

February 8, 2012

The Honorable Tim Owens, Chairperson
Senate Committee on Judiciary
Statehouse, Room 559-S
Topeka, Kansas 66612

Dear Senator Owens:

SUBJECT: Fiscal Note for SB 320 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 320 is respectfully submitted to your committee.

SB 320 would require a probable cause hearing to retain a juvenile in detention for more than 48 hours if the juvenile is in custody on the basis of a new offense, which would be a felony or misdemeanor if committed by an adult. If no prior judicial determination of probable cause has been made, the court would determine whether there is probable cause to believe that the juvenile has committed the alleged offense. If the court finds the juvenile is dangerous to his or her self or others, the court could place the juvenile in a juvenile detention facility or youth residential facility. If the court finds the juvenile is not likely to appear for further proceedings, the court could place the juvenile in a juvenile detention facility, youth residential facility, or release the juvenile upon posting bond.

A probable cause hearing could be held at the same time as the detention hearing, but it does not have to be held at that time in order to place the juvenile in a juvenile detention facility, as long as one or more of the conditions (specified in SB 320) is met. SB 320 would amend current law, which states the rules of evidence of the Code of Civil Procedure apply to all hearings under the Revised Kansas Juvenile Justice Code. The bill would provide that the probable cause hearing is an informal procedure to which ordinary rules of evidence do not apply. The court may consider affidavits, professional reports, and representations of counsel in making a probable cause determination.

SB 320 further states that within 14 days of the detention hearing, if the juvenile had not previously presented evidence regarding the determination of probable cause, the juvenile could request a rehearing to contest the determination of probable cause. If the court determines that evidence or information presented in the rehearing could not reasonably have been produced at the detention hearing, the court would rehear the matter without unnecessary delay.

Estimated State Fiscal Effect				
	FY 2012 SGF	FY 2012 All Funds	FY 2013 SGF	FY 2013 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$13,546	\$13,546
FTE Pos.	--	--	--	--

The Office of Judicial Administration states that SB 320 has the potential to insert a probable cause hearing into juvenile offender proceedings at two stages, at the same time as the detention hearing (if other conditions are not met) or if detention for more than 48 hours is found to be warranted, the juvenile is in custody on the basis of a new offense, which would be a felony or misdemeanor if committed by an adult, and no prior judicial determination of probable cause has been made. In addition, a probable cause rehearing could be required if the juvenile so requests and other conditions noted above are met.

While the exact number or percentages of cases in which a probable cause hearing or rehearing would occur is unknown, the Office estimates that a hearing or rehearing would occur in a significant number of cases. The Office of Judicial Administration determined that a reasonable assumption would be that the provisions of the bill would result in probable cause hearings in approximately 55.0 percent of the juvenile offender cases filed because detention for more than 48 hours would not be required for some juveniles. A total of 11,158 juvenile offender cases were filed statewide in FY 2011. If a five minute probable cause hearing or rehearing were held in 55.0 percent of those cases, a total of 511 additional judge hours, or 64 days would be needed.

The Office states the most economical method of addressing this need for additional judge time would be to use assigned retired judges, at a rate of \$211.66 per day for a total cost of \$13,546 from the State General Fund for FY 2013. SB 320 would also require additional clerk of the district court time to receive and file documents, document hearings, send notices, and provide other duties. It is also possible that additional court services officer time would be required to coordinate proceedings and perform additional tasks. However, the Office cannot estimate a precise fiscal effect of the workload increase for clerks of the district court and court services officers at this time. There could be an additional fiscal effect to the courts because counties could experience additional expenditures for the cost of attorneys to represent juveniles at these hearings, according to the Office of Judicial Administration. Any fiscal effect associated with SB 320 is not reflected in *The FY 2013 Governor's Budget Report*.

Sincerely,



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