

STATE OF KANSAS

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LARRY L. CAMPBELL, CHIEF BUDGET OFFICER

February 13, 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 2571 by Representative Alcalá

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2571 is respectfully submitted to your committee.

HB 2571 would amend the Kansas Open Records Act. The bill would require public agencies to disclose criminal investigation records once an investigation becomes inactive. The bill defines an inactive investigation as one in which a law enforcement agency is no longer pursuing the case; the statute of limitations or 30 years has passed, whichever comes first; or all rights of appeal of the convicted person have been exhausted. The bill would prohibit disclosure of investigation records of inactive investigations if it would interfere with the investigation or prosecution, reveal a confidential informant's identity, reveal confidential investigative techniques or procedures, endanger the safety of an individual or reveal personally identifiable information. The bill would also prohibit the disclosure of body or vehicle camera footage that constitutes an unwarranted invasion of privacy. Additionally, the bill would allow a court the discretion to order the disclosure of criminal investigative records.

HB 2571 would also require a public agency to allow an individual who has written permission from the next of kin of a deceased subject of the recording to listen to a requested audio recording or to view a requested video recording made by a body or vehicle camera within 24 hours after making the request. The bill would also require a law enforcement agency to disclose any audio or video recording made by a body or vehicle camera within five days of receiving a request for information, if the recording depicts the discharge of a firearm or the use of force by an officer resulting in great bodily harm or death.

Additionally, HB 2571 would require law enforcement agencies to redact various graphic aspects of requested recordings and would limit the length of time a law enforcement agency may redact the identity of an officer who is under investigation to 270 days. The bill would also allow public agencies to charge copying fees prior to making copies, and would eliminate the requirement that requests for information be made in writing.

Estimated State Fiscal Effect				
	FY 2018 SGF	FY 2018 All Funds	FY 2019 SGF	FY 2019 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$100,855	\$100,855
FTE Pos.	--	--		1.00

The Kansas Bureau of Investigation (KBI) indicates that enactment of HB 2751 would result in an increase in Kansas Open Records Act (KORA) requests, which would require it to hire 1.00 Attorney FTE position at an ongoing cost of \$100,855 beginning in FY 2019. This estimate includes \$99,855 for salaries and wages and \$1,000 for supplies, travel, and training. The KBI indicates that the attorney would be responsible for gathering and reviewing various records, making redactions, and ensuring compliance with all KORA restrictions and provisions.

The Office of Judicial Administration indicates that HB 2571 could increase the number of arguments brought before the court regarding law enforcement recordings, which could increase the amount of time spent on cases filed in district courts and the number of appeals related to offenders convicted using audio or video recordings. However, the number of additional arguments and appeals that would be presented is unknown; therefore, the fiscal effect cannot be estimated.

The Kansas Association of Counties indicates that HB 2571 would increase expenditures of county law enforcement agencies because it would require additional employee labor and the purchasing and licensing of redaction software to make edits to the recordings. However, because the number of cases and recordings that would require review is unknown, the fiscal effect cannot be estimated.

The League of Kansas Municipalities indicates that HB 2571 would increase expenditures of local law enforcement agencies due to costs related to the storage of recordings, attorney time to review recordings for redaction, redaction equipment, staff time for recording review and maintenance, staff time for recovery of recordings, and additional cybersecurity efforts to secure the data collected. However, because the number of cases and recordings that would require review is unknown, the fiscal effect cannot be estimated. Any fiscal effect associated with HB 2571 is not reflected in *The FY 2019 Governor's Budget Report*.

Sincerely,



Larry L. Campbell
Chief Budget Officer

- cc: Shelia Sawyer-Tyler, KBI
Sherry Macke, Highway Patrol
Ashley Michaelis, Judiciary
Chardae Caine, League of Municipalities
Melissa Wangemann, Association of Counties