

February 17, 2012

The Honorable Pat Colloton, Chairperson  
House Committee on Corrections and Juvenile Justice  
Statehouse, Room 167-W  
Topeka, Kansas 66612

Dear Representative Colloton:

**SUBJECT:** Fiscal Note for HB 2707 by House Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2707 is respectfully submitted to your committee.

HB 2707 would create several new procedures regarding the discharge of defendants who have been involuntarily committed to treatment facilities. Heads of treatment facilities would be required to provide written evaluation reports of defendants to courts. In turn, courts must hold expedited hearings within 30 days of receiving the reports. At the hearings, courts would determine whether or not a defendant is likely to cause harm to self or others. Before defendants are discharged, heads of treatment facilities must provide notices to the district courts that the defendant is ready for conditional release or discharge. Upon receiving this notice, district courts must hold subsequent hearings to determine whether the defendant shall be conditionally released or discharged. Courts must order the defendant to undergo a mental evaluation by an evaluator designated by the court. If conditional release is ordered, courts may order the defendant to continue to take prescribed medication and report as directed to a person licensed to practice medicine and surgery.

Courts may permit defendants to remain in treatment facilities for up to 45 days to allow the Department of Social and Rehabilitation Services (SRS) to develop reentry plans. Courts would also be able to transfer the venue of any case in which a conditionally released defendant will reside in a county that is different than the county where the district court that ordered the release is located. In all cases, courts would be required to place the defendant under the temporary supervision of court probation and parole services, a community treatment facility, or any appropriate private agency.

If at any time during the transitional period the designated medical officer, supervisory personnel, or the treatment facility informs the court that the defendant is not satisfactorily complying with the provisions of the conditional release, the court may require additional

conditions of release, require a determination be made as to whether the defendant is mentally ill, or require the defendant to be committed to a state security hospital or any state hospital. The costs of all proceedings, mental evaluations, and programs authorized by the bill would be paid by the county from which the defendant was committed.

Estimated State Fiscal Effect				
	FY 2012 SGF	FY 2012 All Funds	FY 2013 SGF	FY 2013 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$4,000,000	\$14,100,000
FTE Pos.	--	--	--	61.00

The Department of Social and Rehabilitation Services indicates that passage of HB 2707 would require expanding the Adult Treatment Center (ATC) building at Larned State Hospital (LSH), as well as adding funds to Osawatomie State Hospital (OSH) to sustain the 30 bed unit that will be available after the renovations are completed at Rainbow Mental Health Facility. It is estimated that the total costs for FY 2013 would be \$14,100,000 which would include \$4,000,000 from the State General Fund and 61.00 FTE positions for OSH; and \$10,100,000 from the State Institutions Building Fund (SIBF) for the ATC expansion. According to *The FY 2013 Governor's Budget Report*, an SIBF ending balance of only \$6,345,630 is expected for FY 2012. SRS projects \$2,400,000 from the State General Fund plus 39.00 FTE positions would be required in FY 2014 to open and maintain 15 beds at LSH.

SRS states that of the 3,303 defendants annually committed by the agency, 110 are defendants who have been found to be incompetent to stand trial and would potentially become long-term patients in state hospitals under HB 2707. While the State Security Hospital (SSH) would not be affected, the bill would place a demand on civil treatment beds at both at LSH and OSH. Also, it is not clear how long the evaluations might take but based on agency experience, independent, separate evaluations can take several months to complete which would cause treatment beds to be occupied for extended periods of time. Furthermore, for cases in which civil courts grant patients conditional release, LSH or OSH would be required to hold the patients for up to 45 days to prepare reports with recommendations for conditional release. This scenario would also put pressure on treatment bed capacity.

HB 2707 could increase the number of hearings held in district courts and the number of appeals relating to mental health evaluations and determinations of a defendant's competency to stand trial. As a result, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system in the form of additional time spent by court personnel to process, research, and hear the cases. The Office also states that holding expedited hearings could require additional staff time to reschedule other court matters. However, it is not possible to predict the number of additional hearings or appeals that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined.

The Honorable Pat Colloton, Chairperson

February 17, 2012

Page 3—2707

The Kansas Association of Counties expects substantial costs for counties from the provision of the bill that requires counties to pay the expenses of all proceedings, mental evaluations, and programs. However, the Association is unable to predict a precise fiscal effect because no data exist containing the number of affected counties and associated costs for such proceedings, evaluations, and programs. Any fiscal effect associated with HB 2707 is not reflected in *The FY 2013 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", written in a cursive style.

Steven J. Anderson, CPA, MBA  
Director of the Budget

cc: Mary Rinehart, Judiciary  
Jeremy Barclay, DOC  
Jackie Aubert, SRS  
Melissa Wangemann, KAC