



Jeff Zmuda, Secretary

Laura Kelly, Governor

To: J. Russell Jennings, Chair
House Corrections and Juvenile Justice Committee

From: Randy Bowman, Kansas Department of Corrections

Date: February 24, 2020

Re: HB2695: Follow up to KDOC Testimony

I appreciated the opportunity very much to testify on behalf of the Kansas Department of Corrections (KDOC) on February 20, 2020 as a proponent for HB2695. As was requested, I asked the KDOC General Counsel, Jeff Cowger, to assist with some legal research on the law enforcement authorities of the KDOC. I've also consulted with Secretary Zmuda on the below listed question.

KDOC Law Enforcement Authority

The following statutes address the topic of law enforcement authority of the Department and/or Secretary of Corrections including the ability to make arrests and use of force.

K.S.A. 22-2202(m)

"Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for violation of the laws of the state of Kansas or ordinances of any municipality thereof or with a duty to maintain or assert custody or supervision over persons accused or convicted of crime, and includes court services officers, community corrections officers, parole officers and directors, security personnel and keepers of correctional institutions, jails or other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority.

K.S.A. 75-5247a

Powers and duties of corrections officers. The warden of any correctional institution within the Kansas department of corrections, all deputy wardens, all persons on the staff of the department of corrections who are in the chain of command from the secretary of corrections to the corrections officer and every corrections officer, regardless of rank, while acting within the scope of their duties as employees of the department of corrections, shall possess such powers and duties of a law enforcement officer as are necessary for the performance of such duties and may exercise such powers and duties anywhere within the state of Kansas. Such powers and duties may be exercised outside the state of Kansas for the purpose of maintaining custody, security and control of any prisoner or inmate being transported or escorted by anyone authorized to so act. Such employees of the department

of corrections shall be responsible to and shall be at all times under the supervision and control of the secretary of corrections or the secretary's designee.

K.S.A 21-5111(p)(2)

"Law enforcement officer" means: any officer of the Kansas department of corrections or, for the purposes of K.S.A. 2019 Supp. 21-5412 and subsection (d) of K.S.A. 2019 Supp. 21-5413, and amendments thereto, any employee of the Kansas department of corrections.

K.S.A. 21-5227

Same; law enforcement officer making arrest. (a) A law enforcement officer, or any person whom such officer has summoned or directed to assist in making a lawful arrest, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. Such officer is justified in the use of any force which such officer reasonably believes to be necessary to effect the arrest and the use of any force which such officer reasonably believes to be necessary to defend the officer's self or another from bodily harm while making the arrest. However, such officer is justified in using deadly force only when such officer reasonably believes that such force is necessary to prevent death or great bodily harm to such officer or another person, or when such officer reasonably believes that such force is necessary to prevent the arrest from being defeated by resistance or escape and such officer has probable cause to believe that the person to be arrested has committed or attempted to commit a felony involving death or great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that such person will endanger human life or inflict great bodily harm unless arrested without delay.

Question of KDOC

1) If HB2695 were passed, would a field special agent, as a condition of employment specified by the Secretary of Corrections, be required to maintain certification as a law enforcement officer by the Kansas Law Enforcement Training Center (KLETC)?

Response: Yes

In summary, we offer that the amendment proposed in HB2695 presents an opportunity to include one specific group of KDOC employees, "field special agents", under the current definition of K.S.A. 74-5602(g) for the more specific purposes of the Kansas law enforcement training act is beneficial to all interested parties. If passed, HB2695 would only apply to these specific KDOC employees, who are a small number of our overall employees that today have law enforcement authority under the above listed statutes, without benefit of being trained and certified under the laws governing training by the Kansas Law Enforcement Training Center (KLETC).

We appreciate the consideration of this policy topic by the committee and ask you to advance HB2695 favorably.

Thank you