

February 18, 2015

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

Dear Senator King:

SUBJECT: Fiscal Note for SB 149 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 149 is respectfully submitted to your committee.

KSA 59-29a01 et seq. authorizes the civil commitment of persons charged with or convicted of a sexually violent offense. When it appears that one of these persons may meet the criteria of a sexually violent predator, the agency with jurisdiction is required to notify the Attorney General and the multidisciplinary team established by the Department of Corrections prior to their release. The Attorney General must then appoint a prosecutor's review committee and determine whether to file a petition in district court to have the person involuntarily committed based on the findings of the review committee and the multidisciplinary team assessment.

Currently, there are approximately 240 sexually violent predators civilly committed to the state's Sexual Predator Treatment Program under KSA 59-29a01 et seq. Each of them is entitled to an annual review of the improvement in their mental health that may warrant their conditional release. In addition, many file cases in district court alleging that their conditions of commitment violate rights assured by K.S.A. 59-29a22. SB 149 would name KSA 59-29a01 et seq., the Kansas Sexually Violent Predator Act, and amend several of its provisions related to (1) the review process and court proceedings to determine whether a person should be civilly committed to the Sexual Predator Treatment Program (SPTP) at Larned State Hospital; (2) the components of the Sexual Predator Treatment Program itself; (3) the annual review process that may warrant a sexually violent predator's transitional or conditional release; and (4) the sexually violent predator's right and rules of conduct while committed.

Notably, SB 149 would increase the number of sexually violent predators allowed in any one county in the SPTP Transition Program from eight to 16. Additionally, sexually violent predators would be responsible for reimbursing the government for the rehabilitation they receive, and for prosecution and defense costs for any civil actions filed which relate to commitment. Persons committed to the program would file petitions for release with the Office of Administrative Hearings instead of the district court. Appeals regarding a sexually violent predator's rights and rules of conduct which concern an action by the Kansas Department of

Aging and Disability Services would also be heard by the Office of Administrative Hearings. The bill would allow hearings to be conducted by telephone or other electronic means unless an officer or judge determines an in-person proceeding is required. Finally, the county would be responsible for the costs of any post-commitment hearings, annual review hearings, evaluations, sexual predator treatment program administrative hearings, and other expenses.

The Kansas Department for Aging and Disability Services indicates the enactment of SB 149 would have no immediate fiscal effect on the Department or the state hospitals. However, should the agency determine the need to expand the SPTP Transition Program, there would be costs associated with either building or renovating space to house the additional individuals, as well as the on-going operating expenses associated with the program expansion. The Office of Administrative Hearings estimates that the processes required in SB 149 would increase its expenditures by approximately \$160,000 annually beginning in FY 2016 for an additional 1,500 hours spent by administrative law judges conducting impartial hearings for the two categories of disputes as the means for appellants to exhaust their administrative remedies. The agency indicates its administrative law judges are compensated \$100 per hour plus specified court costs, and SB 149 would require these costs to be reimbursed by the county in which the case was filed. However, the Kansas Association of Counties indicates counties would realize savings in transporting committed persons from Larned to county courthouses which would offset any costs.

The Kansas Attorney General indicates it would also realize savings in travel costs and from more efficient review hearings conducted by the Office of Administrative Hearings though any savings would be negligible. The Office of Judicial Administration indicates shifting cases to the Office of Administrative Hearings could produce savings for district courts. In addition, shifting the responsibility for paying costs from counties to civilly committed persons could create a delay in the time payments are received. However, a precise estimate in savings or any delay in the time in which revenues could be received cannot be provided until the courts have had an opportunity to operate with the provisions of the bill in place. Any fiscal effect associated with SB 149 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,



Shawn Sullivan,
Director of the Budget

cc: Mary Rinehart, Judiciary
Jeremy Barclay, Corrections
Brad Ridley, Aging & Disability Services
Melissa Wangemann, Association of Counties
Pam Fink, Department of Administration
Bob Corkins, Administrative Hearings
Willie Prescott, Attorney General's Office