

March 13, 2013

REVISED

The Honorable John Rubin, Chairperson  
House Committee on Corrections and Juvenile Justice  
Statehouse, Room 151-S  
Topeka, Kansas 66612

Dear Representative Rubin:

SUBJECT: Revised Fiscal Note for HB 2388 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2388 is respectfully submitted to your committee.

HB 2388 would amend existing law relating to capital murder and appellate review. The Kansas Supreme Court must consider the question of sentence as well as any properly preserved and asserted errors in the review and appeal and would be permitted to notice unassigned and unpreserved errors appearing of record to correct manifest injustice. Manifest injustice would be established when the error more probably than not resulted in the conviction of an innocent person or the error is so shocking to the conscience and obviously unfair that it is more likely than not that the defendant did not receive a fair trial. The amendments contained in the bill would establish an appellate procedure and be applied retroactively to all cases currently pending on appeal.

The Board of Indigents Defense Services reports that HB 2388 would create new issues on appeal and new issues for 1,507 challenges of ineffective assistance of counsel. The additional issues on appeal and the ineffective assistance of counsel issues would require an additional team of capital defenders. Two capital appellate defenders make up a team and would cost a total \$144,800 from the State General Fund in FY 2014 (2 defenders X \$72,400 annual salary and wages). This information was not included in the original bill. The additional expenses are not included in *The FY 2014 Governor's Budget Report*.

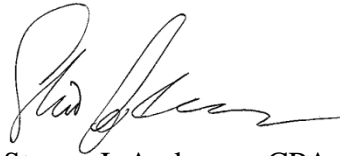
The Honorable John Rubin, Chairperson

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According to the Office of Judicial Administration, passage of the bill would have no fiscal effect on the Judicial Branch.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", with a long horizontal flourish extending to the right.

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

cc: Mary Rinehart, Judiciary  
Pat Scalia, Indigents Defense