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**Testimony in Support of House Bill 2049
The Law Enforcement Protection Act**

**Presented to the Senate Committee on the Judiciary
By Kansas Attorney General Derek Schmidt**

March 17, 2017

Chairman Wilborn, members of the Committee, thank you for this opportunity to testify in support of House Bill 2049, the Law Enforcement Protection Act.

Under current law, certain specific crimes committed against law enforcement officers result in enhanced penalties. For example, assault or battery against a law enforcement officer carries heavier penalties than assault or battery against a person who is not a law enforcement officer. *Compare* K.S.A. 21-5413(a) (battery) with K.S.A. 21-5413(c) (battery against a law enforcement officer); K.S.A. 21-5412(a) (assault) with K.S.A. 21-5412(c) (assault against a law enforcement officer). Similarly, first degree, premeditated murder can be elevated to capital murder when the victim is a law enforcement officer, and the attempted first degree, premeditated murder of a law enforcement officer can qualify as attempted capital murder, which carries a heavier penalty than the attempted first degree premeditated murder of a person who is not a law enforcement officer.

But for other crimes, there is no sentencing enhancement available when the offender targets a law enforcement officer. House Bill 2049 would remedy that shortcoming by creating a special sentencing rule providing that for all felonies not already enhanced when committed against a law enforcement officer, the sentence could be enhanced by one severity level if the state proves that either the victim was an on-duty law enforcement officer or that the victim was targeted because of his or her status as a law enforcement officer.

Our office observed the need for this legislation in a case we prosecuted recently in central Kansas. In that case, the offender attacked a law enforcement officer with a knife. Ultimately, the offender was convicted of attempted intentional murder in the second degree. If the State's evidence had shown premeditation, the crime of conviction could have been attempted capital murder because the victim was a law enforcement officer. Or, if the State had charged only the lesser crime of aggravated assault on a law enforcement officer, a law enforcement enhancement would have attached.

But no enhancement is available for the crime of attempted murder in the second degree when the offender targets a law enforcement officer.

In my view, a law enforcement sentencing enhancement is good public policy and entirely appropriate. When an offender targets a law enforcement officer, he or she actually commits two sorts of crimes. There is the crime against the individual victim – and there also is the crime against the government function of enforcing the law. This distinction long has been recognized in the very structure of our criminal code. Crimes against persons are codified in Article 54 of Chapter 21, while crimes affecting government functions are separately codified in Article 59 of Chapter 21. In my view, any offense that targets not only the person who carries the badge but also the badge itself, justifies an enhanced penalty.

This sentencing enhancement would apply on top of any other existing sentencing enhancements which might otherwise apply. For example, if a criminal street gang member commits a crime against a law enforcement officer his sentence could be enhanced under K.S.A. 21-6804(k)(1) as a criminal street gang member *and* under this new language for targeting a law enforcement officer. These enhancements are intended to be cumulative.

At a time when the national conversation has too often turned unkind to law enforcement officers, providing enhanced protection for officers is an entirely appropriate opportunity for Kansas to show its respect and appreciation for those who serve and protect our communities. The men and women who serve in law enforcement deserve this added protection because of the difficult and dangerous role they undertake to keep our communities safe each and every day. I encourage your support for the Law Enforcement Protection Act, and I would stand for questions.

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