

March 21, 2019

The Honorable Fred Patton, Chairperson
House Committee on Judiciary
Statehouse, Room 519-N
Topeka, Kansas 66612

Dear Representative Patton:

SUBJECT: Fiscal Note for HB 2331 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2331 is respectfully submitted to your committee.

HB 2331 would allow any person who was the victim of certain crimes of sexual abuse while under 18 years of age to bring an action in state court against the person or persons who engaged in the abuse if the victim suffered physical or psychological injury regardless of whether the victim is now an adult. The bill would provide that the plaintiff would recover actual damages and attorney fees, and any victim awarded damages would be presumed to have sustained damages of at least \$150,000. An action must be filed within two years of the later of: (1) the conclusion of a related criminal case; (2) the date the victim turns 18 years of age; or (3) the effective date of this Act. In addition, the bill would prohibit any duly ordained minister of religion from requesting a nondisclosure agreement as part of a settlement agreement resulting from a claim of sexual abuse. The claimant may request a nondisclosure agreement, but nothing in an agreement would restrict any party from cooperating with law enforcement.

HB 2331 would also amend the prompt reporting requirement to require reporting of suspected abuse or neglect within 24 hours, or within eight business hours, if the suspected abuse or neglect is discovered during the person's non-business hours. This reporting requirement would include anyone employed by a religious organization, including duly ordained ministers, except a minister that suspects the abuse based on a penitential communication would not be required to violate penitential communication privilege unless there is an ongoing risk of abuse or neglect of the victim or of another child.

The Office of Judicial Administration indicates HB 2331 could increase the number of cases filed by victims of certain crimes of sexual abuse committed by duly ordained ministers of

religion. The Office of Judicial Administration indicates the additional cases would increase revenues from docket fees and costs related to judicial and nonjudicial personnel processing, researching and hearing these cases. However, an estimate of revenues to and expenditures by the Judicial Branch cannot be made. The League of Kansas Municipalities indicates that any fiscal effect on cities from additional reporting of suspected abuse to law enforcement would be negligible. The Kansas Association of Counties indicates HB 2331 would have no fiscal effect on counties assuming there is no large increase in the number of new cases of sexual abuse.

The Office of the Attorney General (OAG) indicates it is likely that HB 2331 would be constitutionally challenged by religious organizations based on freedom of religion and compelled speech theories. This would require each case to go through the appellate process to get a definitive ruling on the validity of the law which the OAG estimates would take anywhere from two to four years, depending on which court system the case was filed in. Because of the specialized religious freedom components of such litigation, the OAG indicates it would need to hire specialized outside counsel to defend any lawsuit which could cost the state several hundred thousand dollars over the life of each lawsuit. If a challenge is successful, the OAG estimates the state could be ordered to pay the plaintiff's attorney fees and costs. Any fiscal effect associated with HB 2331 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,



Larry L. Campbell
Director of the Budget

cc: Dale Dennis, Education
Beth Visocky, Board of Healing Arts
Charity Carlat, Dental Board
Max Foster, Behavioral Sciences
Jan Murray, Optometry
Willie Prescott, Office of the Attorney General
Janie Harris, Judiciary
Chardae Caine, League of Municipalities
Jay Hall, Association of Counties