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Date: February 13, 2024
To: Chairwoman Humphries and the House Committee on Judiciary
From: City of Overland Park
Re: Testimony in Opposition to House Bill 2606

Thank you for accepting this testimony on behalf of the City of Overland Park in opposition to House Bill 2606 and its proposed changes to Kansas' asset forfeiture laws.

The City supports the use of asset forfeiture as an important component in reducing financial gains from criminal acts while providing due process via the civil courts. Placing additional restrictions on the forfeiture process would serve only to put these assets back into the hands of those committing criminal acts. The current forfeiture laws are laden with safeguards to ensure innocent civilian's property is not taken from them.

The City opposes the restrictions placed in K.S.A. 60-4112(g)(3)(A) and (D), which fail to take into account the many situations where a person may be caught and charged with drug distribution level crimes. For example, someone charged with a crime outlined in K.S.A. 21-5703 or 21-5705 may end up working out a plea deal with the prosecutors whereby they plead guilty to K.S.A. 21-5706 and therefore avoid any imposition of jail time and have lesser fines imposed. By the civil court taking into account the result of the plea deal when deciding whether or not to allow forfeiture and to what monetary extent; would essentially be giving drug manufacturers, distributors, and cultivators their ill gotten gains back, despite recognizing their guilt.

The City opposes the award of attorney's fees as proposed in K.S.A. 60-4116 based upon the amount returned or withheld from the claimant. Given the breadth of items which can be seized in forfeiture cases, this places the judiciary in a position whereby they would have to be property valuation appraisers on items ranging from used cars, electronics, computers, firearms, boats, motorcycles, ATV's, jewelry, and antiques. This proposal fails to take into account situations where the agency could be awarded the overwhelming vast majority of items and money seized, but the judge makes the decision to return one expensive item, such as a random piece of jewelry. If the valuation of that one item returned exceeds the multitude of items forfeited, an agency could be forced to then pay attorneys fees.

The City opposes any requirement of a criminal conviction prior to asset forfeiture being allowed. Criminal cases can sometimes take years to proceed through the system, allowing for the value of the items seized to be highly depreciated as they would have to remain in storage. If

the money or items were allowed to remain in the custody of the accused, they would have little to no reason to ensure their safekeeping and upkeep. The current civil forfeiture process allows the owner of seized assets to object to their forfeiture, and the process should remain as is. Requiring a criminal conviction in a scenario with multiple co-defendants could be problematic, as the illegal proceeds may end up having to be divided in some manner.

The City also opposes any minimum monetary amount threshold before a forfeiture can be served. While law enforcement remains committed to pursuing high-level drug manufacturers and traffickers, those opportunities do not present themselves with the same frequency as those individuals selling and trafficking drugs in our schools, neighborhoods, shopping districts, and local entertainment establishments. These “low-level” dealers are in fact the ones placing dangerous drugs directly into the hands of our community members and they are rarely caught with large sums of currency on them. However, when the over 370 law enforcement agencies statewide start to remove the financial gains of all of these low level dealers, an impact can be made. The City asks that we be allowed to continue to make these impacts on the drug enterprises in our communities.

Thank you for allowing the City to submit testimony in opposition to HB 2606. We respectfully request that the Committee not advance this legislation to the full House.