

February 12, 2014

The Honorable Lance Kinzer, Chairperson
House Committee on Judiciary
Statehouse, Room 165-W
Topeka, Kansas 66612

Dear Representative Kinzer:

SUBJECT: Fiscal Note for HB 2555 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2555 is respectfully submitted to your committee.

HB 2555 amends KSA 22-2302 to limit the magistrate in considering the information within a criminal complaint and the affidavits filed with the complaint when determining whether there is probable cause to issue an arrest warrant. Under current law, the magistrate would be able to consider other evidence beyond that contained in the complaint and affidavits.

HB 2555 would make affidavits or sworn testimony filed in support of a request for an arrest warrant or summons publically available after the warrant or summons is served. The bill also amends KSA 22-2502 to make affidavits and sworn testimony filed in support of an application for a search warrant available 30 days after their execution. Under current law, these documents are available for examination only with a written order from the court. Except that the documents are available upon request of the defendant or the defense counsel. The bill would allow the issuing magistrate to seal the affidavit or sworn testimony upon compelling state interest. Finally, the bill would require the issuing magistrate to redact certain information from the affidavit or sworn testimony.

The Office of the Attorney General states that HB 2555 would affect their criminal prosecutors by requiring an extra layer of review of affidavits before they are presented to the magistrate. Prosecutors would have to determine whether to omit, request certain information be redacted, or request the affidavit be sealed in its entirety. If redaction or sealing are necessary, the prosecutor will likely have to present the affidavit to the magistrate in person to make the request. Since many of the cases prosecuted by the Attorney General are far from Topeka, additional travel time would be needed to present the probable cause affidavit to the judge in person. A specific fiscal effect cannot be determined because the number of affidavits occurring under the conditions of the bill is unknown.

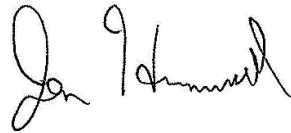
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For the Judicial Branch, HB 2555 would extend the period of time that it takes to hear a case as it would require judges to redact information from affidavits and testimony offered in support of a probable cause finding for warrants along with weighing the validity of a prosecutor's request of seal certain affidavits and testimony. This in turn would increase the time spent by district court judicial and non-judicial personnel in processing, researching, and hearing cases. However, it is not possible to predict how complex and time consuming they will be. Therefore, a precise fiscal effect cannot be determined. Any fiscal effect associated with HB 2555 is not reflected in *The FY 2015 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Hummell". The signature is written in a cursive style with a large initial "J" and "H".

Jon Hummell,
Interim Director of the Budget

cc: Mary Rinehart, Judiciary
Willie Prescott, Attorney General's Office