

February 22, 2023

The Honorable Stephen Owens, Chairperson
House Committee on Corrections and Juvenile Justice
300 SW 10th Avenue, Room 546-S
Topeka, Kansas 66612

Dear Representative Owens:

SUBJECT: Fiscal Note for HB 2385 by House Committee on Corrections and Juvenile Justice

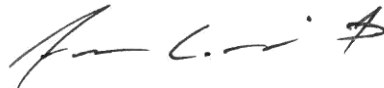
In accordance with KSA 75-3715a, the following fiscal note concerning HB 2385 is respectfully submitted to your committee.

HB 2385 would create an inference of an intent to distribute a controlled substance based on the quantity of the substance possessed instead of a rebuttable presumption if the inference is supported by the facts and the defendant possesses quantities of the controlled substances in amounts specified by statute. The bill would also amend statute regarding rules of evidence to establish that a presumption or inference against the defendant created by statute or common law, including a presumption or inference that certain facts are prima facie evidence of another fact or of the defendant's guilt, is permissive. The trier of fact could accept or reject the presumption or inference, and judges would be prohibited from instructing a jury on the presumption or inference unless supported by facts. The bill would require the judge's instructions to state that the jury may consider the presumption or inference along with all other evidence in the case, the jury could accept or reject the presumption or inference in determining whether the prosecution has met the burden of proof, and the burden of proof never shifts to the defendant.

The Kansas Sentencing Commission estimates that enactment of HB 2385 could have an effect on prison admissions and bed space, but that this effect cannot be determined at this time. The current estimated available bed capacity is 9,428 for males and 936 for females. Based upon the Commission's most recent ten-year projection contained in its *FY 2023 Adult Inmate Prison Population Projections* report, it is estimated that the year-end population will total 7,933 male and 764 female inmates in FY 2023 and 8,043 male and 740 female inmates in FY 2024.

The Office of Judicial Administration and the Department of Corrections indicate enactment of the bill would not have a fiscal effect. Any fiscal effect associated with HB 2385 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,

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

Adam Proffitt
Director of the Budget

cc: Randy Bowman, Department of Corrections
Vicki Jacobsen, Judiciary
Scott Schultz, Sentencing Commission