

January 22, 2018

The Honorable Blaine Finch, Chairperson
House Committee on Judiciary
Statehouse, Room 519-N
Topeka, Kansas 66612

Dear Representative Finch:

SUBJECT: Fiscal Note for HB 2479 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2479 is respectfully submitted to your committee.

Under HB 2479, if a writ of *habeas corpus* relief from a district court is appealed by the prosecution, then the underlying criminal case would be automatically stayed while the appeal is pending. However, the time that the appeal is pending would not count for purposes of speedy trial calculation, until the mandate in the appeal is issued. The bill would also allow courts to release a prisoner on bond during the pending appeal process pursuant to the terms of release after conviction, regardless of whether the prisoner has filed a notice of appeal.

HB 2479 would allow the appellate court to lift a stay of an underlying criminal case upon a motion and finding that the prisoner has made a strong showing that the prisoner is entitled to relief and that the prisoner would be irreparably injured if the stay is not lifted. If the stay is lifted, while the appeal is pending, it would not count for purposes of speedy trial calculation, until the mandate in the appeal is issued and the prisoner would be entitled to a new bond hearing.

HB 2479 has the potential for increasing litigation in the courts because of the new provisions created by the bill. If it does, 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 predict the number of additional court cases that would arise or how complex and time-consuming they 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 HB 2479 is not reflected in *The FY 2019 Governor's Budget Report*.

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The Kansas Association of Counties states that any changes that allow for tolls in the prosecutorial and appeals process could lead to longer stay in jails; however, the Association is unable to estimate a fiscal effect.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Ashley Michaelis, Judiciary
Melissa Wangemann, Association of Counties