



Kansas County & District Attorneys Association

1200 SW 10th Avenue
Topeka, KS 66604
(785) 232-5822 Fax: (785) 234-2433
www.kcdna.org

March 12, 2015

House Judiciary Committee
Attention: John Barker, Chairman
State Capitol, Room 112-N
Topeka, Kansas 66612-1504

Re: Senate Bill 34

Dear Chairman Barker,

Thank you for the opportunity to submit our written response in opposition of SB 34.

The Kansas County and District Attorneys Association opposes section two of SB 34.

First, there is no current authority by statute (KSA 75-401 *et seq.*) for the Secretary of State to prosecute any action in any form. Therefore, this section is a significant expansion of the Secretary of State's power. This expansion of power is unnecessary and redundant given that county and district attorneys already have, "the duty [...] to appear in any court having jurisdiction within the county and prosecute or defend on behalf of the people all actions and proceedings, civil or criminal, in which the state or the county is a party or interested." K.S.A. 19-702(a). See also K.S.A. 22a-104(a) (similar duties of the district attorney). Giving independent authority to the Secretary of State to prosecute local crimes provides unnecessary overlap of duties and resources.

Additionally, the proposed language would create the need for separate investigatory and prosecutorial personnel within the Secretary of State's office. This increase and devotion of resources appears again, to be unnecessary and wasteful given that there are already officials more appropriately positioned and resourced to deal with such matters. If such concurrent authority exists in other agencies, there usually is the appointment of a special assistant attorney general. Absent such concurrent authority, the traditional approach is for the attorney general to consult with and advise county attorneys, when *requested* by the county attorney, in all matters pertaining to the county attorney's official duties. See K.S.A. 75-704.

In conclusion, the KCDA believes that any prosecutorial power to enforce this legislation should remain with the local county or district attorney. Crimes that are considered in this legislation are no different from all of the other crimes currently being prosecuted by our local county and district attorneys. If the situation requires, the county or district attorney will request the advice and consultation of the attorney general on the crimes suggested by this legislation.

It is the KCDA's position that any attempts to give prosecutorial power to any office other than the county or district attorney is bad public policy. The KCDA urges the Senate to not support any such efforts.

I thank you for your time and would be happy to answer any questions you may have regarding the proposed legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve M. Howe", with a long horizontal flourish extending to the right.

Stephen M. Howe
Johnson County District Attorney
KCDA Board Member
P.O. Box 728
Olathe, KS 66051