



Kansas Sheriffs' Association

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Testimony to the Committee on Federal and State Affairs
Opponent to HB 2251
March 26, 2021

Chairman Barker and Committee Members,

The Kansas Sheriff's Association supports victims of Domestic Violence. The KSA and its members have worked over the years with advocacy groups to increase the recognition of Domestic Violence, increase assistance for Domestic Violence victims and provide advocates within the office to assist Domestic Violence victims through the court process and other needs that may arise.

However, KSA believes this bill as written has issues that could violate the 2014 Supreme Court ruling *Henderson v. United States*. The KSA is willing to work on amendments to the bill to support victims of Domestic Violence.

On page 1, sentences 17 through 19, states: "(1) relinquish all firearms in the defendant's custody, control or possession to the sheriff of the county in which the court issuing such relinquishment order is located, or to a licensed federal firearms dealer." In *Henderson v. United States*, the opinion and decision was the Federal Government has to allow a convicted felon who possesses a firearm to transfer the firearm to a recipient who will not grant the felon control over the firearm which would include a firearms dealer.

In this case, the Federal Bureau of Investigation wanted to keep the gun and this decision made it clear they could not. The firearm had to be turned over to 2nd party to include a federal firearms dealer. We do not believe the Sheriff, or any Law Enforcement Authority can just hold someone's gun for indefinite amount of time or sale a firearm that is someone else's property.

On page 1 lines 21 through 23, states “(2) relinquish any concealed carry license issued to the defendant to the sheriff of the county in which the court issuing such relinquishment order is located.” Our question is what happens to the license then? Sheriff’s do not issue the licenses; the State of Kansas does. It seems reasonable to us, since the State of Kansas issues the license, the State of Kansas should retrieve the license due to a relinquishment order.

On page 1, starting on line 24 through 27, requires the defendant if physically present in court to comply with provisions in subsection (b) within 24 hours after such order is entered. Again, we believe this is in violation of Henderson v. United States and should be given to a licensed federal firearms dealer and not law enforcement.

KSA also believes that any conviction and relinquishment order shall cause the court to notify the Attorney’s General’s office of such.

On page 2, starting on line 10 through line 12 discusses a law enforcement officer or a licensed federal firearms dealer shall issue a proof of relinquishment to the defendant. KSA believes there is no need for a new form. Law enforcement agencies already authors a property receipt form for evidence and personal property that is stored within the agency.

KSA also must point out that the cost of storing these items and space needed could task agencies with an undue burden and expense. The current bill contains no language that reimburses law enforcement for this expense.

All throughout the bill there are inconstancies on what law enforcement agency will do what. In some areas any law enforcement agency may take action, however, on relinquishment and storage the bill only states Sheriffs are able to fulfill the proposed statute language. The KSA would propose that underlying domestic violence conviction, whether a municipal or district/county court, should be tasked with carrying out the relinquishment order. Thus, if convicted in municipal court for domestic violence, a city law enforcement agency should be tasked with carrying out the proposed bills orders. If a person is convicted in

district/county court for domestic violence, the Office of Sheriff should carry out the orders.

On page 6, starting on line 12 through line 14 states: (e) For convictions of domestic battery as described in K.S.A. 2020 Supp. 21-5414, and amendments thereto, and any misdemeanor for a domestic violence offense as defined in K.S.A. 2020 Supp. 21-6301.” We would like to point out that 21-6301 does not cover domestic violence offense, however, 21-5111 does cover the offense. We believe this should be a change and this is always determined by a court before it is counted as such.

The Kansas Sheriff’s Association is an opponent of this bill as written. We thank you for your consideration and the opportunity to provide testimony on this bill.

Sheriff Cole Presley, Graham County
President