

Approved: February 22, 2000

Date

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Representative Tony Powell at 1:30 p.m. on February 9, 2000 in Room 313-S of the Capitol.

All members were present.

Committee staff present: Theresa Kiernan, Revisor of Statutes
Russell Mills, Legislative Research
Mary Galligan, Legislative Research
Winnie Crapson, Secretary

Conferees appearing before the committee:

Proponents

Representative Huff
Representative Ruff
Jeffrey D. Herrman, Chief of Police, Ottawa

Others attending: See attached list.

Without objection bill will be introduced amending K.S.A. 39-1402 to make it mandatory to report to law enforcement all incidents of sexual abuse in nursing homes as requested by Representative McCreary. [See HB 2992 introduced February 16.]

Without objection bill will be introduced providing for loss of driver's license by those found guilty of driving off without paying for gasoline as requested by Representative McCreary. [See HB 2986 introduced February 14.]

Without objection bill will be introduced allowing elections to consolidate law enforcement agencies to take place before the primary election as requested by Representative Klein. [See HB 2991 introduced February 16.]

Without objection bill will be introduced to create the Water Preservation and Conservation Trust Fund as requested by Representative Klein.

Hearing was opened on

HB 2654, Private detectives, firearm training, exception for retired law enforcement officers.

In introducing the bill Representative Ruff said many police officers in Kansas retire after twenty years. The bill would allow them to retain the right to continue to carry a firearm when they retire based upon their ability and training.

Representative Huff presented testimony (Attachment #1) giving the reasons for introducing the bill.

Representative Huff read the testimony of Larry E. Cook, retired law enforcement officer, at his request (Attachment #2). Mr. Cook was unable to appear due to a death in the family. Mr. Cook stated he understood the intent of the law and supported the requirement for any applicant who has not completed training with a certified firearms trainer but believes reasonable regulation of this activity may include an exemption for any former Kansas law enforcement officer who can provide proof of qualification with a certified law enforcement firearms trainer within twenty-four months of the application.

Jeffrey Herrman, Chief of Police, Ottawa, presented testimony in support (Attachment #3) He believes all retired officers in good standing should be allowed the opportunity to continue to serve the citizens of Kansas and also to protect themselves. In response to question about application of the bill to part time people he said the bill was intended to apply to fulltime officers but he knew of no department that does not require their part time people to receive the same training.

CONTINUATION SHEET
MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS
February 9, 2000

John Ellis, PMO Security Services, Roeland Park, testified in opposition to the bill (Attachment #4). He said the training usually provided to police officers does not cover the use of force under the legal limitations placed on citizens. There is a difference in the legal requirements and the current civil liability doctrine concerning police officers. Private detectives are classified as private citizens. He stated police officers go through an adjustment phase when retiring or when beginning work in the private sector. It is a critical time for retraining to develop skills and habits which fit the legal and tactical environment into which the retiring officer is going.

Chairman Powell closed the hearing on **HB 2654**.

The meeting adjourned. The next scheduled meeting is February 14.



DAVID HUFF

REPRESENTATIVE, 30TH DISTRICT
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COMMITTEE ASSIGNMENTS

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TOPEKA

**HOUSE OF
REPRESENTATIVES**

STATE CAPITOL—RM. 174-W
TOPEKA, KANSAS 66612-1504
(785) 296-7655

February 9, 2000

Good afternoon Mr. Chairman and fellow legislators.

It is a real pleasure to testify on House Bill 2654 before such a prestigious committee. This bill is a rather simple bill relating to retired law enforcement officers who might go into private investigation or security work after retired from our state. What this bill does is exempt the retired officer from spending a \$500 fee and completing another fire arms course for two years after he or she has retired. After the two year grace period he or she would resume the normal training requirements.

This bill will only effect those individuals who retired and go into a business that would require concealed carry of a firearm or the use of a firearm. This bill does not allow a retired law enforcement officer to carry a weapon upon retirement. He or she must be re-employed by a business that requires the use of a firearm.

Stand for questions

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TESTIMONY OF LARRY E. COOK ON HOUSE BILL NO. 2654
FEBRUARY 9, 2000

In December 1999, I contacted the Kansas Bureau of Investigation to begin the application process for a Private Investigator's license. Included in the materials is an application to carry a concealed firearm and a copy of the applicable laws and regulations. Specifically, K.S.A. 75-7b17 requires every applicant to attend a training course on the handling of firearms and the lawful use of force from a trainer certified pursuant to K.S.A. 75-7b21. A list of certified trainers is enclosed in the application packet. This list provides the names of nine certified trainers for the state, two in Johnson County, who are both employed with private security firms.

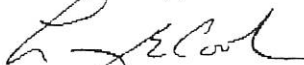
I contacted the KBI and advised I had qualified on the firearms range on October 29, 1999 prior to my retirement from law enforcement, and that I have qualified with firearms on over one hundred occasions in the last thirty years, and asked if there was an exemption for applicants who can furnish proof of recent qualification with certified law enforcement firearms trainers. I was advised the law does not provide for any exemptions, the course offered by the trainers on the application list consists of two days of training on firearms safety and use of force, and it would cost \$500.00 to attend.

I understand the intent of this law, and support this requirement for any applicant who has not completed training with a certified firearms trainer. But I believe reasonable regulation of this activity may include an exemption to the firearms training for any former Kansas law enforcement officer who can provide proof of firearms qualification with a certified law enforcement firearms trainer within twenty-four months of the application.

My thirty-year law enforcement career includes seven years with the Hutchinson Police Department, three years with the Kansas Bureau of Investigation, and twenty years with the Office of the Kansas Securities Commissioner. I carried a firearm in each position and was provided training several times each year on the firearms range. I believe it is unreasonable to require me to attend a two-day basic firearms class at a cost of \$500.00 to receive this permit. And I fully support the amendments included in H.B. 2654.

I apologize for not appearing in person to testify in favor of this bill. I learned of the death of my aunt on Saturday evening, and the funeral is scheduled for Wednesday in Winfield.

Respectfully,



Larry E. Cook
Lenexa, Ks.
913-541-8984

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State Affairs

Date 2/9/00

Attachment No. 2

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3



OTTAWA POLICE DEPARTMENT

OTTAWA, KANSAS

To Protect and Serve

JEFFREY D. HERRMAN
Chief of Police

February 8, 2000

House Federal and State Affairs Committee

Dear Ladies and Gentlemen:

I wish to strongly support HB2654, in reference to retired officers carrying concealed firearms. I cannot imagine why we would want to lose the resource of a police officer that has devoted years to public service to earn a retirement. We need to allow all retired officers in good standing the opportunity to continue to serve the citizens of Kansas and also to protect themselves.

In the 10 year period from 1989 to 1998, 682 officers were feloniously killed in the United States. Of this number, 209 officers were either in plain clothes or off duty at the time of their murders. At this time I've been unable to locate any statistics that would accurately reflect the number of retired officers involved in criminal intervention or being attacked after their retirement. This bill does not force any officer, at the time of his retirement, to continue to carry a firearm. It merely allows those officers that wish, and meet minimum requirements, to continue to do so.

In the past five years, the FBI has reported a steady decline in over all crime in the United States. I believe we can cite that there is a direct correlation between the ever increasing number of responsible citizens that carry weapons legally concealed in a variety of states and their positive actions during crimes. It would seem foolish not to allow a commissioned officer with years of experience and dedication the right to carry a concealed weapon in our state so that officer may continue to serve by protecting citizens, as well as himself and family, whenever the need arises.

I thank you for your consideration in this matter.

Respectfully,

Jeffrey D. Herrman
Chief of Police

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Attachment No. 3
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SM, KAPI, O.P., KS 1996
MEMBER
 KANSAS ASSOCIATION
 OF
 PRIVATE INVESTIGATORS
 www.kapi.org

SM, PMO, R.P., KS, 1996

February 1, 2000

House of Representatives
 Federal and State Affairs Committee
 State Capitol
 Topeka, KS 66612

Re: HB 2654

I am a licensed private detective who is also certified as a firearms instructor for private detectives by the Office of the Attorney General . I am also certified as a law enforcement/security firearms instructor by the National Rifle Association. I have provided firearms instruction as a military officer, military police office and as a private detective, and have drafted use of force instructions as an Army Provost Marshal and as a private security officer. I have experience as a Kansas law enforcement officer and a federal law enforcement officer as well. *After reviewing the amendment to the bill, I decided to write to oppose its passage.*

The change provides an exception for initial training to retiring law enforcement officers who seek a firearm permit under the licensing act. Adoption of this provision is not in the best interest of the public or the profession. My reasons are detailed below:

1. *The training usually provided to police officers does not cover the use of force under the legal limitations placed on citizens.* In all of the courses that I took as a law enforcement officer or military officer, the use of force in a civilian context was never taught. I had to go to an instructor school and research the actual statutes to learn the difference. The arrest techniques taught in law enforcement typically involve the assumption of a civil liability risk if utilized in the private sector. In some cases, the techniques also expose the individual to the risk of criminal liability as well. Specific instruction on the legal boundary lines needs to be taught to retiring police officers.

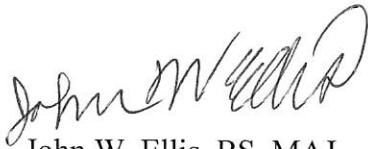
2. *Law enforcement officers are entitled to a 'good faith error'; citizens are not.* A private detective uses force under the citizen arrest and self-defense statutes. Under this structure, a private citizen has absolute liability for any mistake. There is no middle ground. Police officials are entitled to what the courts call a 'good faith error'; most police officers don't realize that this doctrine does not apply to the private sector. They assume risks which are not legally or personally appropriate.

3. *Police officers go through an adjustment phase when retiring or when beginning work in the private sector.* As a member of the military, I have had to 'transition' from two hostile fire zones back into the American society in a matter of two-three days. In the first instance, I went from actually being under attack to the college classroom in ten days. This transition requires

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adjustment in your reactions and response to the people around you. I experienced a similar transition going from military police duty to a civilian setting, from civilian law enforcement to a private security officer setting. Having made these transitions without prior training or warning of the necessary adjustments, I understand the problems. This bill proposes allowing the law enforcement officers to forego training prior to or during a transition period. This is exactly the opposite of what is needed. This is the critical time for retraining to develop skills and habits which fit the legal and tactical environment into which the retiring officer is going. **It is my professional opinion as a firearms instructor and former law enforcement officer that adoption of this change is not in the best interest of the public, the private detective profession, or the retiring officers.** The last category may not realize that it is not in their own interest to do this. I can provide further information or comments if needed. If a hearing is held on this bill, please notify me. I will appear or provide other input.

If you have an questions, feel free to contact us at the above address. I can be reached at 913-362-2017. Thanks for your consideration.



John W. Ellis, BS, MAJ
Licensed Private Detective
Certified Firearms Instructor