

February 27, 2023

The Honorable Kellie Warren, Chairperson  
Senate Committee on Judiciary  
300 SW 10th Avenue, Room 346-S  
Topeka, Kansas 66612

Dear Senator Warren:

**SUBJECT:** Fiscal Note for SB 258 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 258 is respectfully submitted to your committee.

SB 258 would enact the Act Against Abusive Access Litigation. The bill would allow the Attorney General, on behalf of a class of residents under KSA 60-223, or any Kansas resident that is subject to litigation that alleges any access violation, to file a civil action against a party, attorney, or law firm that initiated such litigation for a determination regarding whether such litigation alleging an access violation is abusive litigation.

The bill would specify in determining whether any litigation that alleges any access violation constitutes abusive litigation, the trier of the fact would be required to consider the totality of the circumstances to determine if the primary purpose of the litigation that alleges an access violation is obtaining a payment from a defendant due to the costs of defending the action in court. The bill outlines the factors the trier of fact may consider in making a determination.

If the trier of the fact determines that an initiator of an action is a defendant in abusive litigation, the court may award reasonable attorney fees and costs in bringing the action, as well as defending against the abusive litigation to be paid by the party bringing the abusive litigation. In addition, the court may award punitive damages or sanctions not to exceed three times the amount of attorney fees awarded by the court. The bill would define “access violation,” “public accommodation,” and “resident of the state.” The bill would take effect upon its publication in the *Kansas Register*.

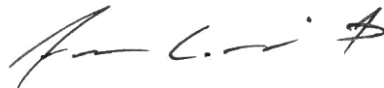
The Office of Judicial Administration states enactment of SB 258 could increase the number of cases filed in district court because the bill’s provisions would allow for a civil suit to

be filed by the Attorney General, which would increase the time spent by judges and court employees processing and hearing cases. The Office states a fiscal effect cannot be estimated until the Judicial Branch has had an opportunity to operate under the bill's provisions.

The Office of the Attorney General estimates additional expenditures of \$196,825 from the State General Fund, along with an additional 1.50 FTE positions in FY 2024 to carry out the bill's provisions if it is enacted. Of this amount, \$178,837 would be for salaries and wages for 1.00 Attorney FTE position and for a 0.50 Administration Specialist FTE position. The remaining \$17,988 would be for other operating expenditures. The agency indicates the civil cause of action would likely be filed by the Civil Litigation Division of the Office of the Attorney General. The agency estimates that there would be additional casework in preparing for lawsuits against violators of the Act. Any fiscal effect associated with SB 258 is not reflected in *The FY 2024 Governor's Budget Report*.

The Kansas Association of Counties states the bill's enactment could have a fiscal effect on counties if certain counties are constantly being faced with litigation regarding access violations. The League of Kansas Municipalities states enactment of SB 258 would not have a fiscal effect on cities.

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: Vicki Jacobsen, Judiciary  
Leigh Keck, Department for Aging & Disability Services  
John Milburn, Office of the Attorney General  
Wendi Stark, League of Kansas Municipalities  
Jay Hall, Kansas Association of Counties