

SESSION OF 2018

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE BILL NO. 2523**

As Agreed to April 26, 2018

**Brief\***

HB 2523 would amend various statutes related to law enforcement officers, as follows.

***Sheriff Qualifications***

The bill would amend the statute setting forth the qualifications required of sheriffs. Specifically, the bill would narrow language disqualifying a person from holding the office of sheriff if the person has been convicted of a violation of any federal or state laws or city ordinances relating to gambling, liquor, or narcotics, to disqualify only for a misdemeanor related to gambling, liquor, or narcotics within five years immediately preceding election or appointment. [Note: Any felony committed during the person's lifetime would continue to disqualify the person.]

The bill would remove a specific 320-hour training requirement and clarify the education, training, and testing required of sheriffs.

The remaining changes to the sheriff qualification statute reflect non-substantive reorganization of the current standards.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

### ***Kansas Law Enforcement Training Act***

The bill would amend the definition of “misdemeanor crime of domestic violence” in the Kansas Law Enforcement Training Act (KLETA) to replace a list of persons with various relationships to the victim (e.g., current or former spouse) who may commit the crime with the phrase “against a person with whom the offender is involved or has been involved in a ‘dating relationship’ or is a ‘family or household member’ as defined in [the domestic battery criminal statute] at the time of the offense.”

The bill would also amend the KLETA statute setting forth qualifications for applicants for certification to provide consistency with the education requirement amendments being made to the sheriff qualifications statute.

### ***Unlawful Sexual Relations—Law Enforcement Officer***

The bill would amend the crime of unlawful sexual relations, which prohibits persons in certain positions of authority from engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy with certain persons under their authority, to include law enforcement officers, when the person with whom the offender is engaging in such conduct is 16 years of age or older and is interacting with the officer during the course of a traffic stop, a custodial interrogation, or an interview in connection with an investigation, or while the officer has such person detained. Such conduct would constitute a severity level 5 person felony.

### **Conference Committee Action**

The Conference Committee agreed to the Senate amendments to HB 2523. The Conference Committee further agreed to add provisions regarding unlawful sexual relations drawn from Sub. for HB 2739 and to add language that would

harmonize the KLETA education requirements with the amendments the bill would make to the sheriff qualifications statute.

## **Background**

### ***HB 2523 (Amending Qualifications for Office of Sheriff)***

HB 2523 was introduced by the House Committee on Judiciary at the request of the Kansas Sheriffs' Association. As introduced, the bill contained amendments to the sheriff qualifications statute.

In the House Committee hearing, a representative of the Kansas Sheriffs' Association testified in support of the bill, stating it would eliminate a lifetime disqualification for certain misdemeanor convictions and make other requirements for sheriffs consistent with changes made to the KLETA. The Chautauqua County Undersheriff and a representative of the Johnson County Sheriff's Office also appeared in support of the bill. The American Civil Liberties Union of Kansas submitted written-only testimony opposing the bill due to the inclusion of drug possession misdemeanor disqualification provisions. No other testimony was provided.

The House Committee amended the bill to reduce the ten-year look back for certain misdemeanor convictions to a five-year look back.

In the Senate Committee on Judiciary hearing, the same proponents testified as before the House Committee. No other testimony was provided.

The Senate Committee amended the bill by adding the contents of HB 2480, regarding the definition of "misdemeanor crime of domestic violence." [Note: The Conference Committee retained this amendment.]

The Senate Committee of the Whole amended the bill to specify the high school education requirements may be met by obtaining a high school education from a nonaccredited private secondary school as defined in statute. [*Note*: The Conference Committee retained this amendment.]

According to the fiscal note prepared by the Division of the Budget on HB 2523, as introduced, the Kansas Commission on Peace Officers' Standards and Training and the Kansas Association of Counties indicate enactment of the bill would have no fiscal effect.

*HB 2480 (Definition of "Misdemeanor Crime of Domestic Violence")*

HB 2480 was introduced by the House Committee on Judiciary at the request of Representative Whitmer. In the House and Senate Committees on Judiciary hearings, a representative of the Kansas Commission on Peace Officers' Standards and Training testified in support of the bill, stating it would make the definition of "misdemeanor crime of domestic violence" in the KLETA consistent with that in other state statutes. A representative of the Kansas Coalition Against Sexual and Domestic Violence submitted written-only proponent testimony. No neutral or opponent testimony was provided.

According to the fiscal note prepared by the Division of the Budget on HB 2480, the Kansas Commission on Peace Officers' Standards and Training indicates enactment of the bill would have no fiscal effect.

***Sub. for HB 2739 (Unlawful Sexual Relations)***

As introduced and heard by the House Committee on Corrections and Juvenile Justice, HB 2739 would have amended offender registration requirements for juveniles adjudicated of a sex offense. In March 2018, the Chairperson

of the House Committee, Representative Jennings, requested the Judicial Council study the issue raised by HB 2739, as introduced, and provide a recommendation to the 2019 Legislature. The House Committee subsequently recommended a substitute bill for HB 2739, replacing its contents with language modified from HB 2709, regarding lewd and lascivious behavior, and HB 2621, regarding unlawful sexual relations. [Note: The Conference Committee did not retain the provisions of Sub. for HB 2739 modified from HB 2709, regarding lewd and lascivious behavior. The Conference Committee added only the language modified from HB 2621, regarding unlawful sexual relations.] Further background regarding 2621 is provided below.

#### *HB 2621 (Unlawful Sexual Relations)*

HB 2621 was introduced by Representative Holscher. As introduced, the bill would have prohibited such conduct in the course of the law enforcement officer's duties.

In the House Committee on Corrections and Juvenile Justice hearing, Representative Holscher testified in support of the bill. Written-only testimony supporting the bill was submitted by a representative of the Kansas Coalition Against Sexual and Domestic Violence and an attorney. No other testimony was provided.

The House Committee modified the language taken from HB 2621 to specify the duties during which such conduct would be prohibited.

According to the fiscal note prepared by the Division of the Budget on HB 2621, as introduced, enactment of HB 2621 has the potential to increase litigation in the courts, which would have a fiscal effect on the operations of the court system. However, the Office of Judicial Administration indicates it is not possible to estimate the number of additional court cases or their complexity, so a fiscal effect cannot be determined. Any fiscal effect would likely be

accommodated within the current schedule of court cases and would not require additional budget resources.

The Kansas Sentencing Commission indicates enactment of HB 2621 could have an effect on prison admission and bed space, but it cannot estimate an effect. Any fiscal effect associated with enactment of HB 2621 is not reflected in *The FY 2019 Governor's Budget Report*.

sheriff qualifications; Kansas Law Enforcement Training Act; definition of crime of domestic violence; unlawful sexual relations; law enforcement officer

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