

February 5, 2013

The Honorable Jeff King, Chairperson
Senate Committee on Judiciary
Statehouse, Room 341-E
Topeka, Kansas 66612

Dear Senator King:

SUBJECT: Fiscal Note for SB 80 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 80 is respectfully submitted to your committee.

Current law allows the District or County Attorney in a county to petition the Chief Judge or the Chief Judge's designee in that county's district court to order a grand jury summoned to investigate alleged violations of an off-grid felony; a severity level 1, 2, 3, or 4 felony; or a drug severity level 1 or 2 felony. The Chief Judge then considers the petition and, if the petition is in proper form, can order a grand jury to be summoned. SB 80 would allow a grand jury to consider any alleged felony law violation and would require that the grand jury be summoned within 15 days after receipt of the petition.

The bill would also allow grand juries to employ investigators and employ special counsel, in both cases with the approval of the district court, and incur other expenses for services and supplies that are considered necessary by the grand jury and the district court. The bill would require that, when a grand jury is to be summoned for any alleged felony violation, the prosecuting attorney must attend all sessions and inform the grand jury of all offenses for which the accused may be indicted and all related evidence which will be presented for consideration. The prosecuting attorney must also present witnesses, examine the witnesses on all the matters the grand jury will consider, and give the grand jury advice on questions related to the proper discharge of their duties.

Current law provides that disclosure of matters occurring before the grand jury may be made to the prosecuting attorney for use in the performance of the attorney's duties. The bill would mandate disclosure. However, a juror, interpreter or typist who transcribes written testimony shall not disclose matters occurring before the grand jury except, in certain cases by court order. The bill would set timelines for grand juries.

SB 80 would also allow the court to order the amendment of an indictment, as long as the amendment does not change the substance of the charge and does not prejudice the defendant on

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the merits. Upon ordering an amendment, the court could grant a continuance to provide the defendant adequate opportunity to prepare a defense. An indictment could not be amended as to the substance of the offense charged.

According to the Office of Judicial Administration, passage of SB 80 could increase the amount of time spent by district courts for summoning of grand juries and amending indictments related to the provisions of the bill. However, until the courts have had an opportunity to operate under the provisions of SB 80, an accurate estimate of the fiscal effect on expenditures by the Judicial Branch cannot be given. Local governments could experience an increase in fees and mileage paid to grand jurors, if additional grand juries are impaneled. Any fiscal effect associated with SB 80 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", with a long horizontal flourish extending to the right.

Steven J. Anderson, CPA, MBA

Director of the Budget

cc: Mary Rinehart, Judiciary