



**Kansas Association of
Chiefs of Police**

PO Box 2163
Hutchinson, KS 67504

**Testimony to Senate Committee on Judiciary
Opposition Testimony on SB 458**

February 13, 2024

Chairwoman Warren, and Committee Members,

This testimony is on behalf of the Kansas Association of Chiefs of Police in opposition to SB 458.

The Kansas Association of Chiefs of Police supports most changes suggested by the Judicial Council Civil Asset Forfeiture Advisory Committee in their December 1, 2023, report as they are represented in SB 458.

We appreciate the Judicial Council and the House Judiciary Committee listening to our concerns and acknowledging the importance of addressing potential issues in the existing framework. We believe that the proposed changes, for the most part, are workable and do not undermine law enforcement efforts or impair our ability to positively impact public safety. But we do have some areas of concern that force us to take an opponent stance on the bill.

In Sec. 3(m), the amendment made is to change the current ability to request federal adoption of a seizure. The amendment is to make it so that, "No law enforcement agency shall request federal adoption of a seizure pursuant to this act." The KACP finds this an unreasonable amendment. Law enforcement agencies across the state encounter cases that are national and sometime international in nature. It is beyond the ability of state law enforcement agencies to successfully investigate. Some of those cases may involve a civil asset forfeiture. While we have extraordinarily competent state law enforcement agencies, a request to our federal law enforcement partners. The KACP feels the current ability to request federal adoption should remain intact in the bill. Additionally, if an officer, deputy, or trooper were to initiate a case that should be presented to the US Attorney and go federal due to the criminal history of the perpetrator, the amount of contraband seized, human trafficking, environmental crimes, or domestic terrorism, we should not be precluded from requesting assistance because there may be a civil asset forfeiture involved.

Sec.7 (c) states: "A claimant may demand a jury trial pursuant to K.S.A. 60-238, and amendments thereto." The KACP opposes this approach. The requirement to answer the demand of a jury trial was discussed, the sub-committee and rejected. The KACP agrees with the assessment of the subcommittee.

The KACP would request a minor adjustment in Sec. 9 (f)(2), "In any proceeding in which the court finds that the claimant has prevailed by ordering the return of at least half of the aggregate value of the claimant's interest in the property or currency in which the claimant asserted an interest, the court shall order the seizing agency to pay:" The KACP suggests changing the "shall" to "may". The reasoning is that the presiding judge will have more intimate knowledge on any particular case and should have the latitude to enter an order or not to order the payment of attorney fees or post judgment interest based on if there was a bad faith involved with the seizing agency.

The KACP suggests minor adjustments to SB 458. In the amended Sec. 10 (b) there is not an option for the seizing agency to transfer the weapons to a Federal Firearms Dealer for credit to acquire weapons that can actually be used by the seizing agency. The KACP would request that addition.

The KACP appreciates the comprehensive and well thought out list of acceptable uses of seized funds in Sec. 10 to include the payment of attorney fees and litigation costs and interest ordered by the court.

In conclusion, the members of the Kansas Association of Chiefs of Police recognize the need for thoughtful reforms to the civil asset forfeiture process, we thank Judicial Council Civil Asset Forfeiture Advisory Committee for their hard work and commend them for asking for input from all levels of law enforcement across the state.

Darrell Atteberry
Legislative Chair
Kansas Association of Chiefs of Police