



# Kansas Bureau of Investigation

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## **Testimony in Support of House Bill 2446 Before the House Standing Committee on Judiciary**

**Katie Whisman, Executive Officer  
Kansas Bureau of Investigation**

**January 22, 2020**

Chairman Patton and Members of the Committee:

My name is Katie Whisman and I serve as the Executive Officer for the Kansas Bureau of Investigation (KBI). Thank you for the opportunity to provide written testimony in support of House Bill 2446, which proposes changes to the return of property seized by law enforcement. For reasons described below, the KBI strongly supports the inclusion of dangerous drugs in the existing hazardous materials provisions, as well as the addition of language that ensures law enforcement officers are not required to return firearms to persons prohibited from possessing them.

The new definition of dangerous drugs importantly includes in K.S.A. 22-2512 any drugs, substances, or immediate precursors included in schedules I through IV of the Kansas uniformed controlled substances act. This change allows law enforcement agencies to deal with dangerous illegal drugs, substances, or immediate precursors that have the potential for abuse and pose various risks to human safety in the same manner we deal with hazardous materials. Effectively, this change will allow for a representative sample of the seized narcotics to be collected for purposes of laboratory testing without requiring that law enforcement maintain the entire seizure until its destruction is authorized by a court of law.

Storage of dangerous drugs pose threat of harm that increases with each handling, particularly for dangerous drugs such as fentanyl. The changes proposed in Section 1 will reduce the number of times an officer is required to come into contact with such dangerous drugs, as well as eliminate the requirement that large drug quantities be maintained in storage facilities for extended amounts of time.

Section 1 also proposes several changes with regard to returning firearms to the rightful person upon conclusion of the case. The bulk of these changes will be addressed by the introducer of the bill and, while we are supportive of each, my testimony will be limited to emphasizing the importance of those changes in subsection (d)(2) to ensure compliance with federal law.

The prohibitions referenced in subsection (d)(2) are set forth in in the Brady Handgun Violence Prevention Act, often referred to as "The Brady Bill", which includes the following 11 categories for which an individual is prohibited from receiving or possessing a firearm:

- 18 United States Code (U.S.C.) §922 (g) (4) - Adjudicated as a mental defective or committed to a mental institution;
- 18 U.S.C. §922 (g) (9) - Conviction in any court of a misdemeanor crime of domestic violence;
- 18 U.S.C. §922 (g) (1) - Felony convictions;
- 18 U.S.C. §922 (g) (2) - Fugitive from justice;
- 18 U.S.C. §922 (g) (3) - Unlawful user/addicted to a controlled substance;
- 18 U.S.C. §922 (g) (5) - Illegal/unlawful alien;
- 18 U.S.C. §922 (g) (6) - Dishonorable discharge;
- 18 U.S.C. §922 (g) (7) - Renounced citizenship;
- 18 U.S.C. §922 (g) (8) - Protection/restraining orders for domestic violence;
- 18 U.S.C. §922 (n) - Under indictment/information.

These changes are not only necessary to ensure law enforcement officers are not required to unlawfully return firearms to individuals who are prohibited by state or federal law from possessing them, but of critical importance to the safety of Kansas citizens. Functionally, a Kansas law enforcement officer would make an inquiry of the National Instant Background Check System, or "NICS", to ensure the person to whom the seized firearm is to be returned is not prohibited from receiving or possessing it under federal law. The changes proposed also take into account that prohibited possession does not also prohibit ownership.

HB 2446 proposes statutory changes which will help improve the safety of Kansas citizens. As an agency whose core mission is to promote public safety and prevent crime in Kansas, the KBI strongly supports the enhancements proposed by HB 2446.

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