

February 24, 2011

The Honorable Lance Kinzer, Chairperson
House Committee on Judiciary
Statehouse, Room 165-W
Topeka, Kansas 66612

Dear Representative Kinzer:

SUBJECT: Fiscal Note for HB 2313 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2313 is respectfully submitted to your committee.

HB 2313 would clarify that when a patient confined under the Kansas Sexually Violent Predator Act brings a civil suit against the State of Kansas, a political subdivision of Kansas, a public official, the Secretary of the Department of Social and Rehabilitation Services (SRS), or an SRS employee, the patient must file proof that administrative remedies have been exhausted. The court could dismiss the patient's case if the patient's allegation of poverty is untrue or the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief.

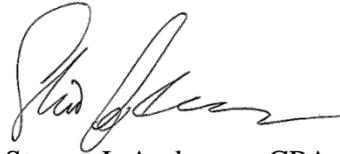
HB 2313 would prohibit a patient from bringing a civil action or filing an appeal if while in the custody of SRS that patient has brought at least three actions or appeals that were dismissed as frivolous or malicious, or for failure to state a claim upon which relief may be granted. An exception would exist if the patient were in imminent danger or had a serious physical injury. HB 2313 would also clarify that a patient placed in the custody of the Secretary of SRS under the Kansas Sexually Violent Predator Act could file a petition for a declaration of legal authority to detain the patient within 30 days of the final commitment date.

Because HB 2313 would allow for the dismissal of civil actions brought by patients under certain circumstances and would prevent the filing of cases under certain circumstances, the courts could experience less litigation from patients confined under the Kansas Sexually Violent Predator Act. However, in some cases the provisions of HB 2313 could create additional issues to litigate. It is not possible to predict how the number of court cases would be affected. Therefore, a precise fiscal effect cannot be determined. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require

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additional resources. Any fiscal effect associated with HB 2313 is not reflected in *The FY 2012 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", with a long horizontal flourish extending to the right.

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Dan Lewien, SRS
Mary Rinehart, Judiciary
Tracy Diel, Administrative Hearings