

January 20, 2021

The Honorable Kellie Warren, Chairperson
Senate Committee on Judiciary
Statehouse, Room 441B-E
Topeka, Kansas 66612

Dear Senator Warren:

SUBJECT: Fiscal Note for SB 3 by Joint Committee on Corrections and Juvenile Justice Oversight

In accordance with KSA 75-3715a, the following fiscal note concerning SB 3 is respectfully submitted to your committee.

SB 3 would establish a certified drug abuse treatment program for certain persons who enter into a diversion agreement in lieu of further criminal proceedings. Placement of divertees in certified drug abuse treatment programs pursuant to a diversion agreement would be limited to placement of adults on a complaint alleging certain felony violations whose offense is classified within specific grid blocks and the divertee has no other specific felony convictions or any other substantially similar offense from another jurisdiction. The term of treatment could not exceed 18 months.

The bill would specify that a county or district attorney may enter into a memorandum of understanding with the chief judge of a judicial district or community correctional services to assist with supervision and monitoring of persons who have entered into a diversion agreement. A memorandum of understanding would include provisions related to determining the level of supervision needed for a defendant, use of a criminal risk-need assessment, and payment for costs of supervision. The Office of Judicial Administration would be allowed to develop guidelines regarding the content of the memorandum of understanding.

Under SB 3, any person who has entered into a diversion agreement would be subject to certain fees, which would be collected by the district court. Of the monies collected from supervision fees, 41.67 percent would be remitted to the State General Fund and 58.33 percent would be remitted to the Correctional Supervision Fund. All monies collected for urinalysis testing would be deposited into the county's general fund.

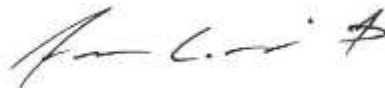
The bill would provide that if a person has entered into a diversion agreement in lieu of further criminal proceedings, the county or district attorney would determine the extent that the

person is able to pay for the assessment and treatment. Payments would be used by the supervising agency to offset costs to the state or county. If the financial obligations are not met or cannot be met, the county or district attorney would be notified for the purpose of collection or review and further action on the person's diversion agreement. The bill would include additional provisions related to the proposed diversion agreement.

The Office of Judicial Administration indicates enactment of SB 3 would have a fiscal effect on Judicial Branch operations to monitor the agreement process and for court services to supervise more offenders; however, a fiscal effect cannot be estimated. The bill could increase revenues from supervision fees to the Judicial Branch's Correctional Supervision Fund and the State General Fund. The Office also estimates the bill could also increase revenues from testing fees to county general funds.

The Kansas Sentencing Commission estimates enactment of SB 3 could result in additional prison admissions and beds. Additionally, the Commission estimates enactment of the bill could increase the number of SB 123 drug treatment offenders by either 25, 50, or 75 persons in FY 2022. The Commission's estimates are based on three different scenarios. Because of the potential increase of SB 123 drug treatment offenders, the Commission estimates additional State General Fund expenditures of \$88,368, \$176,737, or \$265,105 in FY 2022, depending on which scenario occurs. The Commission reports the average cost of treatment in the SB 123 Drug Treatment Program was \$3,535 per offender in FY 2020. The Department of Corrections indicates it does not have the ability to estimate the number of divertees that may require community corrections supervision and cannot estimate a fiscal effect. Any fiscal effect associated with SB 3 is not reflected in *The FY 2022 Governor's Budget Report*.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Debbie Thomas, Judiciary
Scott Schultz, Sentencing Commission
Lynn Robinson, Department of Revenue
Wendi Stark, League of Municipalities
Jay Hall, Association of Counties
Randy Bowman, Corrections