

February 21, 2024

The Honorable Susan Humphries, Chairperson
House Committee on Judiciary
300 SW 10th Avenue, Room 582-N
Topeka, Kansas 66612

Dear Representative Humphries:

SUBJECT: Fiscal Note for HB 2753 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2753 is respectfully submitted to your committee.

HB 2753 would add making a demand for money or other thing of value to the elements of the crime of sexual extortion. The bill would also create the crime of aggravated sexual extortion. Aggravated sexual extortion would be defined as sexual extortion that either causes bodily harm or death to the victim, or sexual extortion that is perpetrated against an individual who is under 18 years of age or is a dependent adult. Aggravated sexual extortion would be classified as a severity level 3, person felony offense. Under current law, sexual extortion is classified as a severity level 7 or 4, person felony offense. The bill would clarify that sexual extortion of an individual under 18 years of age would be classified as sexual exploitation of a child and be subject to the relevant penalties described in existing statute.

The Board of Indigents Defense Services indicates that the bill would increase agency expenditures on legal counsel and support staff by unknown amounts. The Board estimates that on average, a severity level 7 or 4, person felony case requires 57 hours of direct work by an attorney to provide constitutionally adequate representation. Based on the rates of \$83.36 per hour for public defenders and \$120 per hour for assigned counsel, each new severity level 7 or 4, person felony case brought to the agency would result in State General Fund expenditures of \$4,752 to \$6,840. The Board indicates that on average, a severity level 3, person felony case requires 99 hours of defense attorney work. Therefore, each severity level 3, person felony that would have previously been charged as a severity level 7 or 4, person felony would require the agency to perform 42 hours of additional case work at a cost of \$3,501 to \$5,040.

The Judiciary indicates that by broadening the definition of sexual extortion, the bill has the potential to increase the number of cases filed in district courts. This may increase agency operating expenditures due to the additional time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. This has the potential to increase the collection of docket fees, fines, and supervision fees, which are deposited in the State General

Fund. The Judiciary also indicates that by increasing the penalties for certain instances of sexual extortion, the bill would make fewer offenders eligible for court supervision, which would decrease agency expenditures on supervision and decrease the amount of supervision fees collected by the agency and deposited into the State General Fund. However, exact estimates of these fiscal effects cannot be determined.

The Sentencing Commission indicates that enactment of the bill could have an effect on prison admissions and would have an effect on bed space, but exact estimates cannot be determined. The current estimated available bed capacity is 9,668 for males and 932 for females. Based upon the Commission's most recent ten-year projection contained in its *FY 2024 Adult Inmate Prison Population Projections* report, it is estimated that the year-end population will total 8,556 male and 828 female inmates in FY 2024 and 8,847 male and 870 female inmates in FY 2025. The Department of Corrections indicates that the bill has the potential to increase agency operating expenditures depending on its effect on prison beds. Any fiscal effect associated with HB 2753 is not reflected in *The FY 2025 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam C. Proffitt", with a stylized flourish at the end.

Adam C. Proffitt
Director of the Budget

cc: Heather Cessna, Board of Indigents Defense Services
Jennifer King, Department of Corrections
Trisha Morrow, Judiciary
Scott Schultz, Kansas Sentencing Commission