

January 30, 2012

REVISED

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

Dear Representative Kinzer:

SUBJECT: Revised Fiscal Note for HB 2464 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2464 is respectfully submitted to your committee.

Current law allows prosecuting attorneys and defendants to inspect and copy juvenile files and records of the defendant for the purpose of discovering and verifying the defendant's criminal history. HB 2464 would amend existing law by requiring that property or material that constitutes a visual depiction connected with sexual exploitation of a child remain in the custody of the prosecution, law enforcement, or the court. If this property or material is made reasonably available to a defendant, the court must deny any request by the defendant to duplicate the property or material. The bill defines "reasonably available."

Since the original fiscal effect statement was issued, the Board of Indigents Defense Services has provided information on the fiscal effect of this bill. The Board states that the inability to copy the material would require defense experts to travel to the site of the material. There is only one technology expert in the state with the necessary credentials who will review such evidence for the defense, and he is not available to travel. The next closest expert is located in Missouri, and all others who hold the necessary credentials and are willing to work for the state are over 1,200 miles away. The agency indicates that additional costs will likely be incurred in all indigent cases of this type, as well as any private cases where the private counsel was hired by family or friends, but the defendant is indigent. In those private cases, current law allows the indigent defendant to request a court order for the purpose of obtaining expert services, which are then paid for by the Board. According to the agency, a low estimate of the annual costs due to passage of HB 2464 is \$32,000 from the State General Fund. This estimate assumes a cost of \$3,200 per case and ten cases per year, and is based on the cost of using the expert located in Missouri for a child pornography case last year. These potential additional costs are not accounted for in *The FY 2013 Governor's Budget Report*.

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According to the Office of Judicial Administration, passage of HB 2464 would have no fiscal effect on the Judicial Branch.

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: Mary Rinehart, Judiciary