

To: House Judiciary Committee

From: Amanda L. Stanley, General Counsel

Date: February 18, 2020

RE: Neutral Testimony to HB 2667

I want to thank Chairman Patton and the members of the Committee for affording the League of Kansas Municipalities the opportunity to provide neutral testimony on HB 2667.

HB 2667 creates new rules when there is a death of an individual that results directly from an action or omission of a law enforcement officer while the officer is performing activities within the scope of the officer's duties. HB 2667 would require each law enforcement agency have a written policy regarding these types of investigations. The policy must include an investigation conducted by an outside law enforcement agency. In no instance shall the agency conducting the investigation employ any law enforcement officer involved in the death. The investigators must provide a complete report to the county or district attorney of the county in which the death occurred.

If the county or district attorney declines to prosecute the officer, the county or district attorney shall prepare a written summary report summarizing the investigative report and the reasoning for the county or district attorney's determination.

Anytime there is an officer involved death, it is a tragic situation and we understand the desire of the family members to understand what has occurred. That is why the League, and our members, supported the 2018 changes to K.S.A. 45-254 which allows any person who is the subject of an audio or visual recording made by a law enforcement body or vehicle camera, any parent or legal guardian of a person under the age 18 who is the subject of such recording, an heir at law when a decedent is the subject of such recording, or an attorney for any of these individuals to see this footage within 20 days after making a request.

HB 2667 appears to be largely the same as Colorado's law on this subject. Any major policy change to how we treat criminal investigation records should be carefully considered. While on its surface much of this bill appears reasonable, we have concerns about how this might play out in practice in some of our rural areas where both the Sheriff's department and the police department might be involved in an incident. We want to be sure the Kansas Bureau of Investigation has the capacity and willingness to assist with these investigations as needed. The League recommends this Committee consider sending HB 2667 to the Judicial Council with HB 2424 to study how a similar approach has worked in Colorado, how both pieces of proposed legislation will interact with current law, and how HB 2667 and HB 2424 would interact with HB 2029 which contains the Judicial Council's recommendations on modifications to criminal investigation record treatment under KORA but which has not had a hearing.