

February 20, 2014

The Honorable Jeff King, Chairperson  
Senate Committee on Judiciary  
Statehouse, Room 341-E  
Topeka, Kansas 66612

Dear Senator King:

**SUBJECT:** Fiscal Note for SB 403 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 403 is respectfully submitted to your committee.

SB 403 would amend the Kansas Code of Civil Procedure with regard to petitions for a writ of habeas corpus. The bill would establish a series of rules related to second or subsequent petitions for writ based upon similar relief on behalf of the same person. Those rules would include a provision which allows district courts to find any person who has filed multiple, meritless petitions to be an abuser of the writ. A person who has been designated as an abuser of the writ must pay all docket fees to file a petition, despite current law which allows for the filing of a poverty affidavit in lieu of the docket fee.

While SB 403 appears to be intended to reduce the number of habeas corpus petitions considered in the district courts, the Office of Judicial Administration (OJA) indicates that subsequent filings from the same petitioner must still be examined to determine if the same or similar relief is being requested. The OJA indicates that this process would take less time, and once a person has been designated an abuser of the writ the workload of the district courts would decrease since the courts would not be required to consider subsequent petitions. Nevertheless, OJA indicates the workload of the Court of Appeals would increase both in terms of considering an appeal as to the determination that the person is an abuser of the writ, and in considering each additional petition filed to have the district court consider the petition. In addition, the OJA indicates the bill would ultimately add a layer to the process of reviewing habeas corpus petitions since the Kansas Court of Appeals would be required to refer new petitions or records of petitions back to the district courts. The OJA also indicates that clerks of the district courts would be required to maintain a list to track petitioners who have been found to be abusers of the writ, and check each civil filing to ensure it is not a habeas filing made by a petitioner who has been found to be an abuser of the writ. The OJA indicates that the bill could result in the collection of docket fees in those petitions filed under the provisions in the bill. However, until

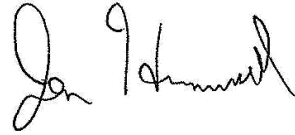
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the courts have had an opportunity to operate with the provisions of SB 403 in place, a precise fiscal effect on the expenditures of the Judicial Branch cannot be given.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Hummell". The signature is written in a cursive style with a large initial "J" and "H".

Jon Hummell,  
Interim Director of the Budget

cc: Mary Rinehart, Judiciary