

February 18, 2020

The Honorable Fred Patton, Chairperson
House Committee on Judiciary
Statehouse, Room 519C-N
Topeka, Kansas 66612

Dear Representative Patton:

SUBJECT: Fiscal Note for HB 2667 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2667 is respectfully submitted to your committee.

HB 2667 would require every law enforcement agency in the state to adopt written policies regarding officer-involved deaths and would require these policies to be implemented on or before July 1, 2021. The bill would require policies to include:

1. A requirement that an investigation must be conducted by an outside law enforcement agency;
2. A statement requiring the outside law enforcement agency to produce a written, investigative report following the completion of the investigation;
3. Procedures to be used prior to the arrival of the outside law enforcement agency, including securing evidence, identifying potential witnesses or other parties involved and collection of information;
4. A requirement to forward the investigative report to the county or district attorney of the appropriate county; and
5. Procedures for a coordinate release of information with the county or district attorney of the appropriate county.

In addition, the bill would require the outside law enforcement agency to conduct a complete and accurate investigation, prepare a written investigative report to be submitted to the county or district attorney of the appropriate county and the agency head of the employer of the officer involved. If the county or district attorney determines there is no basis to prosecute the officer, the bill would require the county or district attorney to prepare a written report summarizing the investigative report and the reasoning for the decision. Finally, the bill would not allow the release of a report until it has first been made available for inspection to the decedent's next of kin, if known.

The Office of the Attorney General indicates that enactment of the bill would require it to adopt a policy regarding officer-involved deaths, which could be accomplished within existing resources. The bill also states that a county or district attorney may redact information from the report before it is released. The Office indicates that it is unclear on what basis the prosecutor would use to redact information. If the report is deemed to be open under the Kansas Open Records Act (KORA), and information is redacted, the Office states that legal disputes could follow, which could result in litigation or KORA complaints filed with the Office. However, a fiscal effect cannot be determined because the nature of the potential litigation and the number of complaints cannot be estimated.

The Kansas Bureau of Investigation indicates that enactment of the bill would produce additional requests to the agency to assist in officer-involved shootings, which could require additional resources if caseloads increase beyond its current capacity. However, a fiscal effect cannot be determined because the number of additional cases cannot be estimated.

The Highway Patrol indicates that it has already established guidelines and policies governing the response to resistance encountered by troopers and that the enactment of the bill would have no fiscal effect on the agency.

The League of Kansas Municipalities indicates that enactment of the bill would have a fiscal effect on cities, which would have to create policies outlined by the bill, but that the effect cannot be estimated.

The Kansas Association of Counties indicates that many local law enforcement agencies already have policies related to officer-involved shootings, and that the bill could require some agencies to revisit existing policies. The Association also indicates that there may be costs related to the implementation of the specific policies outlined in the bill. However, a fiscal effect cannot be estimated. Any fiscal effect associated with HB 2667 is not reflected in *The FY 2021 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Campbell". The signature is fluid and cursive, written over a white background.

Larry L. Campbell
Director of the Budget

cc: Trey Cocking, League of Municipalities
Jay Hall, Association of Counties
Sherry Macke, Highway Patrol
Paul Weisgerber, KBI
Willie Prescott, Office of the Attorney General