

SESSION OF 2011

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2071**

As Agreed to May 4, 2011

Brief*

HB 2071 would amend KSA 59-29a01 to provide that when a person is committed as a sexually violent predator and files a *habeas corpus* petition, the costs incurred as part of the prosecution and defense of the petition would be assessed to the “county responsible for the costs.” “County responsible for the costs” would be defined in the bill as the county where the person was determined to be a sexually violent predator. A county could refuse to approve payment of the costs assessed by the court if it is not the “county responsible for the costs” and could file a claim against the debtor county, which would have to be paid within 120 days. The “county responsible for the costs” would be reimbursed for the costs by the Attorney General from the Sexually Violent Predator Expense Fund. The statute governing this fund, KSA 59-29a04a, would be amended to allow for such expenditures. If the Fund's balance was insufficient to cover the costs, the county could file a claim against the state for reimbursement.

It also would add a subsection to KSA 59-29a06, providing that in commitment proceedings for sexually violent predators, the parties are permitted to call expert witnesses. Consistent with KSA 60-456, which governs testimony in the form of an opinion, the facts or data upon which an expert witness bases an opinion or inference could be perceived or made known to the expert at or before the hearing. Further,

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the bill would provide that when the facts or data are of a type reasonably relied on by experts in the particular field in forming inferences or opinions on the subject, they would not have to be admissible in evidence for the inference or opinion to be admissible.

Conference Committee Action

The Conference Committee agreed to remove the contents of HB 2071 and replace them with SB 217, as it appeared in HB 2010 as amended by the Senate Committee of the Whole, and HB 2196, both of which concern sexually violent predators.

Background

HB 2071, as introduced, would have provided for the automatic revocation of inheritance rights upon divorce or annulment. In the House Committee on Judiciary, a representative of the Kansas Judicial Council appeared in support of the bill as introduced. No opponents were present at the hearing.

The Senate Committee on Judiciary amended the bill by deleting its original text and replacing it with the text of HB 2371, as amended by the House Committee on Corrections and Juvenile Justice. That bill would have amended current law concerning community corrections.

SB 217 was heard in the Senate Committee on Judiciary where the Pawnee County Attorney and Pawnee County Commissioner appeared in support of the bill. The Kansas Association of Counties presented testimony in opposition to the bill. The Pawnee County Attorney indicated the Attorney General's Office would support the bill if it was amended to strike language that would have required the Attorney General to formally determine the "county responsible for costs," and to change from 30 to 120, the number of days

allowed to pay a claim for costs. The Committee took no action on the bill.

The Senate Committee of the Whole amended HB 2010 to incorporate the provisions of SB 217, including the amendments recommended by the Pawnee County Attorney. Those provisions were later removed in a conference committee due to concerns it violated the single subject rule.

HB 2196 was heard in the House Committee on Judiciary, where a representative of the Attorney General's Office appeared in support of HB 2196. No opponents offered testimony.

The fiscal note for SB 217 as introduced indicates that the cost to the Office of Judicial Administration would be negligible and could be absorbed within existing resources. The Attorney General estimates that required reimbursements from the Sexually Violent Predator Fund, which has no consistent revenue source, would total \$18,000 to \$50,000 per year.

The fiscal note for HB 2196 as introduced indicates passage of the bill would have no effect on the Judiciary.

Sexually violent predators, costs of habeas corpus petitions, expert testimony