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Gary E. Steed, Executive Director

Laura Kelly, Governor

Testimony to the Senate Committee on Commerce  
In Opposition to Senate Bill 10  
January 27, 2021  
Written & Oral Testimony

Chairperson Olson and Members of the Committee:

The Kansas Commission on Peace Officers' Standards and training (KSCPOST) is responsible for regulating the law enforcement profession in Kansas. KSCPOST is committed to providing the citizens of Kansas with qualified, trained, ethical, competent, and professional peace officers. It is also dedicated to adopting and enforcing professional standards for certification of peace officers to promote public safety and preserve public trust and confidence. KSCPOST adopts and enforces rules and regulations that are necessary to ensure that law enforcement officers are adequately certified, trained, and decertified when appropriate. KSCPOST conducts administrative investigations related to law enforcement officer qualifications and misconduct.

Following the death of George Floyd, there have been both local and national calls for increased scrutiny, regulation, and accountability for law enforcement officers. In 2020, Governor Kelly signed Executive Order No. 20-48 to establish the Governor's Commission on Racial Equity and Justice. This Commission, along with others, have recommended more regulation of law enforcement officers in Kansas, not less. Every year, a multitude of legislation regarding law enforcement oversight is introduced. These bills often include amendments or ramifications that directly impact KSCPOST and our governing statutes. As KSCPOST is already a consistent focus of legislative overview, the application of SB 10 represents a duplicitous and burdensome drain on agency resources.

KSCPOST respectfully requests an exemption from SB 10. Law enforcement certification is unique from other licensing agencies in several important aspects. Pursuant to K.S.A. 74-5605(a), every applicant for law enforcement certification must be an employee of a law enforcement agency. Therefore, all applicants for certification are agents of the government who receive their authority to act as such through a variety of statutes. This authority is immense and includes the ability to detain citizens, powers of arrest, the use of firearms, and powers of search and seizure. The analysis of consumer choices and costs, employment opportunities, and market competition required by Section 2, paragraph (b)(3) of SB 10 are rendered moot by the fact that law enforcement employment is always governmental and never privatized. In Kansas, all necessary training required for law enforcement certification is provided at no cost to the officer. There is no application or certification fee charged to either the officer or their employing agency. Thus, there are no financial impediments related to the law enforcement certification process. Additionally,

KSCPOST facilitates a robust reciprocity program for individuals with law enforcement credentials from other states. Again, this comes at no cost to the officer or agency.

Section 2, paragraph (b)(4) of SB 10 contemplates a comparison of KSCPOST rules and regulations to how other states regulate law enforcement officers. Throughout the country, many states have introduced legislation to further regulate their law enforcement officers. As other states have introduced the same model legislation as SB 10, law enforcement officers and POSTs have continually been exempted from the final versions of adopted legislation. This confirms the obvious differences between law enforcement certification and the licensing of other professions.

Section 3 of SB 10 creates a cause of action for any person to petition for court review of an agency's rules or regulation. Additionally, the agency is responsible for the attorney fees of a prevailing plaintiff. This creates a dangerous venue for a court to find against an agency rule or regulation that was adopted solely for the purpose of being consistent with federal law. One need only look to the differences in federal and some state laws regarding marijuana to imagine how this might occur. Further, this shifts legislative review and oversight to the judiciary, even though many agency rules and regulations are the product of the legislative process. This portion of SB 10 represents a perilous and detrimentally expensive path for KSCPOST, detracting from limited agency resources that are better spent investigating officer misconduct and preserving public safety.

For the reasons above, KSCPOST requests an exemption from SB 10.

Respectfully submitted,  
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Kansas Commission on Peace Officers' Standards and Training