

February 20, 2020

The Honorable Russell Jennings, Chairperson
House Committee on Corrections and Juvenile Justice
Statehouse, Room 151B-S
Topeka, Kansas 66612

Dear Representative Jennings:

SUBJECT: Fiscal Note for HB 2708 by House Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2708 is respectfully submitted to your committee.

HB 2708 would establish a certified drug abuse treatment program for certain persons who enter into a diversion agreement in lieu of further criminal proceedings. Placement of divertees in certified drug abuse treatment programs pursuant to a diversion agreement would be limited to placement of adults on a complaint alleging certain felony violations whose offense is classified within specific grid blocks and the divertee has no other specific felony convictions of any other substantially similar specific offense from another jurisdiction. The term of treatment could not exceed 18 months.

The bill would specify that a district attorney may enter into a memorandum of understanding with court services or community correctional services to assist with supervision and monitoring of persons who have entered into a diversion agreement. A memorandum of understanding would include provisions related to determining the level of supervision needed for a defendant, use of a criminal risk-need assessment, and payment for costs of supervision. The Kansas Supreme Court would be allowed to adopt rules regarding the content of the memorandum of understanding.

Under HB 2708, any person who has entered into a diversion agreement would be subject to certain fees which would be collected by the district court. Of the monies collected from supervision fees, 41.67 percent would be remitted to the State General Fund and 58.33 percent would be remitted to the Correctional Supervision Fund. All monies collected for urinalysis testing would be deposited into the county's general fund.

The bill would provide that if a person has entered into a diversion agreement in lieu of further criminal proceedings, the county or district attorney would determine the extent that the person is able to pay for the assessment and treatment. Payments would be used by the supervising agency to offset costs to the state or county. If the financial obligations are not met or cannot be met, the county or district attorney would be notified for the purpose of collection or review and further action on the person's diversion agreement. The bill would include additional provisions related to the proposed diversion agreement.

The Office of Judicial Administration indicates enactment of HB 2708 could have a fiscal effect on Judicial Branch operations to monitor the agreement process and for court services to supervise more offenders; however, a fiscal effect cannot be estimated. The bill could increase revenues from supervision fees to the Judicial Branch Correctional Supervision Fund and the State General Fund. OJA estimates the bill could also increase revenues from testing fees to county general funds.

The Kansas Sentencing Commission estimates enactment of HB 2708 would have no effect on prison admissions or prison beds. However, the Commission estimates enactment of the bill could increase the number of SB 123 drug treatment offenders by either 50, 100, or 150 persons in FY 2021. The Commission's estimates are based on three different scenarios. Because of the potential increase of SB 123 drug treatment offenders, the Commission estimates additional State General Fund expenditures of \$157,150, \$314,300, or \$471,450 in FY 2021, depending on which scenario occurs. The Commission reports the average cost of treatment in the SB 123 Drug Treatment Program was \$3,143 per offender in FY 2019. The Department of Corrections indicates it does not have the ability to estimate the number of divertees that may require community corrections supervision. Any fiscal effect associated with HB 2708 is not reflected in *The FY 2021 Governor's Budget Report*.

Sincerely,



Larry L. Campbell
Director of the budget

cc: Scott Schultz, Sentencing Commission
Mary Rinehart, Judiciary
Randy Bowman, Corrections