

February 13, 2013

The Honorable Jeff King, Chairperson
Senate Committee on Judiciary
Statehouse, Room 341-E
Topeka, Kansas 66612

Dear Senator King:

SUBJECT: Fiscal Note for SB 47 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 47 is respectfully submitted to your committee.

SB 47 would expand the crime of identity theft as it relates to computers or computer systems. Under current law, it is unlawful for a person to knowingly and without authorization disclose a number, code, password or other means of access to a computer or computer network. Current law also stipulates that it is unlawful to knowingly access or attempt to access any computer, computer system, computer network, computer software, program, documentation, data, or property without authorization. SB 47 would add social networking websites or personal electronic content to the statutes. The penalty in these cases would be a class A nonperson misdemeanor.

Currently, violations of certain elements of identity theft are classified as severity level 8, nonperson felonies. The bill would increase the penalty for those violations to severity level 5, nonperson felonies if the monetary loss to the victim or victims is more than \$100,000.

The Kansas Sentencing Commission estimates that passage of SB 47 would result in an increase of two to three adult prison beds needed in FY 2014 and an increase of two to four adult prison beds needed by FY 2023. As of January 14, 2013, the available bed capacity is 9,564. While the bed impact of SB 47 is small, based upon the Kansas Sentencing Commission projections it is estimated that by the end of FY 2014 and FY 2015 the number of inmates will exceed available capacity by 325 beds and 590 beds, respectively.

To address capacity issues, the Governor's budget includes additional funding of \$3.0 million (\$2.0 million in FY 2014 and another \$1.0 million in FY 2015) for community corrections treatment and supervision programs to reduce the number of probationers entering prison. It is expected that the added funds plus policy changes recommended by the Justice Reinvestment group will make 863 beds available in FY 2014 and up to 1,581 beds available in

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FY 2015. However, it is likely that continued projected population increases will also require construction of new cell houses at the El Dorado Correctional Facility. The project would include building two new medium security housing units, which would provide a total of 512 beds. It is estimated that the new units would have a construction cost of approximately \$24.5 million and operating costs of approximately \$8.4 million (or about \$45.00 per inmate per day). Presumably, bonding authority would be required in FY 2015 for the constructions costs with operations at the new cell houses beginning in FY 2016.

According to the Office of Judicial Administration, SB 47 has the potential for increasing the number of cases related to identity theft filed in district and appellate courts. This would increase the time spent by district court and appellate court judicial and non-judicial personnel in processing, researching, and hearing cases. Likewise, the additional cases could also result in the collection of added revenue from docket fees or penalties. However, it is not possible to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources. Any fiscal effect associated with SB 47 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Scott Schultz, Sentencing Commission
Mary Rinehart, Judiciary
Jeremy Barclay, Corrections
Willie Prescott, Attorney General's Office