



Gary E. Steed, Executive Director

Commission on Peace Officers'
Standards & Training

Sam Brownback, Governor

Testimony to the Senate Judiciary Committee
In Support of HB 2069
Wednesday, March 15, 2017

Chairman Wilborn and members of the Committee:

As the Commission Chairperson of the Commission on Peace Officers' Standards and Training (CPOST), I hereby support the adoption of HB 2069.

The Kansas Law Enforcement Training Act, K.S.A. 74-5601 et seq., specifies minimum qualifications to become a certified law enforcement officer. K.S.A. 74-5605(b)(3) states that an applicant:

“not have been convicted of a crime that would constitute a felony under the laws of this state, a misdemeanor crime of domestic violence or a misdemeanor offense that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant as defined by rules and regulations of the commission;”

Pursuant to K.S.A. 74-5616(b)(1), the commission is authorized to deny, suspend, condition, censure, reprimand, or revoke the law enforcement certification of a law enforcement officer who fails to meet and maintain those minimum requirements of K.S.A. 74-5605.

HB 2069 would amend K.S.A. 74-5605(d) as follows:

“(d) As used in this section, “conviction” includes rendering of judgment by a military court martial pursuant to the uniform code of military justice, by a court of the United States or by a court of competent jurisdiction in any state, whether or not expunged; and any diversion or *deferred judgment* agreement entered into for a misdemeanor crime of domestic violence *or misdemeanor offense that the commission determines reflects on the honesty, trustworthiness, integrity or competence of the applicant as defined by rules and regulations of the commission and any diversion or deferred judgment agreement entered into on or after July 1, 1995, for a felony.*”

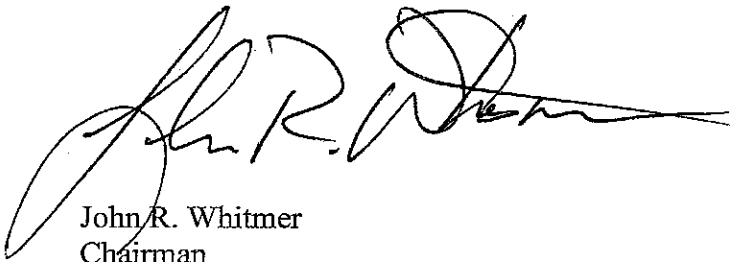
Those misdemeanor offenses that the commission determines reflect on the honesty, trustworthiness, integrity or competence of the applicant are defined by K.A.R. 106-2-2 and 106-2-2a.

Both courts in other states and courts in Kansas have begun to use deferred judgments. Deferred judgments are used for many offenses, including domestic violence or theft. Various jurisdictions are using deferred judgments, rather than diversions, in an increasing amount of cases.

In a diversion, the defendant and prosecutor enter a contract in which the case is dismissed if the defendant successfully completes the terms of a diversion agreement. In a deferred judgment, the defendant is found guilty of the underlying charges and signs an agreement with the prosecutor. One reason deferred judgments have become more favorable to prosecution is that if a defendant violates the conditions of the agreement, the prosecutor may ask the judge to proceed directly to sentencing as there is already a guilty finding. This allows prosecution to avoid proceeding on a stipulated facts trial, as they are sometimes required to do with diversion agreements.

In both a diversion and a deferred judgment, the defendant admits to and stipulates to the underlying facts of the case. For the purposes of the Kansas Law Enforcement Training Act, there is no difference between a diversion and a deferred judgment, as it is the underlying conduct of the defendant that concerns CPOST.

As jurisdictions increasing their use of deferred judgments in criminal cases, the conviction definition in K.S.A. 74-5605(d) should be updated to reflect this trend.

A handwritten signature in black ink, appearing to read "John R. Whitmer", with a long horizontal flourish extending to the right.

John R. Whitmer
Chairman
Kansas Commission on Peace Officer's
Standards and Training