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Testimony to Committee on House Judiciary  
Opponent Testimony on HB 2380  
February 15, 2023

Chairman Patten and Committee Members,

This testimony is on behalf of the Kansas Sheriff's Association, Kansas Association of Chiefs of Police, and Kansas Peace Officers Association opposing HB 2380.

On page 4, lines 12 thru 18 speaks to prohibiting cash seizures less than \$1000 or property of every other kind that has a market value of less than \$2,500. KSA understands in some forfeiture cases the value of property seized has been less than \$100. However, in some jurisdictions in Kansas, a seizure being filed with the District Attorney or County Attorney has to be \$500 or more. If the seizure does not meet this threshold, a seizure is not filed. If the will of the legislature is to raise the limits then we will abide by them.

This bill calls for a conviction to be able to start the process of forfeiture. The current process that law enforcement across Kansas has to follow for seizure lies within two separate courts of law. First, is within in State of Kansas Criminal law. If probable cause exists that a piece of property is seized due to it being possessed as a result of ill-gotten means from criminal activity, then the law enforcement agency can request the District or County Attorney initiate seizure proceedings. If the choice is made to not file the seizure, the property will be given back to the person it was seized from.

If the decision is made to seize the property then the civil case proceeds to a hearing/trial in front of a judge who then renders a decision. This process has judicial review just like in criminal cases and all other civil cases.

All of our communities across Kansas are dealing with illegal drug problems and too many criminals make a lot of money dealing illegal drugs to our citizens. With current sentencing guidelines and the push to incarcerate violent criminals only, there is not a lot of punishment for drug dealers. One way to slow down their criminal behavior is to try to start the process of forfeiture on their ill-gotten means.

This bill also prohibits the adoption of a forfeiture by a federal agency. This part of the bill is very problematic. If the case initiated by a law enforcement agency rises to the level of federal prosecution, then the forfeiture process needs to be at the federal level. We do not know how or why the authors of this bill would attempt to control law enforcement from working with our federal partners on eradicating drug dealers in our neighborhoods by every legal means possible.

KSA also opposes the bill's requirement that the seizing agency, or the prosecutor, pay the legal fees of the owner of the property if the court does not grant forfeiture of at least half the total

value of the seized property. We could not find any type of state statute in Kansas law that forces the agency or prosecutor to pay for a defendant's legal fees if found not guilty or as this bill asks for to pay fees on a civil case.

In civil cases, which a forfeiture case is, the bill is asking for the level of proof to change from "preponderance of the evidence" to "beyond reasonable doubt." Beyond reasonable doubt is used in criminal law. This bill combines civil law with criminal law. Civil law has a long-standing history in the United States and the State of Kansas. This proposed change goes against all established law and court decisions that have been ruled upon for decades.

Finally, the KSA opposes all forfeited assets going to the state general fund. If this provision becomes law, we will no longer have forfeiture funds to use for buy money in our drug investigations and some other areas where funds must be expended in our investigations. Our only option would then be to use taxpayer money to make these buys, or we will have to greatly curtail these investigative operations. It is important you understand that to strengthen our cases in drug distribution investigations we often must make multiple buys from the same individual or group. Not all buy money is recovered at the end of the case.

On behalf of the KSA, thank you for your consideration and for taking the time to allow us to present our testimony.

Sheriff David Groves  
Kansas Sheriffs' Association - Past President