



Kansas Sheriffs' Association

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Sheriff Sandy Horton, Ret., Executive Director

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www.kansassheriffs.org

Testimony to Committee on Judiciary Opponent Testimony on HB 2648

Chairman Patton and Committee Members,

The Kansas Sheriff's Association is providing written testimony not supporting HB 2648.

On page 2, lines 14-17 the bill states: "If no criminal charges are filed or prosecution is declined, the property shall be returned to such property's rightful owner or disposed of in accordance with this section." We are aware of many instances where mules carrying drugs across the U.S. borders to the State of Kansas, then pick up cash as payment for these drugs to return to the cartels in Mexico. During these stops, probable cause exists to search the vehicles. Large amount of money is seized and the mules do not claim the money as theirs, do not know how it got there and were only instructed to return the car to someone they do not know in Mexico.

These circumstances exist quite often, who is going to be charged in this case unless they admit to the illegal activity they are participating in. This bill states that the property shall be given back to the same people who are using this property from ill-gotten means to infiltrate our state with more illegal drugs. The very existence of asset forfeiture is to build probable cause to show that a criminal is receiving property to include money to further their criminal enterprise. Simply put, they are creating havoc on our streets and using ill-gotten property to perpetuate their crimes.

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 pause 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 than 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. The current law should not be changed for just civil forfeiture.

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.

In closing, the only consistency between HB 2648 and HB 2640 is both require throughout the bills that all funds should be given to the state general fund. The other similarity is there is no language in the bill that after the money is given to the state what the state intends to do with the money. There is not any language that any law enforcement agency will be reimbursed for the expenses that occurred during the case. In fact, law enforcement is being accused of using this process to have our own slush funds. We emphatically deny this accusation. However, the way this bill is written is we will be the tool for the state to have a slush fund with no checks and balances like those that law enforcement has to abide by in existing law.



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We would propose using Federal Asset Forfeiture procedures that provides checks and balances on how the property forfeited to law enforcement agencies will be used.

Thank you for your consideration.

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