

January 24, 2012

The Honorable Tim Owens, Chairperson
Senate Committee on Judiciary
Statehouse, Room 559-S
Topeka, Kansas 66612

Dear Senator Owens:

SUBJECT: Fiscal Note for SB 305 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 305 is respectfully submitted to your committee.

SB 305 provides clarification and details related to the timeline in which a trial must be held. The bill would add “the defendant’s attorney” to provisions in current law so that delay as a result of the application or fault of the defendant or the defendant’s attorney would be charged to the defendant. This would apply to the time limitation of 90 days after arraignment within which a person charged with a crime would be brought to trial, and to the time limitation of 180 days after arraignment within which persons charged with a crime and held to answer on an appearance bond would be brought to trial.

The bill provides that the deadline for trial would be the original trial deadline plus 90 days and the time passed as a result of the delay. The original trial deadline is the date of arraignment plus the 90 days for persons not on bond and 180 days for persons on bond. If the defendant fails to appear for the trial or any pretrial hearing and a bench warrant is ordered, the trial would be rescheduled within 90 days after the defendant has appeared in court after apprehension or surrender.

SB 305 would also provide that the time limitations following the granting of a motion for a new trial would be the same as those applicable after the declaration of a mistrial or the reversal of a conviction. If a delay in a proceeding is requested by the defendant’s attorney without consulting the defendant or over the objection of the defendant, the delay would be charged to the defendant. If the delay is initially attributed to the defendant, but is subsequently charged to the state, the delay would not be considered against the state under the time limitations of the bill, and would not be used as a ground for dismissing a case or reversing conviction.

The Honorable Tim Owens, Chairperson

January 24, 2012

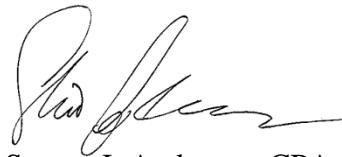
Page 2—305

When a trial is scheduled within the time limitations and a delay is requested by a party by filing a motion or because the court raises a concern on its own, the time limitations of the bill would not be violated. If the concern is raised within less than 30 days of the trial, the trial date would be extended 30 days for the court order. If the state requests and is granted a delay, the time elapsed would not be held against the state if an appellate court later determines that the district court erred in granting the state's request.

The provisions of SB 305 would be applied retroactively in any legal challenge or proceeding that comes before a district court or an appellate court.

The Judiciary and the Board of Indigents Defense both state that enactment of SB 305 would have no fiscal effect.

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