



**STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL**

**KRIS W. KOBACH**  
ATTORNEY GENERAL

MEMORIAL HALL  
120 SW 10TH AVE., 2ND FLOOR  
TOPEKA, KS 66612-1597  
(785) 296-2215 • FAX (785) 296-6296  
WWW.AG.KS.GOV

**Senate Judiciary Committee  
Proponent Testimony for SB 60  
Office of the Attorney General  
February 5, 2025**

Chairwoman Warren and Members of the Committee,

Thank you for the opportunity to present proponent testimony for SB 60. This bill seeks to address the increasing number of repetitive, unmeritorious post-conviction motions filed under K.S.A. 60-1507, which burden the court system and consume valuable judicial and prosecutorial resources. A 2004 Kansas Supreme Court ruling contributed to this issue by enabling a continuous cycle of such filings, overwhelming the courts. Currently, these appeals are perpetual motion machines without end. The purpose of this legislation is to ensure the finality of these cases.

Importantly, the proposed changes in SB 60 apply only to second and subsequent K.S.A. 60-1507 motions. The bill does not restrict or alter a person's right to file an initial motion. These post-conviction motions arise only after a defendant has already undergone a trial and a direct appeal.

SB 60's language closely aligns with established federal law governing post-conviction motions. These federal provisions have been thoroughly tested and remain well-settled in the legal system.

The amendments to subsection (c) codify and clarify existing rules and procedures already recognized in Kansas case law and Supreme Court Rules. By consolidating these rules into statute, the bill provides clear, enforceable guidelines. The language mirrors federal law, specifically 28 U.S.C. § 2244(b), ensuring that the amendments follow a well-established legal framework rather than creating new, untested provisions.

The amendment to subsection (d) introduces a straightforward rule: appeals arising from post-conviction decisions in death penalty cases will go directly to the Kansas Supreme Court. Such change is consistent with appellate review of direct appeals.

The amendment to subsection (g) addresses the root cause of the ongoing cycle of post-conviction motions, which stemmed from the Kansas Supreme Court's decision in *Brown v. State*, 278 Kan. 481 (2004). That ruling inferred a statutory right to effective assistance of

counsel in post-conviction proceedings—despite no constitutional or explicit statutory right existing. This overruled prior precedent set in *Robinson v. State*, 13 Kan. App. 2d 244 (1989), which correctly held that such a right does not exist. As a result of *Brown*, Kansas courts have been inundated with successive K.S.A. 60-1507 motions alleging ineffective assistance of post-conviction counsel. SB 60 seeks to restore the law to its pre-*Brown* status and halt this cycle.

This amendment also aligns Kansas law with federal habeas corpus law, specifically 28 U.S.C. § 2254(i), which states that ineffective assistance of counsel in collateral post-conviction proceedings is not a valid basis for relief. Thus, the proposed change does not create a drastic legal shift but instead restores Kansas law to its original framework before *Brown*'s judicial expansion.

Furthermore, the revised subsection (g) preserves relief in cases where a post-conviction attorney completely abandons a client's case, as occurred in *Brown*. In that case, the attorney's inaction deprived the movant of the opportunity to appeal. Under the amended language, total abandonment by counsel remains a valid ground for relief.

The Office of the Attorney General supports SB 60's proposed changes to K.S.A. 60-1507. Curbing the filing of repetitive, meritless post-conviction motions will reduce unnecessary strain on the courts and prosecutors. Ultimately, this reform will benefit the rare cases with legitimate claims by eliminating the backlog of frivolous filings. For these reasons, the Office of the Attorney General urges the passage of SB 60.

Sincerely,

*Kris Ailslieger*

Deputy Solicitor General  
Office of the Attorney General