

March 4, 2020

The Honorable Rick Wilborn, Chairperson
Senate Committee on Judiciary
Statehouse, Room 541C-E
Topeka, Kansas 66612

Dear Senator Wilborn:

SUBJECT: Fiscal Note for SB 428 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 428 is respectfully submitted to your committee.

SB 428 would define “profiling on the basis of ethnicity” and “routine investigatory activities” and would redefine “racial profiling or other biased policies.” The bill would eliminate the requirement for a person who has filed a complaint with a law enforcement agency or the Office of the Attorney General to wait for the complaint to be resolved in their favor before filing a civil suit. If successful, the bill would allow the party to recover damages, attorneys’ fees, and court costs.

Effective July 1, 2020, the bill would require data collected on each citation issued by law enforcement to be sent to the Kansas Bureau of Investigation within 15 days on a form created and approved by the Office of the Attorney General. The bill would exclude the collection of information in connection with roadblocks, vehicle checks, or checkpoints unless such stops result in a warning, search, seizure, or arrest. The Office would be required to analyze the data every three months and post the results on the agency’s website. If the Office detects a pattern, it would be required to contact the agency exhibiting the pattern within two weeks of detection. The Office would also produce and distribute an annual report to the Legislature, the Governor, and Kansas law enforcement agencies and post the report on its website. The bill would require any law enforcement officer to provide, without being asked, a business card to any person the officer has detained in a traffic or pedestrian stop.

| Estimated State Fiscal Effect | | | | |
|-------------------------------|----------------|----------------------|----------------|----------------------|
| | FY 2020 SGF | FY 2020 All Funds | FY 2021 SGF | FY 2021 All Funds |
| Revenue | -- | -- | -- | -- |
| Expenditure | -- | -- | -- | \$452,504 |
| FTE Pos. | -- | -- | -- | 5.00 |

The Kansas Bureau of Investigation (KBI) indicates that enactment of the bill would require it to make changes to its electronic citation (eCitation) repository. The agency states that eCitation went live in April 2019 and was intended as a voluntary repository to be used as an investigative tool. This system has seven of the data elements required by the bill as optional fields, which would need to be changed to mandatory fields. Eight data elements are not included in the repository and would need to be added and made mandatory in the repository, the electronic form, and the instructions for agencies to connect electronically. The agency further states that the reporting requirements of the bill also do not yet exist in eCitation and would need to be created in order to report to the Office of the Attorney General. The agency estimates the cost to make changes to eCitation would be approximately \$140,000 from the State General Fund in FY 2021, assuming 1,000 hours at \$140 per hour. The agency states that it would not be able to complete these changes by July 1, 2020, as required by the bill. The agency also indicates it would require \$64,000 from the State General Fund in FY 2021 for 2.00 Administrative Assistant FTE positions to provide training and to receive and to enter paper submissions by local law enforcement agencies. The KBI also states that local law enforcement agencies would incur a cost to connect their citation systems to the eCitation system, but this cost is unknown.

The KBI also states that it is unclear if similar changes would have to be made to the Kansas Incident Based Reporting System (KIBRS), which has seven of the data elements required by the bill as optional fields. These seven fields would need to be changed to mandatory fields and seven additional data elements, which are not included KIBRS, would need to be added and made mandatory. However, the agency states that KIBRS is beyond its effective life cycle, has many limitations, and is difficult to use. As such, the agency is in the process of replacing KIBRS and the additional data elements that would need to be collected would be built into a new system and could not be added to the existing system.

The Office of the Attorney General indicates that enactment of the bill would require it to update all complaint forms and information regarding racial or bias-based policing currently available on its website, but this could be accomplished within existing resources. The Office states it would have to update the system that allows law enforcement agencies to submit their racial or bias-based policing annual reports to reflect the new language and the additional reporting requirements. The Office estimates this would require ten hours of service time from the Office of Information Technology Professional Services at \$73.50/hour for a total of \$735. The Office also indicates that enactment of the bill could increase the liability exposure of the state from the provision that allows civil lawsuits to be filed for racial profiling or other biased policing before a determination is made through the complaint process. The Office would be required to provide defense against any such lawsuits covered by the Tort Claims Act. The cost of defending the state is funded through ongoing transfers from the State General Fund to the Tort Claims Fund.

The Office states it would also require \$247,769 from the State General Fund beginning in FY 2021 for 2.00 Data Analyst FTE positions and 1.00 Secretary II position. Of this amount, \$163,542 would be for salaries and wages for the Data Analysts, \$54,042 would be for salaries and wages for the Secretary II, \$16,838 would be for office rent, \$4,200 would be for office furnishings, \$2,608 would be for information technology services, \$2,039 would be for information technology equipment, \$2,000 would be for training, \$1,900 would be for office

supplies and printing, and \$600 would be for professional licensing and publications. The Office also states that the implementation date of July 1, 2020, is impractical and it would not be able to modify or create such systems within this time frame. The Office indicates that local law enforcement agencies would incur expenses associated with adapting their standard citations to include all the data to be collected and transmitting this information to the KBI, but that this cost is unknown.

The Office of Judicial Administration indicates that enactment of the bill could increase the number of cases filed in district courts because it allows for a civil suit to be filed. This would increase the time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. The bill could also result in the collection of additional docket fees in cases filed under the provisions of the bill. However, a fiscal effect cannot be determined because the number of additional cases cannot be estimated.

The Commission on Peace Officers' Standards and Training indicates that enactment of the bill could result in additional investigations for racial profiling, which could be handled within existing resources.

The League of Kansas Municipalities and Kansas Association of the Counties indicate that enactment of the bill could result in increased costs to local law enforcement agencies to gather and submit detailed data from every traffic and pedestrian stop as well as increased costs to create additional forms and business cards. However, a fiscal effect cannot be determined.

The Kansas Highway Patrol indicates that enactment of the bill would have a negligible fiscal effect that could be absorbed within existing resources. Any fiscal effect associated with SB 428 is not reflected in *The FY 2021 Governor's Budget Report*.

Sincerely,



Larry L. Campbell
Director of the Budget

cc: Trey Cocking, League of Municipalities
Jay Hall, Association of Counties
Willie Prescott, Office of the Attorney General
Paul Weisgerber, KBI
Sherry Macke, Highway Patrol
Mary Rinehart, Judiciary
Gary Steed, Peace Officers