

KANSAS OFFICE of
REVISOR of STATUTES

LEGISLATURE of THE STATE of KANSAS

Legislative Attorneys transforming ideas into legislation.

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: House Committee on Federal and State Affairs

From: Mike Heim, Revisor of Statutes Office

Date: Mar. 7, 2024

Subject: HB 2803

HB 2803 creates the Kansas gun rights preservation act. The bill provides that no agency of this state, political subdivision or employee thereof shall:

(1) Knowingly and willingly participate in any way in the enforcement of any federal act, law, executive order, administrative order, rule or regulation regarding a firearm, firearm accessory or ammunition against a law-abiding citizen.

(2) Utilize any assets, state funds or funds allocated by the state to local entities to engage in any activity that aids a federal agency, federal agent or corporation providing services to the federal government in the enforcement or any investigation pursuant to the enforcement of any federal act, law, executive order, administrative order, rule or regulation regarding a firearm, firearm accessory or ammunition against a law-abiding citizen.

Any law enforcement agency or political subdivision of this state that employs a law enforcement officer who violates this act while acting under color of any federal law shall be liable to such individual for any damages resulting from such violation and subject to a civil penalty of \$50,000 for each occurrence. Each violation with respect to a firearm, firearm accessory or container of ammunition shall constitute a separate occurrence.

Any law enforcement agency or political subdivision that employs an individual, acting or who previously acted as an official, agent, employee or deputy of the government of the United States, or otherwise acted under color of federal law after the effective date of this act who enforced or attempted to enforce or who gave material aid and support to the efforts of another individual or agency of the government of the United States who enforced or attempted to enforce any law, executive order, administrative order, rule or regulation against a law-abiding citizen shall be subject to a civil penalty of \$50,000 for each such employee.

Any law-abiding citizen residing in or conducting business in this state who believes that an individual has violated this act may file an action in a court of competent jurisdiction for injunctive relief. Upon the filing of a motion for a temporary or permanent injunction in any action, the court shall hold a hearing on such motion within 30 days of service of such motion on the defendant. The court may award reasonable attorney fees and court costs to the prevailing party in any action filed pursuant to this act unless such prevailing party is the state of Kansas or any political subdivision thereof.

It shall not be a violation of this act:

To provide material aid and support to federal law enforcement agencies that are in pursuit of a suspect when there is a demonstrable criminal nexus with another foreign jurisdiction and such suspect is either not a citizen of this state or is not present in this state;

(b) to provide material aid and support to any United States attorney or assistant United States attorney in the prosecution of felony crimes substantially similar to any crime described in article 57, 58 or 63 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, that includes the possession of a firearm or other weapon if the charges are not solely for the possession or use of such firearm or weapon; and

(c) for courts to carry out their duties as described in articles 1 through 33 of chapter 20 of the Kansas Statutes Annotated.

Sovereign immunity shall not be an affirmative defense in any such action.