

February 24, 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 2322 by House Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2322 is respectfully submitted to your committee.

HB 2322 would amend existing Kansas law regarding sex offender registration to comply with the federal Adam Walsh Sex Offender Registration and Notification Act. Offenders who are convicted of kidnapping, except by a parent, or aggravated kidnapping would be required to register under the Kansas Offender Registration Act. Penalties for registration violations would change from a severity level five person felony to a tiered system in which a first offense would be a severity level six person felony; a second offense would be a severity level five person felony; and a third offense would be a severity level three person felony. The bill would also add the new crime of aggravated violation of the Kansas Offender Registration Act, which is defined as 180 days of failing to comply with registration requirements and would be a severity level three person felony.

Offenders who are currently required to register would be required to register for 15 years. Current law requires a ten-year registration period. Offenders convicted of kidnapping and aggravated kidnapping must register for life. The bill also contains provisions clarifying the roles and responsibilities of courts, correctional facilities, treatment facilities, local law enforcement agencies, the Kansas Bureau of Investigation, the Office of the Attorney General, the Department of Education, and the Department of Health and Environment related to the registration, notification, tracking, and reporting of offenders. HB 2322 would increase from three to four the number of times a year an offender must report. Also, the bill would add special requirements for transient offenders.

The Kansas Sentencing Commission estimates that passage of HB 2322 would result in an increase of two adult prison beds in FY 2012 and a decrease of 27 adult prison beds by FY 2020. The estimate assumes that 70.0 percent of first offenses, 25.0 percent of second offenses, and 5.0 percent of third offenses would be sentenced to prison. 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

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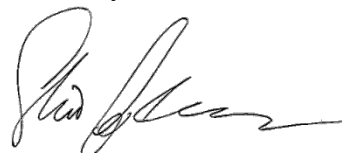
male inmates will exceed available capacity by 235 beds and 394 beds, respectively. To address capacity issues, the Governor's recommended FY 2012 budget includes \$2.5 million for contract prison beds. If it is determined that facility construction is necessary, the Department of Corrections has identified 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).

The Kansas Bureau of Investigation estimates that the number of offenders who must be added to the Bureau's Kansas Offender Registry would increase by 2,150. The increase would require more staff time to maintain the Registry along with \$41,807 from the State General Fund in FY 2012 for one-time database set-up costs. No additional costs should be incurred by the Bureau as a result of a new database that will be provided by the U.S. Department of Justice to help receive registration forms from local law enforcement and provide notifications. The Bureau states further that the agency received a \$300,000 federal grant to customize the database according to the needs of the state.

HB 2322 has the potential for increasing litigation in the courts because of the offender registration 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.

Because many of the offender registration and reporting requirements likely would be the responsibility of county sheriffs' offices as the registering law enforcement agency, counties could incur additional workload, supervision, and registration processing costs; however, the precise estimate of the costs cannot be determined because the number of offenders who would be under county control is unknown. A request for information has been sent to the Kansas Association of Counties; however, a response had not been received at the time this note was prepared. Any fiscal effect associated with HB 2322 is not reflected in *The FY 2012 Governor's Budget Report*.

Sincerely,



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

cc: Megan Pinegar, Attorney General's Office