



Kansas Association of Chiefs of Police
PO Box 2163, Hutchinson, KS 67504 (620)899-4122

Kansas Peace Officers Association
PO Box 2592, Wichita, KS 67201 (316)722-8433



Testimony to the House Federal and State Affairs Committee Opposing HB2251

March 26, 2021

Members of the House Federal and State Affairs:

Good morning, my name is Dennis Butler and I am the Director of the Riley County Police Department (RCPD). I come before you as a member of the Kansas Association of Chiefs of Police and the Kansas Peace Officers Association who designated me to represent their interests and position on House Bill 2251.

It is critically important that I acknowledge the Committee's interest in protecting and ensuring the safety of domestic violence survivors and members of their families. Our associations share that desire and so do I. Ever since passage of the 1994 Violence Against Women's Act (VAWA) I have been intimately involved in efforts in two states to enhance the law enforcement response to domestic violence survivors. I have been in Kansas for nearly 17 of my 40 + years of my law enforcement career in the role of police chief and now director of a police department. I have served on numerous Governor's Grants Office and Attorney General's Office working groups, advisory boards; and policy development committees to build DV curriculum later provided to the Kansas Law Enforcement Training Center. Most recently, I served on the KBI-led Sexual Assault Kit Initiative, known as the SAKI Project. Policy I developed while serving as the Ottawa Police Chief was used during SAKI to help develop a model policy shared statewide with all of law enforcement.

I share my background to illustrate my passion and belief in continuing our efforts to protect survivors and steer them toward the resources they so desperately need during periods of crisis in their lives. I share the sincere professional opinion of the members of our associations that HB2251 will not further these goals. It will; however, raise unrealistic expectations regarding the effectiveness of law enforcement to serve and protect them while simultaneously force an incredible burden upon existing law enforcement resources needed to comply with the mandates outlined in this bill. I have been a member of the KACP Legislative Committee for more than 10 years and many elements of this bill read like a policy and procedure manual, some of which we believe violate the 5th and 14th Amendments of the U.S. Constitution regarding due process. Therefore, we believe many elements of this bill will not withstand judicial scrutiny when the actions of law enforcement are challenged in court. The follow-up investigative procedures outlined in this bill will create increased personnel resource

requirements that are simply too burdensome to implement. Like any reported crime, law enforcement must develop probable cause to arrest people and search their person and structures. Many elements of this bill suggest a circumvention of those Constitutional requirements and a never-ending hunt for firearms that may not exist. Finally, we all realize that laws exist making possession of contraband illegal and punishable by jail and prison time. This does not stop people who want that contraband from getting it. Under this bill, someone who has their firearms confiscated will not have too much trouble finding or stealing another one if they intend to use it to threaten or harm their survivors. If the goal of this bill is to protect survivors, it falls short in accomplishing that goal when someone is determined to cause harm.

There is no question that an order issued by The Court would be served on defendants by members of law enforcement. An element of the bill requires confiscation of weapons observed in plain sight. A firearm in plain sight at the place of such a search may or may not be the property of the person who the order was issued against. The Court order described in the bill appears to be civil in nature, but we are confused if the confiscation language remains civil in nature or is considered a criminal violation? When firearm confiscation begins there are many unintended consequences created by the unfunded mandates in this bill. As an internationally accredited police department The RCPD has very precise procedures for collecting, packaging, and storing firearms. These procedures are considered best practices in law enforcement and if faced with a flood of confiscated weapons we would be forced to identify new and extremely secure storage space-even if it is only for "safekeeping." Ask any law enforcement agency if they have lots of extra evidence storage in their facilities and I can predict with certainty what about 95% of them would say. Moreover, there are different categories of gun owners, gun enthusiasts and gun collectors. I have seen collections of firearms in numbers that would boggle your mind. As I stand before you today, if my officers had to confiscate all of them as required by this piece of legislation from just one of those categories of owners I have no feasible plan on how I could properly store them and remain compliant with accreditation standards. I can only imagine what some of our smaller and less resourced police departments and sheriff's offices would have to do.

There is also the issue of liability incurred by agencies being forced to store a large influx of firearms. Many gun enthusiasts are very particular about the condition of their property and if it is returned, scratched or marred in some way, departments charged with storing them would be liable and face an unavoidable increase in claims. This bill does not provide relief from those claims.

The bill requires law enforcement to make "a good faith effort" to determine if a defendant has relinquished all their firearms. This is extremely vague language. What does this mean and what does this require? If all the firearms are not found, what is the liability or for agencies? The bill requires defendants to tell the truth about the guns they own. What are the penalties if they lie about it to law enforcement? The bill is silent and if there were penalties described would they be civil or criminal ones?

The bill requires that all confiscated weapons be delivered to the sheriff until disposition is determined. If said sheriff's office is flooded with firearms and needs to find new storage

space and staff to manage it, a sheriff under this bill could charge any fee they want under the language in this bill. I imagine that this, too, will invite court challenges and any fees established by legislation would be insufficient to offset the true costs for some agencies.

The bill references firearms being transported by someone in unloaded condition for surrender but is silent on whether ammunition can be in close proximity to the unloaded weapon. We submit that it should not.

In closing, I wish to thank you for the opportunity to address this committee regarding an extremely important topic. One in which we share the goal of protecting survivors from potential harm. I humbly submit that this bill will not accomplish that goal, but will impose a tremendous burden on law enforcement across this state that face ever-increasing demands, limited resources and heightened scrutiny from the judicial system, citizens; and the very survivors this bill is intended to protect from harm.

I urge you to not pass this bill out of your committee.

Thank you,

Dennis P. Butler