

February 19, 2019

The Honorable Fred Patton, Chairperson  
House Committee on Judiciary  
Statehouse, Room 519-N  
Topeka, Kansas 66612

Dear Representative Patton:

**SUBJECT:** Fiscal Note for HB 2292 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2292 is respectfully submitted to your committee.

HB 2292 would establish a certified drug abuse treatment program for certain persons who enter into a diversion agreement in lieu of further criminal proceedings on and after July 1, 2019. 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 of any other substantially similar specific offense from another jurisdiction.

If the defendant being considered for a diversion agreement is assigned a high-risk status as determined by the required drug assessment and a moderate or high-risk status as determined by the criminal need assessment, the diversion agreement would require the divertee to comply with and participate in a drug abuse treatment program. The term of treatment would not exceed 18 months.

The bill specifies that a district attorney may enter into a memorandum of understanding with court services or community correctional services to assist with supervision and monitoring of persons who have entered into a diversion agreement. The district attorney would retain authority over whether a defendant is given the option to enter into a diversion agreement and whether a defendant has violated terms of the 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.

HB 2292 would provide supervision by the county or district attorney or court services or community correctional services pursuant to a memorandum of understanding entered into by the county or district attorney and payment of costs associated with the supervision.

The bill would further specify that nothing in the bill would prohibit a community correctional services program from providing services to offenders pursuant to a memorandum of understanding entered into by a community correctional services program and a county or district attorney.

HB 2292 would provide that if the 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, if any. 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 Office of Judicial Administration indicates enactment of HB 2292 could have a fiscal effect on Judicial Branch operations; however, the Office cannot estimate how many district courts would enter into a memorandum of understanding or how many cases would occur.

The Kansas Sentencing Commission estimates enactment of HB 2292 could result in additional prison admissions and beds; however, the Commission cannot estimate an effect. Further, the Commission estimates enactment of the bill could increase the number of SB 123 drug treatment offenders by either 25, 50, or 75 in FY 2020. 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 either \$92,840, \$185,681, or \$275,520 in FY 2020, depending on which scenario plays out. Any fiscal effect associated with HB 2292 is not reflected in *The FY 2020 Governor's Budget Report*.

The Kansas Association of Counties estimates enactment of HB 2292 would have a negligible fiscal effect on Kansas counties.

Sincerely,

A handwritten signature in black ink that reads "L. L. Campbell". The signature is fluid and cursive, with the first name "L." and last name "Campbell" clearly visible.

Larry L. Campbell  
Director of the Budget

cc: Janie Harris, Judiciary  
Jay Hall, Association of Counties  
Scott Schultz, Sentencing Commission  
Linda Kelly, Corrections