

February 20, 2019

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

Dear Senator Wilborn:

SUBJECT: Fiscal Note for SB 133 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 133 is respectfully submitted to your committee.

SB 133 specifies that if no criminal charges are filed or prosecution is declined, then property seized under a warrant or validly seized without a warrant would be returned to the rightful owner or would be disposed. When property is seized under a search warrant, the officer seizing the property would file a copy of the receipt with the magistrate.

The bill further specifies that if a weapon was stolen or was seized from an individual whom the agency knows is not the owner of the weapon, the law enforcement agency would notify the owner of the weapon that the weapon may be retrieved. If the weapon was seized from a juvenile, the agency would notify the parent or legal guardian of the juvenile that the weapon may be retrieved by the parent or legal guardian. If the agency determines there is no other more appropriate person to retrieve the weapon, the agency would notify the person from whom the weapon was seized that the weapon may be retrieved.

If the law enforcement agency determines that the individual authorized to retrieve a weapon is prohibited by state or federal law from possessing the seized weapon, the agency would notify the individual that the weapon is no longer needed for the case but will not be returned due to the disqualifying law, which would be described in the notice. The law enforcement agency would not dispose of the weapon for 60 days after the notice was given to provide a period for the individual to bring an action in an appropriate court challenging the agency's determination. The law enforcement agency may dispose of the weapon as provided by law 60 days after the notice is given, unless otherwise directed by the court. An owner of a weapon who is prohibited by law from possessing the weapon may request the law enforcement agency to transfer the weapon to a licensed dealer designated by the owner.

SB 133 has the potential for increasing litigation in the courts because of possible court challenges over the weapon seizure provisions created by the bill. If litigation would increase, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. However, it is not possible to estimate the number of additional court cases that would arise or how complex and time-consuming the cases would be. The fiscal effect would most likely be negligible and could be accommodated within existing budget resources.

The Kansas Highway Patrol indicates enactment of SB 133 would make it easier for the agency to return property to its lawful owner. The Kansas Bureau of Investigation indicates enactment of SB 133 would have no fiscal effect on agency operations. Any fiscal effect associated with SB 133 is not reflected in *The FY 2020 Governor's Budget Report*.

The Kansas Association of Counties and the League of Kansas Municipalities indicate any fiscal effect resulting from the enactment of SB 133 would have a negligible fiscal effect on local governments.

Sincerely,

A handwritten signature in black ink that reads "L. L. Campbell". The signature is fluid and cursive, with the first name "L." and last name "Campbell" clearly visible.

Larry L. Campbell
Director of the Budget

cc: Janie Harris, Judiciary
Scott Schultz, Sentencing Commission
Linda Kelly, Corrections
Jay Hall, Association of Counties
Sherry Macke, Highway Patrol
Paul Weisgerber, KBI
Chardae Caine, League of Municipalities