

February 6, 2017

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

Dear Senator Wilborn:

**SUBJECT:** Fiscal Note for SB 92 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 92 is respectfully submitted to your committee.

SB 92 would require law enforcement agencies in Kansas to adopt a written policy requiring electronic recording of any custodial interrogation conducted in a place of detention when the interrogation concerns a homicide or felony sex offense, and to implement the policy no later than July 1, 2018. The bill provides certain exceptions for the requirement to record interrogations. The bill would allow an officer to be questioned at trial for any violation of a policy adopted under this new law. The lack of an electronic recording could not be used as the sole basis for suppression of an interrogation or confession. The recording would be exempt from disclosure under the Kansas Open Records Act. The bill would require law enforcement agencies to provide proper storage and retention of electronic documents. The bill would also provide definitions for custodial interrogation, place of detention and electronic recording. The provisions of SB 92 would sunset on July 1, 2022.

The Office of Judicial Administration indicates SB 92 could increase Judicial Branch expenditures from prolonged court cases, but an estimate of costs cannot be determined. The Kansas Association of Counties indicates the bill could increase costs to county governments from increased time spent by law enforcement agencies and county and district attorneys collaborating and creating the written policies for electronic recording of custodial interrogations. In addition, the Kansas Association of Counties and the League of Kansas Municipalities indicate county and city governments would incur costs related to training staff on the new policy; the purchase of electronic recording equipment; and the retention of records to ensure evidence from interrogations is able to be admitted during prosecution. However, neither is able to provide an estimate of these costs. The Kansas Highway Patrol indicates it would be required to purchase seven sets of recording equipment and licensing at \$13,000. It would also

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incur additional costs for labor, materials and supplies at seven locations, but an estimate of these costs is unknown. The Kansas Bureau of Investigations indicates any costs incurred as a result of SB 92 would be negligible. Any fiscal effect associated with SB 92 is not reflected in *The FY 2018 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,  
Director of the Budget

cc: Ashley Michaelis, Judiciary  
Shelia Sawyer-Tyler, KBI  
Kim Torrey, Highway Patrol  
Brock Ingmire, League of Municipalities  
Melissa Wangemann, Association of Counties