



# Kansas Sheriffs' Association

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## Testimony to the Senate Committee on Federal and State Affairs Opponent to SB 192 (Speaking In-Person)

March 2, 2022

Chairman Olson and Committee Members,

The Kansas Sheriff's Association supports victims of Domestic Violence. The KSA and its members have worked over the years with advocacy groups to increase the recognition of Domestic Violence, increase assistance for Domestic Violence victims and provide advocates within the office to assist Domestic Violence victims through the court process and other needs that may arise.

The KSA believes the bill as written has several problem provisions. However, we are willing to work on amendments to the bill to support victims of Domestic Violence.

On page 1, sentences 18 through 20, states: "(1) relinquish all firearms in the defendant's custody, control or possession to the sheriff of the county in which the court issuing such relinquishment order is located, or to a licensed federal firearms dealer." We believe this provision could violate the 2014 Supreme Court ruling *Henderson v. United States*.

In *Henderson v. United States*, the opinion provides the Federal Government must allow a convicted felon who possesses a firearm to transfer the firearm to a recipient who will not grant the felon control over the firearm which would include a firearms dealer. It also provides we must allow the owner of the firearm to transfer ownership if they desire. In this case, the Federal Bureau of Investigation wanted to keep the gun and this decision made it clear they could not. The firearm had to be turned over to 2<sup>nd</sup> party to include a federal firearms dealer. We do not believe the Sheriff, or any Law Enforcement Authority can just hold someone's gun for indefinite amount of time or sell a firearm that is someone else's property.

On page 1 lines 21 through 23, states "(2) relinquish any concealed carry license issued to the defendant to the sheriff of the county in which the court issuing such relinquishment order is located." Our question is what happens to the license then? Sheriff's do not issue the licenses; the State of Kansas does. It seems reasonable to us, since the State of Kansas issues the license, the State of Kansas should retrieve the license due to a relinquishment order. KSA also believes that any conviction and relinquishment order should require the court to notify the Attorney's General's office of such for this purpose. We also believe this provision conflicts with KSA 75-7c07 which has provisions for the suspension, revocation, or suspension of concealed carry permits.

On page 1, starting on line 24 through 27, requires the defendant if physically present in court to comply with provisions in subsection (b) within 24 hours after such order is entered. Again, we believe this is in violation of *Henderson v. United States* and should be given to a third party or a licensed federal firearms dealer and not law enforcement.

On page 2, starting on line 11 through line 13 discusses a law enforcement officer or a licensed federal firearms dealer shall issue a proof of relinquishment to the defendant. KSA believes there is no need for a new form. Law enforcement agencies already authors a property receipt form for evidence and personal property that is stored within the agency.

KSA also must point out that the cost of storing these items and space needed could task agencies with an undue burden and expense. The current bill contains no language that reimburses law enforcement for this expense.

Throughout the bill there are inconstancies on which law enforcement agency will do what. In some areas any law enforcement agency may take action, however, on relinquishment and storage the bill only states Sheriffs are able to fulfill the proposed statute language. The KSA would propose that underlying domestic violence conviction, whether a municipal or district/county court, should be tasked with carrying out the relinquishment order. Thus, if convicted in municipal court for domestic violence, a city law enforcement agency should be tasked with carrying out the proposed bills orders. If a person is convicted in district/county court for domestic violence, the Office of Sheriff should carry out the orders.

The Kansas Sheriff's Association is an opponent of this bill as written. We thank you for your consideration and the opportunity to provide testimony on this bill.

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