

February 15, 2024

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

Dear Representative Humphries:

SUBJECT: Fiscal Note for HB 2782 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2782 is respectfully submitted to your committee.

HB 2782 would require that, when all appeals and post-conviction proceedings are resolved in death penalty cases, the Supreme Court must notify the district court in which the conviction was rendered that such proceedings have been resolved and send a copy of the final order to such district courts. The final order must state whether a death sentence was affirmed. The bill would also remove the requirement that the Secretary of Health and Environment must certify to the Secretary of Corrections that the substances selected to carry out a death sentence by intravenous injection will result in a swift and humane death. The bill would require the Secretary of Corrections to select the substance for intravenous injection by December 31, 2024.

The bill would add death by hypoxia as a method of execution and would allow the Secretary of Corrections to determine the method of carrying out a death sentence by hypoxia in rules and regulations. The bill specifies that a “swift and humane manner” as it relates to executions would mean a manner consistent with the requirements of the Eighth Amendment to the *Constitution of the United States*. The bill would allow the Secretary of Corrections to determine whether to use an intravenous injection or hypoxia as an execution method. During any pending appeals or post-conviction proceedings, the bill would require an execution of a death sentence to be stayed. Within 30 days of all appeals and post-conviction proceedings being resolved and a death sentence being affirmed, the bill would require the district court to issue a death warrant to the Secretary of Corrections.

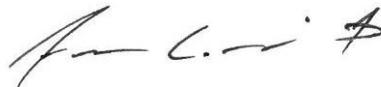
The Department of Corrections indicates enactment of the bill could have a fiscal effect on agency operations related to the acquisition and installation of the equipment necessary to carry

out an execution by hypoxia. However, the fiscal effect cannot be determined until the selection and rulemaking process outlined in the bill is complete and the necessary equipment is identified. The Department notes that the infrastructure for carrying out an execution by intravenous injection is already in place, though there may be some incidental costs with updating equipment. However, such costs related to intravenous injections can be absorbed within existing resources.

The Office of Judicial Administration indicates enactment of the bill could increase expenditures for the Judicial Branch because the bill includes additional requirements for the Supreme Court and district courts. In addition, the Office notes that the bill could generate challenges in courts regarding the use of a new method of execution. However, the Office states that an accurate fiscal effect cannot be estimated until the courts have had an opportunity to operate under the provision of the bill.

The Office of the Attorney General indicates that enactment of the bill would likely generate litigation against the state regarding the death penalty process. However, the Office cannot estimate the scope of such litigation and accompanying costs. Any fiscal effect associated with HB 2782 is not reflected in *The FY 2025 Governor's Budget Report*.

Sincerely,

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

Adam C. Proffitt
Director of the Budget

cc: Trisha Morrow, Judiciary
Jennifer King, Department of Corrections
William Hendrix, Office of the Attorney General