

January 28, 2013

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

Dear Representative Rubin:

**SUBJECT:** Fiscal Note for HB 2034 by House Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2034 is respectfully submitted to your committee.

Under current law, search warrants can be issued for crimes that have been or are being committed. HB 2034 would permit the issuance of a search warrant if the crime is about to be committed and would allow for the search, as well as the seizure of evidence, fruits, or instrumentalities of a crime, or of persons related to a crime.

HB 2034 adds provisions for the issuance of search warrants for the covert installation, maintenance and use of tracking devices. A tracking device is defined as an electronic or mechanical device that permits a person to remotely determine or track the position or movement of a person or object, including, but not limited to, a device that stores geographical data for subsequent access or analysis and a device that allows for the real-time monitoring of movement. Search warrants for the installation of a tracking device would be sealed by the court and no copy left or served, except as discovery in a criminal prosecution. The bill includes the following provisions for search warrant procedure and tracking devices:

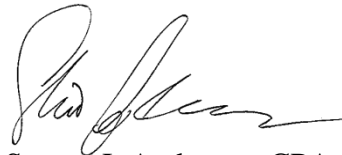
1. A search warrant for covert installation, maintenance, and use of a tracking device would authorize the installation and use of the tracking device to track and collect tracking data relating to a person or property for a specific period of time, not to exceed 30 days from the date of the installation of the device;
2. The warrant may authorize the retrieval of the tracking data within a reasonable time after the expiration of the warrant;
3. The magistrate may grant one or more extensions of a search warrant for the use of a tracking device, not to exceed 30 days each;

4. A search warrant issued for the installation of a tracking device would not be limited by jurisdiction and may be executed anywhere within the state;
5. A search warrant would be valid during the time period specified by the warrant, regardless of whether the tracking device or the subject person or property leaves the issuing jurisdiction;
6. The device must be installed with 15 days of the issuance of the warrant;
7. The warrant must include the date and time of the installation of the tracking device and the period of time it was used;
8. The tracking device must be deactivated and removed as soon as practicable after the search warrant has expired; and
9. If removal is not possible, the tracking device must be deactivated and not reactivated without an additional warrant or extension of the original warrant and the search warrant return must state the reasons removal has not been completed.

The bill would permit an office to access the tracking device that has been deactivated after the authorized warrant has expired for the purposes of collecting tracking data obtained during the period specified by the search warrant.

The Kansas Bureau of Investigation states that HB 2034 would have no fiscal effect on state or local governments. The Office of Judicial Administration notes the passage of HB 2034 could increase the number of requests for search warrants filed in district courts relating to tracking devices. This would increase the time spent by district court, judicial and non-judicial personnel in processing and researching the cases. However, until the courts have had an opportunity to operate under the provisions of the bill, an accurate estimate of the fiscal effect on the Judiciary cannot be given.

Sincerely,



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

cc: Mary Rinehart, Judiciary  
Linda Durand, KBI