



Kansas Bureau of Investigation

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Testimony in Support of HB 2034
Before the Senate Judiciary Committee
Kyle Smith, Deputy Director
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Chairman King and Members of the Committee,

I appear today on behalf of Attorney General Derek Schmidt and the Kansas Bureau of Investigation in support of HB 2034, a bill that updates Kansas statutes on search and seizure to comply with a recent US Supreme Court decision.

Surveillance is as old as the concept of law enforcement itself. Modern technology sometimes creates new wrinkles in what are otherwise well documented procedures. Tracking devices took an evolutionary turn with the development of GPS tracking. Traditional analysis and procedures were applied, but took a sharp turn last year when the US Supreme Court ruled that use of such devices required a warrant, ironically in a case where a warrant was obtained but procedures were not followed.

HB 2034 brings the use of such tracking devices under the safeguards of court review and updates the statutes to appropriately deal with the new technology.

Kansas statutes currently do not fit well with this new requirement. Currently:

A search warrant must be served within 96 hours, but tracking devices may take weeks to install due to their covert nature and need to run for weeks to identify the location of the meth lab, kidnapped victims, etc.

Law enforcement is required to provide a copy of the warrant when it is served or leave a copy at the location - a procedure that would make a tracking device pretty much useless if we had to leave a copy under the wiper blade of the target vehicle.

Search warrants can only be obtained for crimes that have been or are being committed, not for crimes that are about to be committed, evidence of which would be developed by the use of a tracking device.

Efforts to fit tracking devices under current law have led to a wide range of rulings, including numerous courts holding that they do not have the authority to issue such warrants.

HB 2034 addresses the issues to provide constitutional safeguards and set out statutory procedures to authorize these searches in essentially the same manner as other search warrants. This bill would allow law enforcement to properly use these valuable tools and make Kansas safer.

I would be happy to answer any questions.