

SESSION OF 2019

SUPPLEMENTAL NOTE ON SENATE BILL NO. 102

As Recommended by Senate Committee on
Judiciary

Brief*

SB 102 would create the Kansas Closed Case Task Force (Task Force).

Legislative Findings

The bill would include whereas clauses setting forth legislative findings regarding submission of evidence for DNA testing, matches to the combined DNA index system (CODIS), wrongful convictions, exonerations based on DNA, CODIS hits to closed cases, and the benefits of a task force to develop uniform protocols for the reporting and handling of CODIS hits.

Task Force Members

The Task Force would be composed of the following 14 voting members:

- The chairpersons of the Senate and House Committees on Judiciary, who would serve as co-chairpersons of the Task Force;
- The ranking minority members of the Senate and House Committees on Judiciary;
- The Governor, or the Governor's designee;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- The Attorney General, or the Attorney General's designee;
- The Director of the Kansas Bureau of Investigation (KBI), or the Director's designee;
- One sheriff designated by the Kansas Sheriffs Association;
- One chief of police designated by the Kansas Association of Chiefs of Police;
- One prosecutor designated by the Kansas County and District Attorneys Association;
- The Executive Director of the State Board of Indigents' Defense Services (BIDS), or the Executive Director's designee;
- The President of the Kansas Bar Association, or the President's designee;
- The Director of Victims Services of the Kansas Department of Corrections (KDOC), or the Director's designee; and
- One representative of an organization that litigates claims of innocence, designated by the Governor.

The bill would require the above appointments to be made on or before September 1, 2019.

Task Force Meetings

The bill would require the Task Force to hold its initial meeting on or before October 1, 2019. The Task Force could meet in an open meeting at any time and place within Kansas upon the call of either co-chairperson. A majority of voting members would constitute a quorum, and any action would

be by motion adopted by a majority of the voting members present when there is a quorum.

Task Force Duties

The bill would require the Task Force, in consultation with practitioners and experts, to develop a plan to ensure uniform statewide policies and procedures that address, at a minimum:

- Timely receipt of data relating to hits to CODIS from the forensic laboratory;
- Directly connecting the data relating to hits to CODIS to the relevant case file;
- Proper policies and procedures to ensure all hits are accounted for and followed up;
- Procedures addressing how the key parties can conduct a reasonable and timely investigation into the significance of the hit; and
- Sharing the hits in data from solved and unsolved cases with other key parties, including the relevant prosecutors' offices, the original defense attorney and the last known attorney of record, crime victims and surviving relatives, and a local organization that litigates claims of innocence.

Plan, Report, and Expiration

The bill would require the Task Force to complete a plan for implementation of a protocol relating to hits to closed cases by October 1, 2020, including a mechanism to ensure uniform compliance at the local law enforcement agency level. A report containing a plan for uniform statewide implementation of the protocol, including articulated benchmarks to facilitate and measure adoption, would be

required to be submitted to the Governor, Speaker of the House of Representatives, and President of the Senate, as well as posted on a public KBI website, on or before December 1, 2020.

The provisions of the bill would expire on December 30, 2020.

Support Services and Compensation

Legislative members attending meetings authorized by the Task Force would be paid as specified in KSA 75-3223(e). Non-legislative members could be reimbursed by their appointing authority.

Background

The bill was introduced by the Senate Committee on Judiciary at the request of Senator Haley. In the Senate Committee hearing, Senator Haley, a representative of the Innocence Project and Midwest Innocence Project, and a representative of the Emmett Till Justice Campaign testified in support of the bill. No other testimony was provided.

The Senate Committee recommended the bill be placed on the Consent Calendar.

According to the fiscal note prepared by the Division of the Budget on the bill, Legislative Administrative Services indicates enactment of the bill would result in \$14,258 in additional State General Fund expenditures for four legislators to attend six meetings in FY 2020, which would include salaries and wages, subsistence, mileage, tolls, en route compensation, and employer costs. These expenses could increase in FY 2021 if mileage and *per diem* subsistence rates increase.

KDOC indicates expenses related to the Director of Victim Services' participation in the Task Force would be negligible and could be absorbed through existing resources. The KBI indicates enactment of the bill would require additional staff time and travel expenses, but the fiscal effect on the agency would be negligible. BIDS indicates the fiscal effect on the agency cannot be estimated.

The Office of the Attorney General (Office) indicates enactment of the bill would result in additional staff time and travel expenses, as well as a county sheriff and local prosecutor incurring expenses for additional staff time and travel. The Office also indicates the cost of implementation of the protocols adopted by the Task Force would largely fall onto local law enforcement and the KBI. Any fiscal effect associated with the enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.