

SESSION OF 2021

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2363**

As Amended by Senate Committee on Ways  
and Means

**Brief\***

HB 2363, as amended, would amend law governing compensation for services provided to indigents to require appointed counsel be paid at a rate not to exceed \$100 per hour through June 30, 2023, and at a rate not to exceed \$120 per hour on and after July 1, 2023. [*Note: Under current law, \$80 per hour is the maximum rate of pay. Under continuing law, the rate of pay provision does not apply to a public defender, assistant public defender, or contract counsel, and compensation for appointed counsel may be negotiated or contracted for at a lower rate if certain exceptions exist.*]

**Background**

The bill was introduced by the House Committee on Judiciary at the request of Representative Patton on behalf of the Board of Indigents' Defense Services (BIDS).

***House Committee on Judiciary***

In the House Committee hearing on February 15, 2021, the Executive Director of BIDS testified as a **proponent** on the bill, stating the intention of the bill is to allow BIDS to pay appointed counsel at a rate higher than what the statute currently allows in order to keep up with the market rate for legal services and respond to growing pressures on assigned counsel in the state. Written-only proponent testimony was

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

provided by representatives of the Kansas Bar Association and the Kansas Association of Criminal Defense Lawyers. No other testimony was provided.

***House Committee of the Whole***

On March 5, 2021, the bill was withdrawn from the Calendar and referred to the House Committee on Appropriations.

***House Committee on Appropriations***

On March 10, 2021, the bill was withdrawn from the House Committee on Appropriations and referred to the House Committee on Transportation and Public Safety Budget.

***House Committee on Transportation and Public Safety Budget***

In the House Committee hearing on March 22, 2021, **proponent** testimony was provided by the Executive Director of BIDS and a representative of the Kansas Bar Association stating the bill provides flexibility for future rate increases. Written-only proponent testimony was provided by representatives of the Kansas Association of Criminal Defense Lawyers and the Kansas District Judges Association. No other testimony was provided.

The House Committee amended the bill to set assigned counsel compensation at a rate not to exceed \$100 per hour through June 30, 2023, and at a rate not to exceed \$120 per hour on and after July 1, 2023.

### ***Senate Committee on Ways and Means***

In the Senate Committee hearing on April 7, 2021, **proponent** testimony was provided by the Executive Director of BIDS, stating the bill provides flexibility for future rate increases and is an attempt to address the shortages of assigned counsel within the state. Written-only proponent testimony was provided by representatives of the Kansas Bar Association and the Kansas Association of Criminal Defense Lawyers. No other testimony was provided.

The Senate Committee amended the bill to make technical corrections.

### ***Fiscal Information***

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, if BIDS were to raise the rate for FY 2022 to \$100 per hour, then the increased expenditures are estimated to be \$3,569,164. BIDS states the assigned counsel rate has already been set for FY 2021 and therefore there would be no additional expenditures this fiscal year. The agency notes the rate amount would increase only if the agency has the additional funding from the State General Fund in FY 2022 to implement the increase and receives approval of changes to administrative rules and regulations. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Board of Indigents' Defense Services; appointed counsel; case rate