

March 4, 2013

The Honorable Jeff King, Chairperson  
Senate Committee on Judiciary  
Statehouse, Room 341-E  
Topeka, Kansas 66612

Dear Senator King:

**SUBJECT:** Fiscal Note for SB 190 by Senator Haley

In accordance with KSA 75-3715a, the following fiscal note concerning SB 190 is respectfully submitted to your committee.

SB 190 would amend current law by requiring law enforcement agencies that make use of eyewitness identification procedures to adopt specific procedures for conducting photo and live lineups that comply with the requirements in the bill.

Defendants would be entitled to pre-trial evidentiary hearings as to the reliability of any photo or live lineup procedure that was administered by the prosecution for eyewitness identification evidence. If the court finds evidence of (1) a failure of law enforcement or prosecuting agencies to comply with the provisions of the bill; (2) the use of any other suggestive identification procedures; or (3) any other contamination of identification evidence by state or non-state actors, then the court would determine the admissibility of the eyewitness identification and provide instructions to the jury.

The Director of Police Training at the law enforcement training center would be required to create, administer, and conduct training programs for law enforcement officers and recruits regarding the methods, technical aspects, and scientific findings regarding the eyewitness identification procedures contained in SB 190.

The Kansas Bureau of Investigation indicates that enactment of SB 190 would increase costs for additional staff time for agents to conduct lineups according to the provisions in the bill and to attend hearings. However, the precise fiscal effect is difficult to determine because the additional time that would be required for each case is unknown.

The League of Kansas Municipalities also reports that additional police or investigator time may be required to fulfill the photo and live lineup requirements contained in SB 190. However, the League is unable to predict what the costs may be on a statewide basis.

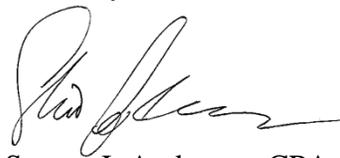
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According to the Office of Judicial Administration, the bill could increase the amount of time spent in district courts and the number of issues raised on appeal relating to pre-trial evidentiary hearings. This would increase the time spent by district court and appellate court judicial and non-judicial personnel in processing, researching, and hearing cases. However, it is not possible to predict how complex and time-consuming the cases would be. 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 additional resources. Any fiscal effect associated with SB 190 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", written in a cursive style.

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

cc: Linda Durand, KBI  
Larry Baer, League of Kansas Municipalities  
Melissa Wangemann, Kansas Association of Counties  
Mary Rinehart, Judiciary