

Testimony to the Senate Judiciary Committee

In Support of HB 2025

March 9, 2015

Chairman King and members of the Committee:

HB 2025 amends the Kansas Law Enforcement Training Act, K.S.A. 74-5601 et seq., in three areas.

1. Investigative information - adding new section K.S.A. 74-5616(f) which states:

*“The agency head or other appointing authority for a police officer or law enforcement officer under investigation for a violation of this section shall provide all report, documentation, transcripts, recordings and other information to the commission when requested during the course of such investigation.”*

KSCPOST has found that while some agencies provide investigative information when requested others require a subpoena. KSCPOST’s investigative and subpoena authority is authorized under K.S.A. 74-5607(b). Making the disclosure requirement statutory would streamline the KSCPOST process while providing agencies the same protections.

2. Reinstatement waiting period – amending K.S.A. 74-5622(b)(1) to state:

*“A person whose certificate issued under the Kansas law enforcement training act has been ~~suspended or~~ revoked may petition the commission to reinstate the certificate *after the expiration of five years from the**

*effective date of such revocation. If the commission denies a petition for reinstatement, such person may petition the commission to reinstate the certificate after the expiration of five years from such denial.”*

This waiting period is consistent with long standing commission policy which failed to be included in the proposed 2012 legislation revising the training act that was passed into law. A five year waiting period is also consistent with the legislative intent found in K.S.A. 74-5622(a) which requires officers whose certification which has lapsed due to more than five years since employment as a law enforcement officer satisfactorily complete a basic training course, pass the challenge exam, or obtain a waiver from the commission to be reinstated.

3. Reinstatement Proceedings to be conducted under the Kansas Administrative Procedures Act - adding new section K.S.A. 74-5622(b)(4) which states

“The proceedings on a petition for reinstatement shall be conducted in accordance with the Kansas administrative procedures act.”

This change is sought in light of Kansas Attorney General’s Opinion 2014-07 that makes clear that the Kansas Administrative Procedures Act (KAPA) applies to the activities of a state licensing board only to the extent that the board’s statutes expressly provide. K.S.A. 74-5616(c) expressly provides for commission certification disciplinary action to be under KAPA. There is no mention of the procedure to be used for KSCPOST reinstatement proceedings. In the absence of this statutory language, AG’s Opinion 2014-07 states that the Kansas Open Meetings Act (KOMA) would apply.

I appreciate and thank you for this opportunity and hope you will pass HB 2025 favorably.

Gary E. Steed  
Executive Director