

February 7, 2023

The Honorable Fred Patton, Chairperson
House Committee on Judiciary
300 SW 10th Avenue, Room 582-N
Topeka, Kansas 66612

Dear Representative Patton:

SUBJECT: Fiscal Note for HB 2121 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2121 is respectfully submitted to your committee.

HB 2121 would remove a provision in current law that requires a trial to be rescheduled within 90 days of the original trial if the defendant makes a request to be discharged from further liability to be tried. The bill would specify that a request to be discharged from further liability to be tried for the crime charged must be made prior to the trial or before the applicable time limitation is set to expire, whichever day is earlier. A failure to make this request in a timely manner would constitute a waiver of the rights to make such a request. A request would be required to be granted if the court finds the defendant has established by a preponderance of the evidence that any excessive delay attributed to the state would result in substantial prejudice to the defendant's ability to present a defense at trial.

The bill would also remove other provisions in current law related to deadlines for when a trial must be scheduled, including eliminating a 90-day rescheduling requirement after apprehension if a defendant fails to appear at trial or a hearing. Instead, the time limit prescribed in the bill would start over when the defendant next appears. If a defendant is determined competent to stand trial, the trial would be required to be scheduled in the next 90 days after such a finding.

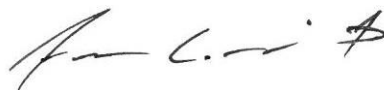
HB 2121 would remove a provision in current law regarding what the court must consider when scheduling trials. Under the bill, at the request of either party or as otherwise necessary, the court must find good cause to reschedule the trial within the next 90 days. The bill outlines the factors a court may consider in determining whether good cause exists.

The bill would also allow a defendant to revoke a waiver of the defendant's statutory speedy trial rights. When the court finds that a waiver is properly revoked, the trial would be required to be scheduled within 90 days or within the original time limitation applicable to the case, whichever date is later. The bill also specifies that no time between March 19, 2020, and May 1, 2023, would be assessed against the state for any reason. Any person arraigned before May 1, 2023, would be deemed to have been arraigned on May 1, 2023, for the application of the time limitations prescribed in the bill.

The Office of Judicial Administration states enactment of the bill would have a fiscal effect on the operations of the Judicial Branch because the bill's provisions would require additional hearings in certain cases, which would increase the time spent by judges and court employees processing and deciding these cases. The Office indicates a fiscal effect cannot be estimated until the Judicial Branch has had an opportunity to operate under the bill's provisions.

The State Board of Indigents' Defense Services states because of several factors that could affect a client's case, the agency is unable to estimate a fiscal effect. However, the agency does note any additional exceptions to or extensions of the statutory speedy trial deadline are expected to increase the agency's assigned counsel costs because of the estimated additional time attorneys would be handling cases that may have otherwise been resolved more quickly under the previously existing version of the statute. Any fiscal effect associated with HB 2121 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Vicki Jacobsen, Judiciary
Heather Cessna, Board of Indigents Defense Services