

February 9, 2016

The Honorable Gregory Smith, Chairperson  
Senate Committee on Corrections and Juvenile Justice  
Statehouse, Room 441-E  
Topeka, Kansas 66612

Dear Senator Smith:

**SUBJECT:** Fiscal Note for SB 391 by Senate Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following fiscal note concerning SB 391 is respectfully submitted to your committee.

SB 391 would create the new crimes of unlawful transmission of a visual depiction of a child, aggravated unlawful transmission of a visual depiction of a child, and unlawful possession of a visual depiction of a child. The bill defines each crime.

Unlawful transmission of a visual depiction of a child would be classified as a class A person misdemeanor for a first conviction and a severity level ten, person felony for any subsequent convictions. Aggravated unlawful transmission of a visual depiction of a child would be classified as a severity level nine, person felony for a first conviction and a severity level seven, person felony for any subsequent convictions. Unlawful possession of a visual depiction of a child would be classified as a class B person misdemeanor. SB 391 would establish affirmative defenses for prosecution for the crime of unlawful possession of a visual depiction of a child.

The Office of Judicial Administration estimates new case filings would increase the time spent by judicial and nonjudicial staff in processing, researching, and hearing cases. Enactment of SB 391 could have a fiscal effect on docket fee and fine revenues if additional cases result and fines are assessed. Until the courts have had an opportunity to operate under the provisions of SB 391, an accurate estimate of the fiscal effect upon the Judicial Branch cannot be given.

The Kansas Sentencing Commission estimates that passage of SB 391 would result in 36, 45, or 54 additional juvenile probationers in FY 2017 and two to three additional juvenile prison beds each fiscal year, depending on the following three scenarios described below:

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1. The Commission estimates that if 40 juveniles were convicted of the crimes created in SB 391, with 90.0 percent of the juveniles sentenced to probation and 10.0 percent of the juveniles sentenced to a juvenile correctional facility, there would be 36 additional juvenile probationers;
2. The Commission estimates that if 50 juveniles were convicted of the crimes created in SB 391, with 90.0 percent of the juveniles sentenced to probation and 10.0 percent of the juveniles sentenced to a juvenile correctional facility, there would be 45 additional juvenile probationers; and
3. The Commission estimates that if 60 juveniles were convicted of the crimes created in SB 391, with 90.0 percent of the juveniles sentenced to probation and 10.0 percent of the juveniles sentenced to a juvenile correctional facility, there would be 54 additional juvenile probationers.

Any fiscal effect associated with SB 391 is not reflected in *The FY 2017 Governor's Budget Report*.

Sincerely,



Shawn Sullivan,  
Director of the Budget

cc: Scott Schultz, Sentencing Commission  
Adam Pfannenstiel, Corrections  
Ashley Michaelis, Judiciary  
Pat Scalia, Indigents Defense Services  
Shelia Sawyer-Tyler, KBI