



Honorable Ernest L. Johnson, Chair  
Honorable Richard M. Smith, Vice Chair  
Sarah E. Fertig, Executive Director

Sam Brownback, Governor

MEMORANDUM

TO: Senator Tim Owens, Chairman, Judiciary Committee

FROM: Sarah Fertig, Executive Director

DATE: February 21, 2011

RE: Follow-up information regarding the bed impact of SB 63

During the Senate Judiciary Committee hearing today, questions were raised as to the bed impact statement the Sentencing Commission prepared for SB 63. This impact statement was drafted prior to my arrival at the Sentencing Commission, so I took the liberty of reviewing the statement with my staff, and I believe I can answer the Committee's questions.

The new language at the bottom of page 1 and on page 2 of the bill is cleanup language from Jessica's Law legislation (2010 HB 2435) that was passed last year. The Sentencing Commission provided bed impact statements for that bill during the 2010 session. The Commission at that time noted that while the bill clarified the penalties for attempt, conspiracy and solicitation of certain sex offenses against minors, most offenders sentenced for those crimes were already sentenced as off-grid felonies. Thus, there was projected to be little impact (increase of 10 beds needed over 10 years) because current sentencing practice appeared to be in-line with the intent of that bill.

SB 63 amends the 2010 Session Laws to conform to other legislation passed during the 2010 session. The only substantive change is the additional language in sections (a)(1) and (a)(4) expanding the definition of the crime to include instances where the "victim" is not actually under 18 years of age but the offender believes he/she is. The Sentencing Commission estimated that this language would have no impact in FY 2012 and a minimal 10-year impact similar to the attempt, conspiracy and solicitation language added by 2010 HB 2435. However, if this language were to lead to widespread sting operations that result in an unanticipated surge of prosecutions, as conferee Jennifer Roth cautioned against in her previous testimony in opposition to this bill, then the impact could increase. We have no way of determining whether such sting operations could occur, whether any individuals would be prosecuted as a result, or what those theoretical sentences may look like, as and such cannot estimate the potential impact of such application of SB 63.

I would be happy to answer any other questions the Committee may have.

Senate Judiciary

2-22-11  
Attachment 2