



# Kansas Sheriffs' Association

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## Testimony to Senate Committee on Judiciary Opponent Testimony on SB 458 February 13, 2024

Chairwoman Warren and Committee Members,

KSA understands and appreciates all the work that has been done by the Judicial Council Subcommittee. KSA testified in the Special Committee on Civil Asset Forfeiture on areas of the subcommittee report that we agreed with and areas we did not agree with the subcommittee recommendations.

Law Enforcement is tasked with combating the scourge of illegal narcotics being manufactured and distributed in the State of Kansas. A key component to combating this ever-growing problem is seizing and forfeiting drug dealer's profits from this illegal act. Law Enforcement and District Attorney's/County Attorney's have done a good job evaluating the cases to file or not file and determining if the forfeiture is unconstitutionally excessive.

Over the years we have heard the same stories of a citizen being victimized by illegal forfeitures. When we have tried to pin down the facts of where the case happened and names, we have never received those facts to look up a court case to see what occurred. During this same time frame the stories grow without any concrete facts that are presented during testimony to allow anyone to investigate the facts presented as truth to determine if the story is factual in nature. With that said KSA would fully recognize that these kinds of instances need to be prevented, if they actually occurred, through legislation.

On page 7, item (m), which states: "No law enforcement agency shall request federal adoption of a seizure pursuant to the act." This amendment to the current statute is very problematic. We have testified in the past to different variations of this language. Sheriff's Office's are a part of many Federal task forces across the State of Kansas. This current language would not allow for those task force members to conduct asset forfeiture while assigned to the task force. Another obstacle is we have cases that are generated every day by deputies on the street that rise to the level of Federal prosecution. To reach the level of prosecution a Federal Law Enforcement Agency must adopt the case to be presented to Federal prosecutors. This means the whole case must be adopted including any forfeiture. KSA opposes this part of the bill.

On page 15, section 7, sub-section (c), which states: "A claimant may demand a jury trial pursuant to K.S.A. 60-238, and amendments thereto." This specific area was covered by the sub-committee, and they rejected this idea. We agree with the subcommittee.

Starting on page 19, starting in section (2) pertaining to a claimant prevailing on the forfeiture and a judge ordering law enforcement to pay for the fees incurred including attorney fees, we are opposed to as well.

In current civil law, which asset forfeiture is civil law, we suggest that the word “may” be used at the direction of a presiding judge. The judge does have intimate knowledge of the case and should be allowed the discretion to make the order. KSA would also like to point out that this provision does not align with current civil law procedures.

KSA is not supportive of this bill as currently written.

Thank you for your consideration.

Jeff Easter  
KSA Legislative Chair