

March 1, 2011

The Honorable Pat Colloton, Chairperson
House Committee on Corrections and Juvenile Justice
Statehouse, Room 167-W
Topeka, Kansas 66612

Dear Representative Colloton:

SUBJECT: Fiscal Note for HB 2321 by House Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2321 is respectfully submitted to your committee.

HB 2321 would re-codify several areas of the Kansas criminal law by creating new crimes, amending penalties for existing crimes and amending criminal procedure. An offender who commits or attempts to commit any felony under Kansas law would be charged with the new crime of armed criminal action, which would be a nonperson felony. The bill would also create the new crime of endangerment, which would be defined as recklessly exposing another person to a danger of great bodily harm or death. Endangerment would be a class A person misdemeanor. The following changes would also be made to current law:

1. Provisions related to the crimes of smoking in public places; simulating legal process; unlawful use of recordings; bribery; criminal possession of explosives; cruelty to animals; and unlawful disposition of animals would be amended or clarified;
2. Language clarifying convictions of identical offenses would be added;
3. Offenders could be convicted of conspiracy even if there was no actual agreement with another person to commit the crime;
4. Abandonment of a child would be added to the list of inherently dangerous felonies in the statute for murder in the first degree;
5. Requirements that offenders must intentionally or knowingly commit certain violations of human trafficking would be incorporated;
6. Elements of the crimes of criminal sodomy and unlawful voluntary sexual relations would be eliminated;

7. The crime of aggravated incest would be amended by adding a new subsection regarding victims who are biological, step, or adoptive children. Violation of the new subsection would be a severity level three person felony;
8. Under the crimes of burglary and aggravated burglary, “sexual battery” would be replaced with “sexually motivated crime” as one of the underlying intents;
9. For the crime of interference with law enforcement, an offender who falsely report that a particular person committed a crime or who concealed or destroyed evidence of a crime could be convicted of a severity level eight nonperson felony. Falsely reporting any information for the purposes of impeding an officer’s duty would be a severity level nine nonperson felony;
10. Concealing, destroying, or materially altering evidence in felony cases would be a felony under the crime of interference with judicial process;
11. Penalties for the crime of escaping from custody by use of violence would be increased; and
12. Sentencing law would be amended to allow judges to consider proportionality when determining sentences and impose consecutive terms of imprisonment.

Under three scenarios that aggregate the assumptions made regarding the number of offenders who are convicted and sent to prison for the various crimes in the bill, the Kansas Sentencing Commission estimates that passage of HB 2321 would result in an increase of 22, 48, or 82 adult prison beds in FY 2012 and an increase of 60, 134, or 220 adult prison beds by FY 2021. Currently, the number of male inmates exceeds the available bed capacity of 8,259, and based upon the Kansas Sentencing Commission projections, it is estimated that at the end of FY 2011 and FY 2012, the number of male inmates will exceed available capacity by 235 beds and 394 beds, respectively. To address capacity issues, the Governor’s recommended FY 2012 budget includes \$2.5 million for contract prison beds. If it is determined that facility construction is necessary, the Department of Corrections has identified two capacity expansion projects: two high medium security housing units at El Dorado Correctional Facility that would provide 512 beds with a construction cost of \$22,687,232 (\$44,311 per bed X 512) and operating costs of \$9,339,904 (\$18,242 per bed X 512); and one minimum security housing unit at Ellsworth Correctional Facility that would provide 100 beds with a construction cost of \$5,935,000 (\$59,350 per bed X 100) and operating costs of \$1,832,000 (\$18,320 per bed X 100).

Any capacity needed beyond the options outlined above could require additional contract or construction costs. The actual construction costs would depend upon the security level of the beds to be constructed and when construction is actually undertaken, while the actual operating costs would depend upon the base salary amounts, fringe benefit rates, per meal costs, per capita health care costs, and other cost factors applicable at the time the additional capacity is occupied. Likewise, any further prison commitments that result in additional parolees could require additional staff and resources so that the additional parolees can be effectively supervised.

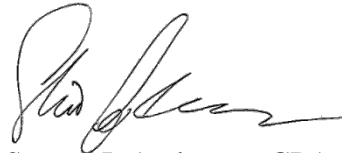
The Honorable Pat Colloton, Chairperson

March 1, 2011

Page 3—Fisc_Note_Hb2321

HB 2321 has the potential for increasing litigation in the courts because of the new and expanded violations created by the bill. If it does, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. However, it is not possible to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources. Any fiscal effect associated with HB 2321 is not reflected in *The FY 2012 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", with a long horizontal flourish extending to the right.

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Helen Pedigo, Sentencing Commission
Jeremy Barclay, Corrections
Mary Rinehart, Judiciary