



Kansas Sheriffs' Association

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Testimony to the Senate Judiciary Committee In Opposition of SB360 February 13, 2018

Chair Wilborn and Committee Members,

The Kansas Sheriff's Association opposes SB360 in its current form. There are several issues with this bill which I will attempt to convey.

On page 1, line 10, the current bill removes the provision allowing a written request to be required. For Sheriff's Offices written requests document exactly what the entity is requesting. If the written request is removed, more confusion and disputes will take place on what exactly was requested.

On page 1, line 12, the proposed change is "shall provide copies" if duplication equipment is available. The KSA believes this part of the bill should remain as "shall not be required to provide copies" and not changed as SB360 allows. The main reason the KSA is asking that this provision to not be changed is we believe it will cause problems with on-going investigations and prosecution.

On page 3, line 11, SB360 proposes changing the language to "within 24 hours of request". The KSA believes this change is very problematic. Redactions are necessary to protect the innocent, currently most Sheriff's Offices have to make the redactions themselves without computer assisted programs. These redactions can take hours up to days depending on the amount of video being released. The 24 hour proposed change also does not take into consideration holidays or weekends and not every sheriff employee has the skill set or equipment to redact video. This will cause undue strain on sheriff's budgets to outsource or pay overtime to redact video. We also believe within 24 hours of an incident, not all the facts have been gathered, all of the witnesses interviewed and the investigation is still open. This provision would be counterproductive to learning all the facts and not just what a video may portray.

On page 3 line 21, the bill adds the provision that states, anyone who has a written release from next of kin of decedent who is subject of recording. This particular definition is very broad and could include anyone that claims to be kin of the decedent without proof of the relationship. At the very least, a person claiming to be next of kin should be required to produce proper identification and produce documentation of their relationship to the deceased.

On page 3, line 23, the bill adds, within 30 days if case involves use of force by Law Enforcement Officer resulting in great bodily harm or death; or discharge of firearm by Law Enforcement Officer except training or killing of an animal. The KSA is very concerned about this provision. First and foremost, these cases are investigated and the facts are presented to the County or District Attorney for prosecution. These facts include much more than just video. Mandatory release of the video will

cause the case to be tried in the court of public opinion which is not how our justice system has been working for over 100 years.

On page 3, line 32-36, SB 360 adds, we must redact any depiction of death, of a person, dead body, or clearly visible acts of severe violence or great bodily harm against a person, unless caused by LEO. KSA's concern with this provision is if law enforcement is the victim of great bodily harm or is killed the video cannot be released without redaction, however, if great bodily harm or death occurs because of the actions of a law enforcement officer then the video must be redacted. This clearly is a double standard. It could lead to having to redact the violence the officer is responding to while leaving un-redacted the officers use of force response to the redacted violence.

On page 4 line 26, SB 360 adds, if investigation exceeds 270 days all videos, without redaction, available for public inspection and disclosure. This change is very evasive for the general public who may not wish for their identity to be revealed or their personal tragedy to be played out to the public. The KSA truly believes this provision can compromise violent crime cases that have not gone to trial. If these videos are released, defense attorneys will immediately claim they cannot get a fair trial and will either ask for the case to be dismissed or for a change of venue. If a change of venue is granted, this will cost local prosecutors' offices and the Public Defender's Office more money for travel, overnight stays and ancillary expenses. Again, we believe the case should work through the justice system and not the media outlets and possibly taint a jury pool.

KSA understands this very emotionally charged subject, but we believe the current KORA statutes do not violate citizen's privacy and weighs the need for fair investigations and prosecutions to take place. KORA also allows for sheriff's to release videos to ease community tensions if in the best interest of the public. KSA believes more training should be conducted on KORA with all law enforcement agencies. KSA would encourage the committee to seek input from all concerned parties by conducting an interim study on the subject of body worn and dash camera systems.

The Kansas Sheriff's Association is an opponent of SB360 as written

Thank you for your consideration and the opportunity to provide testimony on this bill.

Sheriff Jeffrey T. Easter
Legislative Chair for the Kansas Sheriff's Association