

March 3, 2016

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

Dear Senator King:

SUBJECT: Fiscal Note for SB 478 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 478 is respectfully submitted to your committee.

SB 478 would abolish the death penalty for crimes committed on or after July 1, 2016. The bill would repeal the capital murder statute and create the new crime of aggravated murder, which would be an off-grid person felony. Offenders convicted of aggravated murder would be sentenced to imprisonment for life without the possibility of parole. Offenders would not be eligible for commutation of sentence and the Governor would not be permitted to commute a sentence of life without the possibility of parole.

The bill would establish the Kansas Death Penalty Abolition Fund, which would be administered by the Kansas Department of Corrections. Annually on or before June 30, the Director of the Budget would determine and certify an amount from each State General Fund account that would be actual or projected cost savings as a result of the abolition of the death penalty. The cost savings would include cost avoidance in the prosecution, defense, corrections, and other associated costs resulting from the abolishment of the death penalty. After the certification, the cost savings would be transferred to the Kansas Death Penalty Abolition Fund.

The Office of Judicial Administration states enactment of SB 478 would still require the courts to work through any existing death penalty cases. Judges and exempt non-judicial staff at both the district and appellate court levels work additional hours to address death penalty cases and, to some extent, have to delay hearing other cases. The Office states that there are currently two appellate research attorneys who devote a significant amount of time to death penalty cases. The Office indicates aggravated murder proceedings would be less lengthy than death penalty proceedings. However, a fiscal effect upon the Judicial Branch cannot be estimated.

If the death penalty were abolished under SB 478, the State Board of Indigents' Defense estimates savings for the agency totaling \$255,000 from the State General Fund in FY 2017.

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The Office of the Attorney General estimates that the agency could incur additional costs of approximately \$375,000 from the State General Fund over the next two fiscal years. The Office states that new legal arguments may be available to those offenders who were sentenced to death for crimes committed before July 1, 2016. According to the Office, there are ten offenders who are under the sentence of death. This could result in those offenders creating additional legal actions, which would result in litigation costs of approximately \$250,000 (10 offenders X \$25,000 per case) for those cases. Also, the Office of the Attorney General anticipates that the bill would generate at least one U.S. Supreme Court appeal which would require additional expenditures of approximately \$125,000.

The Kansas Sentencing Commission states that SB 478 would have no effect on prison admissions or beds. The Kansas Department of Corrections indicates that any savings gained from passage of the bill would be negligible. Unlike some other states, Kansas does not have specialized separate holding facilities or a “death row” for offenders. Offenders who have been sentenced to death are placed in administrative segregation, which is a custody setting that includes other inmates. Any fiscal effect associated with SB 478 is not reflected in *The FY 2017 Governor’s Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Ashley Michaelis, Judiciary
Adam Pfannenstiel, Corrections
Scott Schultz, Sentencing Commission
Pat Scalia, Indigents Defense Services
Willie Prescott, Attorney General’s Office