



# Kansas Sheriffs' Association

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## Testimony to Committee on Judiciary Opponent Testimony on HB 2640

Chairman Patton and Committee Members,

The Kansas Sheriff's Association is providing written testimony not supporting HB 2640.

In New Section 1 of HB 2640, KSA does not support or agree with the language for seizure and forfeiture of property with a value of less than \$100,000.00. We understand that in some forfeiture cases the value of property seized has been less than \$100.00. However, in some jurisdictions in Kansas, a seizure being filed with the District Attorney or County Attorney has to be \$500 or more. If the seizure does not meet this threshold, a seizure is not filed. We believe the \$100,000.00 provision is entirely too high.

The current process that law enforcement across Kansas has to follow for seizure lies within in two separate courts of law. First, is within in State of Kansas law. The process is if probable cause exists that a piece of property is seized due to it being possessed due to ill-gotten means due to criminal activity then the law enforcement agency can file seizure through the District Attorney or County Attorney. Either of these entities can file the seizure or choose not to file the seizure. If the choice is made to not file the seizure, the property will be given back to the person it was seized from.

If the decision is made to seize the property then the civil case proceeds to a hearing/trial in front of a judge who then renders a decision. This process has judicial review just like in criminal and all other civil cases.

Seizures can also be filed in federal court... The same process takes place with judicial review just like in any other criminal or civil procedure.

On page 9, lines 2-10, states: "After the court orders proceeds to be paid pursuant to subsection (a) any proceeds remaining shall be deposited in the state treasury to the credit of the state general fund." KSA would like to understand why this provision exists. There are no provisions in this bill that would allow law enforcement agencies to recover their costs of the investigation and no rules on what that money will be used for or how it will be dispersed at the state level.

On page 9, lines 11-14, states, "Nothing in subsection (C) shall prohibit a state law enforcement agency from participating in joint task forces with the federal government. Any proceeds from such task forces shall be deposited in the state treasury to the credit of the state general fund." This language only applies to state law enforcement agencies. Most task forces around the state has very few state law enforcement officers attached to them as "TFO'S", Task Force Officers. Most of the TFO'S are local sheriff's deputies and police officers. So does this provision apply to local law enforcement or is this bill telling local law enforcement that they can no longer be a part of task forces?

Secondly, most seizures that occur at the Task Force level are federal seizures and this bill cannot force agents of the federal government to only file their seizures in state courts. Federal asset forfeiture rules do not allow federal forfeiture funds to go to the general fund.



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The State of Kansas applies home rule to many federal government laws and mandates. KSA sees the same issue with the State of Kansas telling the federal government where they have to file seizures.

In closing, I would like to point out that several agencies across the state follow Federal Asset Forfeiture rules on how legally seized funds can be distributed. These rules are very clear and stringent with audits. The State of Kansas has no such rules. KSA would propose the State of Kansas adopt similar rules as the Federal Government.

Thank you for your consideration.

Sheriff Jeff Easter  
Legislative Chair for the Kansas Sheriff's Association