

SESSION OF 2017

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 92**

As Amended by Senate Committee on Judiciary

**Brief\***

SB 92 would require all Kansas law enforcement agencies to adopt a detailed, written policy concerning the electronic recording of custodial interrogations conducted at a place of detention and to implement such policy on or before July 1, 2018. In developing such policy, the bill would require local law enforcement agencies to collaborate with the county or district attorney in the appropriate jurisdiction regarding its contents. The policy would require electronic recording of the entirety of a custodial interrogation that concerns a homicide or felony sex offense, as well as the making and signing of a statement during the course of such interrogation. The policy would also include retention and storage requirements and a statement of exceptions in some circumstances, such as equipment malfunction or inadvertent failure to operate the recording equipment properly.

The bill would require the policy to be available to all officers and for public inspection during normal business hours. During trial, the bill would allow for officers to be questioned pursuant to the rules of evidence regarding any violation of such a policy. Finally, the bill would provide that every electronic recording of any statement shall be confidential and exempt from the Kansas Open Records Act.

**Background**

The bill was introduced following a Judicial Council study of 2016 HB 2593. In the Senate Committee on

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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>

Judiciary hearing, representatives of the Innocence Project; Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs' Association; Kansas County and District Attorneys Association; and the Project for Innocence and Post-Conviction Remedies at the University of Kansas School of Law appeared in support of the bill. The proponents offered an amendment to clarify that recordings of written statements would only be required in cases involving a homicide or felony sex offense. Representatives of the Kansas Association of Criminal Defense Lawyers and the Kansas Judicial Council offered written-only testimony in support of the bill. A representative of the League of Kansas Municipalities gave opponent testimony but indicated the League's concerns would be addressed by the proposed amendment.

The Senate Committee adopted the amendment offered by the proponents.

According to the fiscal note prepared by the Division of the Budget, the Office of Judicial Administration indicates enactment of the bill, as introduced, could increase Judicial Branch expenditures from prolonged court cases; however, an estimate of costs could not be determined. The Kansas Association of Counties and the League of Municipalities indicates county and city government could also incur additional costs; however, neither was able to provide a precise estimate of costs. The Kansas Highway Patrol indicates it would be required to purchase seven sets of recording equipment at a cost of \$13,000 and incur additional costs for labor, materials, and supplies. The Kansas Bureau of Investigation indicates any costs incurred would be negligible. Any fiscal effect associated with the bill is not reflected in *The FY 2018 Governor's Budget Report*.