



To: Senate Federal and State Affairs Committee

From: Eric B. Smith, Legal Counsel

Date: February 12, 2015

RE: Neutral testimony on SB 45

I want to thank Chairman Ostmeyer and the Committee members for allowing the League of Kansas Municipalities to testify concerning SB 45.

The League has taken a neutral position on SB 45. However, we do have a concern about how the bill may potentially affect our member cities law enforcement officers.

As we interpret the bill, an individual citizen could conceal a handgun on their person without a criminal penalty, as long as they were “not prohibited from possessing a firearm under either federal or state law.” The question that the League would like to raise is how this law would be enforced? Under current law, if law enforcement encounters an individual who is concealing a handgun and they do not have a license to conceal carry the officer knows they are in violation of the law.

Under current state law it is illegal for the following individuals to possess a handgun:

- i. Under 18 years of age.
- ii. Found to be mentally ill, subject to an involuntary commitment.
- iii. Found to have a problem with alcohol or substance abuse, subject to an involuntary commitment.
- iv. Found to be both addicted to and an unlawful user of a controlled substance.
- v. Certain convicted felons.

It is our belief that the above list is what is intended by the language in SB 45 concerning the prohibition against possessing a firearm. In most cases a law enforcement officer will be able to determine if a suspect is at least 18 years of age as well as if he is a convicted felon. How an officer would determine the applicability of the other elements of this list under SB 45, however, provides a challenge. There is no way for a police officer to determine if an individual that he finds carrying a concealed handgun has been subject to an involuntary commitment or if there has been a finding of mental illness or addiction. That is one of the reasons for the background investigation for a conceal carry license – to be sure that individuals who are prohibited from possessing a firearm can be identified when they are found to be concealing a firearm.

The League asks that consideration be given to refining the language of this bill to be sure that law enforcement officers will be able to safely enforce any changes in the law.