



Kansas County & District Attorneys Association

1200 SW 10th Avenue
Topeka, KS 66604
(785) 232-5822 Fax: (785) 234-2433
www.kcdaa.org

To: Chairman Jennings and Members of the House Corrections and Juvenile Justice Committee
From: Kim T Parker
Prosecutor Coordinator
Kansas County and District Attorneys Association
Date: January 28th, 2019
Re: Proponent Testimony for House Bill2042

Good Afternoon Chairman Jennings and Committee Members,

Thank you for the opportunity to provide proponent testimony for HB2042. I am addressing you on behalf of the Kansas County and District Attorney's Association and the many Kansas prosecutors they represent.

This house bill seeks to return K.S.A. 25-2435 to its former condition prior to the legislative change giving the Kansas Secretary of State Prosecutorial Authority over election crimes. When this change was enacted in 2015, our association voiced strong opposition, and we urge this body to adopt the changes proposed in HB2042, return to the former statute and eliminate the expansion of prosecutorial power which now resides in the office of the Secretary of State.

It should be clear the position of our association as to HB2042 is not driven by the political party affiliation or the individual holding the office of Secretary of State. Our position is much more pragmatic. We asserted before the 2015 legislature that the change to expand prosecutorial power to the Secretary of State was not seen elsewhere in Kansas law and was an unnecessary and costly overlap of prosecution and investigative services and resources.

Today we believe that this 2015 change in Kansas law has indeed resulted in unnecessary overlap of prosecution and investigative services, over the last four years. I have included below the testimony of Johnson County District Attorney Stephen Howe delivered four years ago to the Kansas Senate Judiciary Committee Senator Jeff King Chairman January 27th 2015 responding to SB34. This written testimony illustrates our initial concerns which continue to date.

Senate Judiciary Committee January 27, 2015

Attention: Senator Jeff King, Chairman

State Capitol, Room 346-S

Topeka, Kansas 66612-1504

Re: Senate Bill 34

Dear Chairman King

Thank you for the opportunity to submit our written response in opposition of SB 34.

The Kansas County and District Attorneys Association opposes section two of SB 34.

First, there is no current authority by statute (KSA 75-401 et seq.) for the Secretary of State to prosecute any action in any form. Therefore, this section is a significant expansion of the Secretary of State's power. This expansion of power is unnecessary and redundant given that county and district attorneys already have, "the duty [...] to appear in any court having jurisdiction within the county and prosecute or defend on behalf of the people all actions and proceedings, civil or criminal, in which the state or the county is a party or interested." K.S.A. 19-702(a). See also K.S.A. 22a-104(a)(similar duties of the district attorney). Giving independent authority to the Secretary of State to prosecute local crimes provides unnecessary overlap of duties and resources.

Additionally, the proposed language would create the need for separate investigatory and prosecutorial personnel within the Secretary of State's office. This increase and devotion of resources appears again, to be unnecessary and wasteful given that there are already officials more appropriately positioned and resourced to deal with such matters. If such concurrent authority exists in other agencies, there usually is the appointment of a special assistant attorney general. Absent such concurrent authority, the traditional approach is for the attorney general to consult with and advise county attorneys, when requested by the county attorney, in all matters pertaining to the county attorney's official duties. See K.S.A. 75-704.

In conclusion, the KCDAAs believe that any prosecutorial power to enforce this legislation should remain with the local county or district attorney. Crimes that are considered in this legislation are no different from all of the other crimes currently being prosecuted by our local county and district attorneys. If the situation requires, the county or district attorney will request the advice and consultation of the attorney general on the crimes suggested by this legislation.

It is the KCDAAs' position that any attempts to give prosecutorial power to any office other than the county or district attorney is bad public policy. The KCDAAs urge the Senate to not support any such efforts.

I thank you for your time and would be happy to answer any questions you may have regarding the proposed legislation.

Sincerely,

Stephen M. Howe

Johnson County District Attorney

We urge the passage of HB2042

Kim T Parker

Prosecutor Coordinator

Kansas County and District Attorney's Association

316-650-7267