

March 3, 2021

The Honorable Fred Patton, Chairperson
House Committee on Judiciary
Statehouse, Room 519C-N
Topeka, Kansas 66612

Dear Representative Patton:

SUBJECT: Fiscal Note for HB 2122 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2122 is respectfully submitted to your committee.

HB 2122 would establish the Supported Decision-Making Agreements Act. The bill would allow an adult to enter into a supported decision-making agreement, which provides for a process by which an adult, referred to in the bill as a “principal”, may receive decision-making assistance with the adult’s affairs from one or more designated adults. The adult wanting to receive decision-making assistance would not enter into a supported decision-making agreement unless the adult enters into the agreement voluntarily and without coercion and understands the nature and effect of the agreement.

The affairs that could be managed through the agreement are monitoring health, managing income and assets, handling personal health care and financial matters; and monitoring support services, living arrangements, and work arrangements. A supported decision-making agreement would name one or more adults to provide a principal with decision-making assistance; describe the decision-making assistance that each supporter may provide the principal; and contain a notice to third parties that summarizes the rights and obligations of the supporter under the agreement.

The bill specifies the requirements for making a supported decision-making agreement valid; defines the effective date and termination process for the agreement; outlines the roles and responsibilities of the supporter operating under a decision-making agreement; and provides for the protection of those acting in reliance on a supported decision-making agreement.

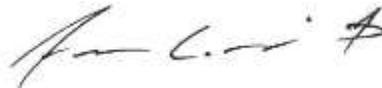
The bill specifies that supporters acting in good faith would not be liable for injuries, damages, or other losses arising from decisions they assisted with or were involved in and would add violations of the Act to the crime of mistreatment of a dependent adult or an elder person.

The Office of Judicial Administration states enactment of HB 2122 could have a fiscal effect on Judicial Branch operations because the bill could create litigation around the scope of the agreements; create litigation regarding liability of individuals under the agreements; create additional work for judges in guardianships or conservatorships if the wards are entering into these agreements; and create additional criminal cases, which could result in more time spent by court employees and judges processing and hearing cases. According to the Office, a fiscal effect cannot be estimated until the Judicial Branch has had an opportunity to operate under the bill's provisions.

The Office of the Attorney General states enactment of the bill could increase cases referred for investigation or prosecution to the agency's Fraud and Abuse Litigation Division; however, the agency is unable to estimate the number of additional cases or additional expenditures.

The Kansas Sentencing Commission indicates enactment of the bill may have an effect on prison admissions and beds; however, the Commission cannot provide an estimate. Any fiscal effect associated with HB 2122 is not reflected in *The FY 2022 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Debbie Thomas, Judiciary
Willie Prescott, Office of the Attorney General