

March 3, 2020

The Honorable Rick Wilborn, Chairperson  
Senate Committee on Judiciary  
Statehouse, Room 541C-E  
Topeka, Kansas 66612

Dear Senator Wilborn:

**SUBJECT:** Fiscal Note for SB 416 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 416 is respectfully submitted to your committee.

Under current law, the agency with jurisdiction over a person who appears to meet the criteria of sexually violent predator would give written notice to the Attorney General and the multidisciplinary team 90 days prior to the following criteria: (1) the anticipated release date from total confinement of a person who has been convicted of a sexually violent offense; (2) the release of a person who has been charged with a sexually violent offense and has been determined to be incompetent to stand trial; (3) the release of a person who has been found guilty of a sexually violent offense; or (4) the release of a person who has been found not guilty of a sexually violent offense and the jury who returned the verdict of not guilty answers in the affirmative to the special question of "Do you find the defendant not guilty solely because the defendant, at the time of the alleged crime, was suffering from a mental disease or defect which rendered the defendant incapable of possessing the required criminal intent?"

SB 416 would require that after July 1, 2021, and prior to July 1, 2022, the agency with jurisdiction would give written notice to the Attorney General and the multidisciplinary team 90 days to two years prior to those same criteria. After July 1, 2022, the agency with jurisdiction would give written notice to the Attorney General and the multidisciplinary team two years prior to those same criteria.

When a court determines that there is probable cause that a person is a sexually violent predator and is no longer subject to secure confinement at a correctional facility operated by the Secretary of Corrections, the court would direct the sheriff of the county where the petition is filed to transport the person to the county jail and detain the person until a determination is made that

the person is a sexually violent predator subject to commitment under the Kansas Sexually Violent Predator Act.

Under current law, a person would be given a 72 hours’ notice of a hearing. SB 416 would remove that deadline. When a person under the Sexually Violent Predator Act is required to be confined at a state correctional facility, the court could secure the person’s attendance at the proceeding by directing the sheriff of the county where the proceeding is held to take the person into its custody. Finally, the person would not have the right to appear at the proceeding unless there is a court order and there would be no limit on how long the person could be detained in jail.

Estimated State Fiscal Effect				
	FY 2020 SGF	FY 2020 All Funds	FY 2021 SGF	FY 2021 All Funds
Revenue	--	--	--	--
Expenditure	--	--	--	\$1,132,216
FTE Pos.	--	--	--	10.00

The Kansas Department of Corrections states that passage of SB 416 would require additional resources because of the new requirement in the bill regarding the timeframe of processing sexually violent predators. The Department states that it would require \$1,132,216 in FY 2021 from the State General Fund to review additional cases in which the sexually violent predator may apply and to provide additional sex offender treatment to inmates. Of that amount, \$229,216 would be for two contract Clinical Services Report Writers, \$75,000 would be for 1.00 Administrative FTE position, \$660,000 would be for 8.00 Program/Treatment Provider FTE positions, \$93,000 would be for 1.00 Program/Treatment Supervisor FTE position, and \$75,000 would be for travel and equipment for the additional positions.

The Office of Judicial Administration states that enactment of SB 416 could result in additional litigation and an increase in workload for the district court clerks. Changes could also be made to the case management system. However, the additional expenditures cannot be estimated.

The Office of Attorney General could incur some additional costs during the transition of reporting periods because it would receive an increase in the number of notices from the Department of Corrections. The Office could also have an increase in cases to litigate to determine the sexually violent predator status. However, a precise fiscal effect cannot be estimated because the number of additional cases is unknown.

The Kansas Association of Counties states that because the county sheriff with jurisdiction would be responsible for transporting and housing the sexually violent predators, the bill would increase expenditures. However, it is not possible to estimate the fiscal effect.

The League of Kansas Municipalities states that passage of SB 416 would have a negligible effect on cities that could be absorbed within existing budgets. Any fiscal effect associated with SB 416 is not reflected in *The FY 2021 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Campbell". The signature is fluid and cursive, with a large initial "L" and a long, sweeping underline.

Larry L. Campbell  
Director of the Budget

cc: Randy Bowman, Corrections  
Mary Rinehart, Judiciary  
Willie Prescott, Office of the Attorney General  
Trey Cocking, League of Municipalities  
Jay Hall, Association of Counties