

January 30, 2012

The Honorable Tim Owens, Chairperson
Senate Committee on Judiciary
Statehouse, Room 559-S
Topeka, Kansas 66612

Dear Senator Owens:

SUBJECT: Fiscal Note for SB 304 by Joint Committee on Administrative Rules and Regulations

In accordance with KSA 75-3715a, the following fiscal note concerning SB 304 is respectfully submitted to your committee.

Currently, the Attorney General operates a federally funded program that provides certification to local batterer intervention programs. Certification is voluntary and the charge is \$300. Approximately ten programs are certified each year for two years. If SB 304 is implemented, the federal fund and 1.00 FTE position for the current program will be shifted to a new program, called the Batterer Intervention Program Certification Unit. The purpose of this unit would be to inspect and certify batterer intervention programs to ensure services provided to domestic violence offenders meet statewide standards. To accomplish this, the Unit would have access to all records of confirmed and probable abuse cases generated by the Department of Social and Rehabilitation Services, Department on Aging, Department of Health and Environment, Kansas Bureau of Investigation or the Behavioral Sciences Regulatory Board. The Attorney General would develop a set of tools, methodologies, requirements and forms for domestic violence offender assessments in consultation with the agency and local victims' and services organizations. Development of the assessments must be certified by the federal Centers for Disease Control and Prevention and the federal Department of Health and Human Services. The Attorney General may appoint a panel to assist by making recommendations, rules, and regulations related to the content and development of the certification program. SB 304 provides a list of requirements to be included in the rules and regulations. The General may also appoint advisory committees as needed; however, committee members would not receive compensation. Information obtain by the Attorney General would be confidential and would not be subject to the Open Records Act. This provision would expire on July 1, 2017; however the Legislature would be required to review the provision before the expiration date.

No person would be able to operate or provide services as a batterer intervention program unless the program had been certified. To become certified, applicants must fill out a form, approved by the Attorney General, for initial, renewal, or reinstatement certification. That form and other information would be reviewed to determine if certification would be granted. The bill provides a list of information to be included on the form. An application fee of \$100 would be required, the exception being a temporary permit for \$50. The Attorney General may increase the fees by rule and regulation, but they could not exceed \$250. Fees will be used for the administration and operation of the Unit. The Attorney General also has the authority to suspend, limit, deny, revoke or refuse renewal or reinstatement of a certification or permit for offenses defined in the bill. In addition, upon written order of the Attorney General a civil penalty may be imposed in an amount not less than \$100 nor more than \$5,000 for each violation. In the case of continuing violation, every day the violation continues it may be deemed a separate violation. All civil penalties recovered would go to the State General Fund.

SB 304 also amends current law in order to apply the domestic violence designation law to convictions for domestic violence offenses in municipal courts as well as district courts. The act would take effect and be in force from and after its publication in the *Kansas Register*.

The Attorney General notes that the agency currently receives \$58,560 through the annual Violence Against Women Act federal grant. The funding, to date, has been used to cover the cost of 1.00 FTE position and operations for the agency's certification cost. The agency has also received approximately \$3,000 in fees per year. Currently, the fees have been discontinued because the Attorney General thought they were excessive.

The Attorney General estimates that there are approximately 60 programs in the state, including 20 which are currently certified. Assuming that the 40 uncertified programs would like to continue with their work, they would have to be certified as soon as possible. As certifications have to be renewed every two years, revenue from fees would be \$4,000 in FY 2013 and \$2,000 in FY 2014. It is also assumed that the Attorney General would continue to receive the annual federal grant in the amount of \$58,560. The funding for the new Batterer Intervention Program Certification Unit would be approximately the same as the old certification program. However, the work load will increase significantly. Although not identified by the agency, it appears that one or more FTE positions would be required to provide adequate staffing for the Unit.

The amount of penalties received and placed in the State General Fund cannot be determined until there has been some experience with the requirements of bill. The Office of Judicial Administration points out the SB 304 provides the any "civil penalty" recovered would be remitted to the State Treasurer, deposited in the state treasury, and credited to the State General Fund. This method of crediting the penalty is contrary to the established method of distributing fines, penalties, and forfeitures. As the bill is written, additional work would be required from clerks of the district court in segregating and separately accounting for these penalties, and a minimum cost of \$5,000 in computer programming would be incurred so that these penalties could be treated in a manner different than other penalties imposed by law. The

The Honorable Tim Owens, Chairperson
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Page 3—304

Judiciary also notes that this could be avoided with an amendment to the bill. Any fiscal effect associated with SB 304 is not reflected in *The FY 2013 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", with a long horizontal flourish extending to the right.

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Megan Henry, Attorney General's Office
Mary Rinehart, Judiciary