

February 12, 2015

REVISED

The Honorable Mary Pilcher-Cook, Chairperson
Senate Committee on Public Health and Welfare
Statehouse, Room 441-E
Topeka, Kansas 66612

Dear Senator Pilcher-Cook:

SUBJECT: Revised Fiscal Note for SB 95 by Senator Love, et al.

In accordance with KSA 75-3715a, the following revised fiscal note concerning SB 95 is respectfully submitted to your committee.

SB 95 would create the Kansas Unborn Child Protection from Dismemberment Abortion Act. The act would prohibit performing or attempting to perform a dismemberment abortion on an unborn child unless (1) the dismemberment abortion is necessary to preserve the life of the pregnant woman; or (2) a continuation of the pregnancy would cause substantial and irreversible physical impairment of a major bodily function of the pregnant woman.

No woman upon whom an abortion is performed or attempted to be performed would be held liable for a dismemberment abortion. Those acting at the discretion of the physician performing the dismemberment abortion would not be liable for performing or attempting to perform a dismemberment abortion.

The Attorney General or any district or county attorney with appropriate jurisdiction could bring a cause of action for injunctive relief against a person who has performed a dismemberment abortion in violation of the act. A first conviction of a violation would be a class A person misdemeanor. The penalty for a second or subsequent conviction of a violation would be a severity level ten, person felony. The bill identifies those persons who may bring a cause of action for civil damages.

Since the issuance of the original fiscal note, new information has been received from the Office of the Attorney General. The agency indicates it could incur additional expenditures in the event there would be legal challenges to SB 95. If a challenge were to occur, the Office indicates that there would be constitutional issues involved in defending any action and the agency would likely use the State Solicitor General and associated outside counsel. There could also be additional prosecution costs for the Office if a criminal action is required to be brought

under the bill. The agency estimates that the total fiscal effect could be a maximum of \$50,000 in FY 2015; \$100,000 to \$200,000 in FY 2016; and a maximum of \$200,000 in FY 2017.

According to the Office of Judicial Administration, SB 95 could create the potential for the filing of cases involving new crimes, civil actions, and injunctive relief relating to the provisions of the bill. The additional filings would increase the time spent by district court judicial and non-judicial personnel in processing, researching, and hearing cases. The filings would also result in additional revenue from docket fees. 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.

The Kansas Sentencing Commission indicates that the bill would have no effect on prison admissions or prison beds. The Kansas Department of Health and Environment reports that there would be no fiscal effect on the agency. Any fiscal effect associated with SB 95 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Mary Rinehart, Judiciary
Aaron Dunkel, Health & Environment
Scott Schultz, Sentencing Commission
Willie Prescott, Attorney General's Office
Melissa Wangemann, Association of Counties