

February 25, 2019

The Honorable John Barker, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 285-N
Topeka, Kansas 66612

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2234 by Representative Ousley

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2234 is respectfully submitted to your committee.

HB 2234 would create the Voluntary Gun Safety Act. The bill would allow an individual to petition a district court for a Gun Safety Protective Order, which would prohibit the petitioner from purchasing any firearms. The petition would be required to include the grounds for the issuance of the order, whether any current or prior protective order issued against the petitioner exist, and detailed allegations based on personal knowledge that the petitioner poses a significant danger of causing personal injury to self or others by purchasing a firearm. The bill would also require all health information provided in a petition or considered as evidence in a proceeding to be protected from public disclosure. The district court would be required to set a date for a hearing within 14 days upon the filing of the petition.

The bill would provide guidelines on what could be considered by the court in issuing the order, including prior acts or threats of violence, violation of any protective order, and abuse of controlled substances. The bill would allow an order to be terminated one year after it was issued if a petitioner requests a hearing for termination. The petitioner would have the burden of proof by a preponderance of the evidence that they no longer pose a significant danger of causing personal injury to themselves or others by purchasing a firearm.

Upon issuing or terminating an order, the bill would require the district court to notify the Kansas Bureau of Investigation (KBI) within one day. The KBI would be required to maintain a searchable database of all protective orders, terminated or active, and make such information immediately available to the National Instant Criminal Background Check System (NICS) for the purposes of firearm purchaser background checks. If an order invalidates a license to carry a concealed handgun, the district court would be required to notify the Office of the Attorney General within one day of issuing the order.

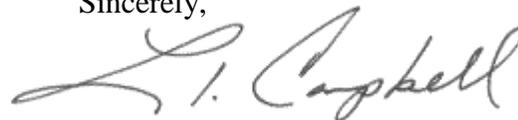
According to the Kansas Bureau of Investigation, enactment of HB 2234 would result in additional expenditures of \$210,306 to \$810,306 from the State General Fund in FY 2020. The

agency indicates that it does not have the personnel resources to develop the searchable database, which would require it to contract with an outside vendor to create the database, interfaces and electronic connection to existing criminal justice systems. Based upon similar systems that have been developed by the KBI through an outside vendor, it estimates the development of this database to range between \$150,000 and \$750,000 in contractual services expenses depending on the scope and requirements of the system. The KBI states that it would utilize existing electronic criminal justice systems and interfaces and modify or modernize them to the greatest extent possible to minimize costs. In addition to the contractual services expenses, the agency indicates enactment of the bill would require \$60,305 to hire 1.00 Program Consultant I FTE position. Included in this estimate is \$54,820 for salaries and wages, \$4,300 for travel costs to provide training to courts and law enforcement, and \$1,185 to provide an office for the position. The Program Consultant I would be responsible for managing the database and ensuring information is uploaded to the NICS indices.

The Office of Judicial Administration indicates that enactment of the bill could result in additional workload from petitions, hearings, and court orders, which may require additional staff time by judicial and nonjudicial personnel to process, research, and hear cases. In addition, the Office states enactment of the bill could result in the collection of docket fees from court filings related to the protective orders. However, the fiscal effect on the agency cannot be estimated because the additional workload and docket fees are unknown.

The Office of the Attorney General indicates that enactment of the bill could result in additional expenditures of \$100,000 to \$500,000 within three years to hire outside counsel to defend the state. The agency notes that the bill could result in a constitutional challenge, which would require it to provide legal defense for the state. The agency indicates litigation could ensue for one to three years in state district and appellate courts as well the Kansas Supreme Court. If a petition for a writ of certiorari to the Supreme Court of the United States was filed and accepted, the agency notes that the time frame of such a case would extend beyond three years. Further, if a constitutional challenge to the bill is successful, the state may have to pay legal fees, which the agency estimates would likely exceed \$500,000. In addition, the agency states the bill would result in an increase to staff time for the Concealed Carry Licensing Unit. However, the agency notes that individuals can currently voluntarily surrender concealed carry licenses and any increase in staff time would be negligible. Any fiscal effect associated with HB 2234 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,



Larry L. Campbell
Division of the Budget

cc: Paul Weisgerber, KBI
Janie Harris, Judiciary
Willie Prescott, Office of the Attorney General