

February 13, 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 2562 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2562 is respectfully submitted to your committee.

HB 2562 would create new laws related to criminal procedure and the release of defendants who have been deemed incompetent by the courts and who have been involuntarily committed. For defendants who have been involuntarily committed and are to be released, written evaluations must be sent to the courts by the heads of the treatment facilities. Courts must hold hearings within 30 days to determine whether the defendant is likely to cause harm to self or others. Hearing notices must be provided to district or county attorneys, defendants, the attorneys of the defendants, heads of treatment facilities, and the Department of Corrections. If a court finds clear and convincing evidence that a defendant is not likely to cause harm, the criminal proceedings must be dismissed and the defendant discharged. Otherwise, the court may commit the defendant to a treatment facility or place the defendant on conditional release.

Before a defendant is discharged, heads of treatment facilities must notify the district court from which the defendant was committed that the defendant is ready for conditional release or discharge. Upon receiving the notice from treatment facilities, courts must order a hearing on the proposed release or discharge. In turn, courts must provide notice of the hearings to the relevant district or county attorneys and to the Department of Corrections. Involuntarily committed defendants must undergo mental evaluations, the results of which must be provided to district or county attorneys, the defendants, and the attorneys of the defendants at least seven days before the hearing.

If the court finds that the defendant is not likely to cause harm to self or others, the defendant must be discharged or conditionally released, otherwise the defendant must remain in the treatment facility. Conditional release may be ordered and the defendant required to continue taking prescribed medication and to report to an appropriate psychiatric or psychological provider.

When a defendant is to be conditionally released, courts may permit the defendant to remain at the treatment facility for up to 45 days so that recommendations for a reentry program can be prepared and victim notifications be provided. In all cases of conditional release, defendants must be placed under the temporary supervision of district court probation and parole services, community treatment facilities, or appropriate private agencies.

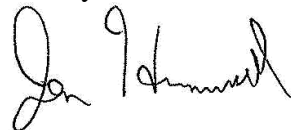
A defendant's attorney or a county or district attorney may file a motion to modify the conditions of the defendant's release. If designated medical officers, supervisory personnel, or treatment facilities inform the court that the defendant is not complying with the provisions of release, courts may order additional conditions of release, require county or district attorneys to file petitions to determine whether the defendant is mentally ill, or require the defendant to be committed to a state security hospital or any other hospital. The bill would require that the costs of all proceedings, evaluations, and reentry programs be paid by the county from which the defendant was committed.

According to the Kansas Association of Counties, HB 2562 would have a fiscal effect on local governments from the expenditures related to the required legal proceedings, mental evaluations, and reentry plans. However, the precise effect is difficult to estimate because the number of proceedings, evaluations, and plans that might occur as a result of the bill is not possible to predict. The Association does not currently possess the required data from which an estimate can be made.

The Office of Judicial Administration indicates that the bill creates the possibility of expedited hearings, which can result in scheduling problems in courts that already have hearing and trial times set in advance. Based on an estimate of 40 hearings per year with each hearing lasting approximately two hours, the Office states that it would be difficult to accommodate the additional hearings within the established court schedule. This would require the use of an assigned judge, which would cost approximately \$2,363 per year. It is also estimated that HB 2562 would add to the caseloads of court service officers who may be required to provide temporary supervision of defendants. This would increase the time spent by court service officers to handle the additional cases. Additional time would also be required by non-judicial personnel to file and docket hearings and motions. However, it is not possible to predict the number of additional cases, hearings, or motions or that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined.

A request for information was sent to the Department of Aging and Disability Services to assess the bill's effects on the agency; however, no information had been received at the time this note was prepared. A revised note will be submitted for the committee's deliberations upon receipt of the information. Any fiscal effect associated with HB 2562 is not reflected in *The FY 2015 Governor's Budget Report*.

Sincerely,



Jon Hummell,
Interim Director of the Budget

cc: Jeremy Barclay, Corrections
Mary Rinehart, Judiciary
Pat Scalia, Indigents Defense Services
Melissa Wangemann, Association of Counties
Jackie Aubert, Children & Families
Brad Ridley, Aging & Disability Services