

March 20, 2020

The Honorable John Barker, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 285-N
Topeka, Kansas 66612

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2733 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2733 is respectfully submitted to your committee.

HB 2733 would require a court to issue an order requiring a defendant to relinquish all firearms in the defendant's control, custody, or possession and also any concealed carry license if the defendant is subject to a qualifying protective order or has been convicted of domestic battery or misdemeanor domestic violence.

If the defendant is present in court at the time the order is pronounced, they must relinquish the firearms and license within 24 hours. If the defendant is not present, a law enforcement officer must personally serve the order to the defendant. If a law enforcement officer cannot effectuate service, then service would have to be made in accordance with the civil statute for service.

The person to whom the firearms or license is surrendered must provide written proof of relinquishment. The defendant must file the proof within 48 hours after relinquishment. If the defendant fails to provide the proof, the clerk of the court would be required to notify the sheriff. The sheriff must make a good faith effort to determine if the defendant has failed to relinquish firearms and/or a license. The relinquishment order would remain in place for the duration of the qualifying protective order issued against the defendant or for the period of time which the defendant cannot possess a firearm.

The plaintiff, county/district attorney, or a law enforcement officer could file an affidavit alleging the defendant still possesses firearms and/or a license. If the court finds probable cause that the defendant still possesses, controls, or has access to firearms, the court would be required to issue a search warrant. The defendant could request the firearms be returned after the order terminates. A background check would be conducted before the firearms are returned.

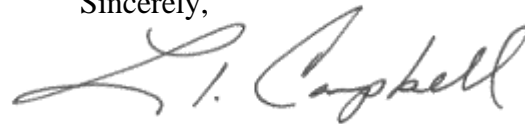
The bill would specify that it would be unlawful for a defendant to possess a firearm or concealed carry license issued to the defendant while there is a relinquishment order in effect. Violation would be a severity level eight, nonperson felony.

The Office of Judicial Administration indicates requirements in the bill, including judges issuing orders, court clerks tracking whether the offender provides proof of relinquishment of firearms, and court clerks notifying a sheriff if proof of relinquishment is not filed would increase the workload of district court personnel. In addition, the Office states there is not a current process or system to track whether a proof of relinquishment has been filed, so this would most likely be a manual calendaring process by district court clerks. It is possible that programming changes could be performed to the current case management system to reduce the workload of manual tracking by the clerks; however, this would result in additional expenditures for the Judicial Branch for the programming changes. 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 Kansas Sentencing Commission estimates enactment of HB 2733 would increase prison admissions by 42, 63, or 85 in FY 2021 and 46, 69, or 93 by FY 2030. The Commission further estimates that enactment of the bill would increase prison beds by 25, 37, or 50 in FY 2021 and 28, 43, or 55 by FY 2030. The Commission's estimates are based on three different scenarios. The Department of Corrections indicates the agency would house any additional inmates in either county jails or out-of-state contract beds. The cost to house an inmate in a contract bed ranges from \$40 per day to \$75 per day. Any fiscal effect associated with HB 2733 is not reflected in *The FY 2021 Governor's Budget Report*.

The Kansas Association of Counties indicates if a county is the jurisdiction issuing, enforcing, or administering the relinquishment order, it could increase costs to the county; however, the Association does not have enough information estimate a fiscal effect.

Sincerely,



Larry L. Campbell
Division of the Budget

cc: Mary Rinehart, Judiciary
Jay Hall, Association of Counties
Scott Schultz, Sentencing Commission
Randy Bowman, Corrections