

February 20, 2023

The Honorable Kellie Warren, Chairperson  
Senate Committee on Judiciary  
300 SW 10th Avenue, Room 346-S  
Topeka, Kansas 66612

Dear Senator Warren:

**SUBJECT:** Fiscal Note for SB 211 by Senator McGinn, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning SB 211 is respectfully submitted to your committee.

SB 211 would abolish the death penalty for crimes committed on or after July 1, 2023. The bill would repeal the capital murder statute and create the new crime of aggravated murder, which would be an off-grid person felony. Offenders convicted of aggravated murder would be sentenced to imprisonment for life without the possibility of parole and would not be eligible for commutation of sentence, parole, probation, assignment to a community correctional services program, conditional release, post release supervision, functional incapacitation release, or suspension, modification, or reduction of sentence. The bill would also make several technical amendments.

The Office of Judicial Administration states enactment of SB 211 would still require the courts to work through any existing death penalty cases committed before July 1, 2023. Judges and nonjudicial staff at both the district and appellate court levels work additional hours to address death penalty cases and, to some extent, have to delay hearing other cases. The Office indicates aggravated murder proceedings would be less lengthy than death penalty proceedings. According to the Office, a fiscal effect cannot be estimated on the Judicial Branch until the courts have been given an opportunity to operate under the bill's provisions.

If the death penalty were to be abolished under SB 211, the State Board of Indigents' Defense Services estimates savings for the agency of approximately \$1.6 million a year from the State General Fund in casework costs. According to the Board, these savings would not be realized for a few years because of the time it takes to resolve existing caseloads of already charged or convicted capital cases.

The Office of the Attorney General estimates that the bill would cause the agency to incur additional costs of approximately \$375,000 from the State General Fund over the next two fiscal years. The Office states that new legal arguments may be available to those offenders who were sentenced to death for crimes committed before July 1, 2023. According to the Office, there are ten offenders who are under the sentence of death. This could result in those offenders creating additional legal actions, which would result in litigation costs of approximately \$250,000 (10 offenders x \$25,000 per case) for those cases. Also, the Office of the Attorney General anticipates that the bill would generate at least one U.S. Supreme Court appeal, which would require additional expenditures of approximately \$125,000.

The Kansas Sentencing Commission states that enactment of SB 211 would have no effect on prison admissions or beds. The Kansas Department of Corrections estimates enactment of SB 211 would not have a fiscal effect on Department operations. Any fiscal effect associated with SB 211 is not reflected in *The FY 2024 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: Vicki Jacobsen, Judiciary  
Heather Cessna, Board of Indigents Defense Services  
Scott Schultz, Sentencing Commission  
Randy Bowman, Department of Corrections  
John Milburn, Office of the Attorney General