



Kansas Bureau of Investigation

Tony Mattivi
Director

Kris W. Kobach
Attorney General

Before the House Committee on Federal
And State Affairs
HB 2803 Opponent Testimony
Bob Stuart, Executive Officer
Kansas Bureau of Investigation
March 7, 2024

Chairman Carpenter and Members of the Committee:

The Kansas Bureau of Investigation (KBI) thanks the Committee for the opportunity to provide testimony in opposition to HB 2803. The ramifications of this bill will hamper local, state, federal and tribal law enforcement cooperation in a time of increased violent crime, increased human trafficking, increased crimes against children and the wave of deadly fentanyl overdoses fed by transnational organized syndicates using ever more sophisticated networks and communications. The KBI believes HB 2803 will chill law enforcement cooperation and endanger both law enforcement officers and the public at large.

Of significant concern is the bill's attempt to artificially parse out a "law abiding citizen". As defined in Section 7(d), the term means any individual who is not otherwise precluded under state law from possessing a firearm and is lawfully present in the United State and Kansas. This is an unworkable definition. Many (if not most) significant criminal investigations, both proactive and historic, do not have a known subject. Sometimes the specific crimes committed are not known in the early stages of an investigation either. This is especially true in complex, multi-agency, multi-jurisdictional matters. Making a "law abiding citizen" determination in those cases, would often be, at best, an educated guess. The consequences of getting that wrong, per Section 5, mean significant cost in civil penalty, litigation fees and insurance expenses. The KBI anticipates that, notwithstanding the attempt to define approved "aid and support" in Sections 3 and 4, we, along with our other state and local law enforcement partners, will have no choice but to limit our cooperative efforts with federal law enforcement agencies.

By way of example of the potential consequence of HB 2803, Director Mattivi recently signed a cooperative agreement with the US Postal Service Investigative Service. The goal of the Memorandum of Understanding (MOU) is to find better ways to interdict the flow of fentanyl through the mail system. Of course, there are firearms, ammunition and accessories defined in Section 7 (a), (b) and (c) that are legally (and illegally) sent through the US Mail. If HB 2803

passes that MOU will no longer be workable due to concerns about HB 2803 liability. This will cause unnecessary limitations in the best case and a cessation of cooperative interdiction at worst. This is but one likely example of the chilling effect. More can easily be found as one realizes the significant number of federal law enforcement agencies who have invested resources, time and money to address federal crime in Kansas as well as the value they add to our concurrent state investigations (and vice versa).

The second major difficulty noted by the KBI regards Section 5's potential enactment of a new cause of action against law enforcement agencies or political subdivisions of this state. This cause of action can be brought by anyone who believes they are a "law abiding citizen". Our collective experience with criminals is that, even post-conviction and appeal, they continue to say "I was innocent". If a firearm, firearm accessory or ammunition was part and parcel of the crime under HB 2803 the convicted person would have the right to file and litigate under this new cause of action. There does not appear to be any limitation to this new right. The effect of frivolous lawsuits would be significant upon a state agency like the KBI and draconian in its effect on small departments and municipalities

As the KBI believes HB 2803 will unnecessarily strain law enforcement cooperative efforts which may endanger the public while concurrently raising the likelihood of inappropriate agency liability we strongly oppose the bill and respectfully request that you not let this bill pass out of Committee.

#####