

SESSION OF 2015

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2007**

As Recommended by House Committee on
Federal and State Affairs

Brief*

Sub. for HB 2007 would create a law enforcement mutual aid region, defined as the border counties of Johnson, Leavenworth, Miami, and Wyandotte in Kansas and the counties of Platte, Clay, Ray, Jackson, and Cass in Missouri. The bill would authorize law enforcement officers in those counties, in critical incidents, to respond to lawful requests for aid in any other jurisdiction included in the mutual aid region.

The bill also would allow all Kansas law enforcement officers in border counties, other than those Kansas counties included in the definition of law enforcement mutual aid region, to request assistance from a bordering county's law enforcement agency of an adjacent state.

The actions authorized under the mutual aid agreement would only apply to a "critical incident," which would be defined as an incident where there is an imminent danger of serious physical injury or loss of life. Under the mutual aid agreement, the on-scene law enforcement incident commander, as defined by the national incident management system, would have the authority to make a request for assistance in a critical incident and would be responsible for on-scene management until command authority was transferred to another person. Any law enforcement agency assisting an out-of-state jurisdiction in a critical incident would be authorized to establish policies for that agency's officers

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

regarding requests for assistance under the provisions of the bill.

If an officer made an arrest or apprehended an offender outside of the officer's home state, the offender would be delivered to the first available law enforcement officer commissioned in the jurisdiction where the arrest was made. The arresting or apprehending officer would be required to assist in the preparation of any probable cause filings related to whether a crime had been committed and the defendant committed the crime.

Members of any political subdivision or public safety agency responding under the operational control of another jurisdiction would still be considered employees of that responding political subdivision or public safety agency, and, as such, would be subject to the liability and workers' compensation policies put in place by their respective entity. Qualified immunity, official immunity, and the public duty rule would apply to the provisions of the bill, but the procedures for arrest under Kansas law would apply to out-of-state law enforcement officers acting pursuant to a request for assistance. The provisions of the bill would be interpreted consistently with the Kansas Tort Claims Act and the Kansas Workers' Compensation Act.

Nothing in the bill would limit action taken by law enforcement pursuant to the law authorizing multijurisdictional law enforcement groups under KSA 19-828.

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was introduced in the House Committee on Federal and State Affairs. A hearing on the bill, as introduced, was held in the House Committee, where representatives of several groups testified in support of the bill, including:

Kansas City Metro Tactical Officers Association; Leavenworth County Sheriff's Office, Wyandotte County Sheriff's Office; Shawnee County Police Department; and Wyandotte County Unified Government. Representative Dove also testified in support of the bill. The proponents explained that the state of Missouri had recently passed an identical law creating a mutual aid region in the Kansas City metropolitan area, and the Missouri bill would only be effective if Kansas also implemented the same mutual aid region. Proponents stated the passage of the bill would be necessary to protect Kansas law enforcement officers from potential liability related to their response to critical incidents occurring in Missouri. Written proponents submitting testimony to the Committee included: City of Shawnee; Johnson County Government and Cities; Kansas City Metropolitan Crime Commission; Prairie Village Police Department; Lenexa Police Department; Kansas City Metropolitan Chiefs and Sheriffs Association; Regional Homeland Security Coordinating Committee; Platte County, Missouri; Jackson County, Missouri; City of Overland Park; Kansas Attorney General; League of Kansas Municipalities; and Olathe Police Department.

A representative of the Kansas Sheriffs' Association testified in opposition to the bill. The opponent's testimony expressed a concern that the bill would remove jurisdictional checks and balances and the definition of "critical incident" would be too vague for effective implementation. (The Sheriffs' Association indicated it would have a neutral stance on the substitute bill recommended by the House Committee.)

The House Committee adopted a substitute bill that contained amendments agreed upon by a number of Kansas law enforcement agencies. The amendments retained the language to establish a mutual aid region to mirror the language included in legislation approved by the Missouri Legislature, but also included a new subsection to allow other Kansas counties located on a border to request out-of-state assistance from law enforcement located in bordering counties of adjacent states. The amendments added

language to provide more procedural direction related to who would be in charge in mutual aid scenarios, how requests for aid would be made, and what procedures should be followed in the event of an arrest or apprehension by an out-of-jurisdiction officer. The substitute bill also included language to ensure the bill would not conflict with any provision in the Kansas Tort Claims Act, the Workers' Compensation Act, or the law relating to multijurisdictional law enforcement groups.

The fiscal note as prepared by the Division of the Budget on the bill, as introduced, indicates the fiscal effect could not be estimated without the ability to determine the frequency and nature of critical incidents. However, the Kansas Highway Patrol indicated the bill, as introduced, could increase salaries and wages expenditures if a critical incident were to result in overtime pay for staff. Any fiscal effect associated with the original bill is not reflected in *The FY 2016 Governor's Budget Report*.