Sex Offenses and Registration (Committee) recommend HB 2475. This bill would reduce the registration term for some drug offenders and make registration information private and available only to law enforcement.

The Committee's recommendation of HB 2475 arose out of a study originally requested in March 2018 by Reps. Russell Jennings and Blaine Finch asking the Judicial Council to undertake a comprehensive review of the Kansas criminal code's sex offense structure and related registration requirements for both juveniles and adults. The Committee's study was later expanded to include a review of registration requirements for drug offenders and violent offenders, in addition to sex offenders.

While the Committee's study is ongoing, it has made several recommendations, one of which is to reduce the registration terms for certain drug offenders. Since 2007, Kansas has required registration of offenders convicted of drug manufacturing, possession of precursors, and distribution or possession with intent to distribute certain drugs (not including marijuana). Kansas law also requires registration for similar drug offenses from other jurisdictions and for attempts, conspiracies and solicitations to commit these offenses. K.S.A. 22-4902(f). Drug offenders are required to register for 15 years; report in person four times per year to the registering law enforcement agency of any county where the offender lives, works, or attends school; and pay a \$20 fee each time. K.S.A. 22-4906(a)(1); K.S.A. 22-4905(b)(2) and (l). (While

the registering agency may, in its discretion, allow one of the four reports to be done by certified letter, the Committee is not aware of any agency using this option.)

There are more than 5,400 registered drug offenders in Kansas, representing roughly one quarter of all registered offenders. (There are more than 21,000 registered offenders; approximately half are sex offenders, one quarter are violent offenders, and one quarter are drug offenders.) Over the last five years, more than 450 new drug offenders were added to the registry each year.

Kansas is one of only a small handful of states that register drug offenders. Some of those states focus only on methamphetamine-related offenses, and some maintain a database or list of offenders but do not impose an ongoing duty on offenders to report to a registering agency.

Importantly, Kansas appears to be the only state that makes public the addresses of offenders convicted of possession and distribution offenses. For example, California's drug registration is available only to law enforcement, and Oklahoma makes the information available only to law enforcement and those who sell pseudoephedrine. In Illinois, Minnesota, and Tennessee, the public can search for a list of offender names by county, but specific addresses are not available. While Montana make addresses of some drug offenders public, Montana only registers drug offenders convicted of operating an unlawful clandestine drug lab.

Kansas also appears to be the only state to require drug offenders to register for 15 years. Most of the states mentioned above maintain an offender's information on their registry for ten years, and California requires registration for five years.

The Committee heard from Scott Schultz, Executive Director of the Sentencing Commission, that the Sentencing Commission is concerned about registered offenders being approached at their homes by persons seeking to buy drugs, although evidence of this happening is only anecdotal to date. The Sentencing Commission is also concerned that requiring drug offenders to register publicly can put them at risk from former associates and can negatively impact their reintegration by impeding their ability to find housing and employment.

The Committee shares the Sentencing Commission's concerns. Accordingly, in HB 2475, the Committee recommends that registration requirements for drug offenders convicted of manufacturing offenses remain as under current law (15 years of public registration), but that requirements for drug offenders convicted of possession and distribution offenses be amended to five years of private registration, with the information being available only to law enforcement. Under the bill, drug offenders convicted of possession and distribution offenses would continue to register four times each year so that law enforcement could monitor their whereabouts, but these offenders would no longer have their addresses published on the KBI's website for anyone to see.

The members of the Judicial Council Advisory Committee on Sex Offenses and Registration are:

Hon. Ben Sexton, Chair, Abilene; Dickinson County District Judge

Natalie Chalmers, Topeka; Assistant Solicitor General

Sheriff Jeff Cope, Emporia

Jason Covington, Olathe; Johnson County Assistant District Attorney – Sex Crimes Unit

Jeff Cowger, Topeka; Chief Legal Counsel, Kansas Department of Corrections

Dr. Mitchell Flesher, Lenexa; clinical psychologist and attorney

Sen. Randall Hardy, Salina; State Senator from the 24th District

Rep. Susan Humphries, Wichita; State Representative from the 99th District

Rep. Russell Jennings, Lakin; State Representative from the 122nd District

Donna Longworth, Wichita; Sedgwick County Assistant District Attorney – Juvenile Division

Jennifer Roth, Topeka; Appellate Defender

Dionne Scherff, Overland Park; criminal defense attorney

Phil Stein, Shawnee; criminal defense attorney

Seth Wescott, Lenexa; licensed master's level psychologist and sex offender treatment provider

Prof. Corey Rayburn Yung, Lawrence; KU School of Law