

January 28, 2015

The Honorable John Rubin, Chairperson
House Committee on Corrections and Juvenile Justice
Statehouse, Room 151-S
Topeka, Kansas 66612

Dear Representative Rubin:

SUBJECT: Fiscal Note for HB 2049 by House Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2049 is respectfully submitted to your committee.

HB 2049 would amend the penalties for the crime of possession of marihuana. A first violation for possession would be reduced from a class A, nonperson misdemeanor to a class B, nonperson misdemeanor. If an offender has a prior conviction, the penalty would be reduced from a drug severity level five, nonperson felony to a class A, nonperson misdemeanor. Two or more prior convictions for possession of marihuana would remain a drug severity level five, nonperson felony.

The Office of Judicial Administration indicates that under the provisions of the bill offenders who are convicted of second possession of marihuana would be guilty of misdemeanor offenses and would be supervised by court services officers. Currently, offenders with second possession convictions are severity level five felons and are supervised by community corrections or sent to prison. The Kansas Sentencing Commission reports that in FY 2014 a total of 448 offenders were convicted of the crime of second possession of marihuana. Of this amount, 45 offenders were sentenced to prison; 219 offenders were sentenced to probation (of which 138 went to community corrections); and 184 were sentenced to 2003 SB 123 drug treatment. Using these figures, the Office estimates that 367 misdemeanor offenders could be added to court services officer caseloads (45 prison offenders + 138 community corrections offenders + 184 SB 123 offenders). At full staffing levels, court services officers manage an average caseload of 60 offenders. If this average is applied to the increase of 367 offenders, the agency estimates that an additional 6.00 FTE Court Service Officer I positions would be needed. The full-year cost for the salaries and wages expenditures of the new positions would be \$356,586 from the State General Fund. However, the total amount for FY 2016 could be reduced to \$237,670 to account for the time to hire and train the court services officers. The full-year costs would be needed for FY 2017.

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HB 2049 could also have a fiscal effect on Judicial Branch revenues. Under current law, felony offenders pay a correctional supervision fee of \$120 while misdemeanor offenders pay a fee of \$60, unless reduced or waived by the judge. Second possession offenders who would otherwise have paid the higher fee would now pay the lower amount. However, the precise fiscal effect on revenues is difficult to determine.

According to the Kansas Sentencing Commission, passage of HB 2049 would result in a decrease of 46 adult prison beds in FY 2016 and a decrease of 75 adult prison beds in FY 2017. By the end of FY 2025, it is estimated that the bill would result in a decrease of 83 adult prison beds. As of January 12, 2015, the available bed capacity is 9,636. Based upon the Commission's most recent ten-year projection contained in its *FY 2015 Adult Inmate Prison Population Projections* report, it is estimated that the year-end population will exceed available male capacity by 85 inmates in FY 2015, 109 inmates in FY 2016, and 162 inmates in FY 2017.

The bill may reduce the amount the Department of Corrections would have to spend to handle the expected bed shortfalls by decreasing the amount needed to house inmates in contract beds until additional capacity can be constructed. Based on a contract rate of \$40 per day, HB 2049 could create contract bed savings of \$671,600 in FY 2016 (46 beds X \$40 per day X 365 days) and \$1,095,000 in FY 2017 (75 beds X \$40 per day X 365 days).

The Kansas Sentencing Commission further indicates that the bill could help avoid 2003 SB 123 programming costs by \$788,986 in FY 2016. The Commission's journal entry workload would be reduced by 448 entries in FY 2016. Any fiscal effect associated with HB 2049 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Scott Schultz, Sentencing Commission
Mary Rinehart, Judiciary
Pat Scalia, BIDS
Jeremy Barclay, DOC