

April 8, 2019

The Honorable Rick Wilborn, Chairperson
Senate Committee on Judiciary
Statehouse, Room 541-E
Topeka, Kansas 66612

Dear Senator Wilborn:

SUBJECT: Fiscal Note for SB 227 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 227 is respectfully submitted to your committee.

SB 227 would provide that a person is not guilty of a crime other than murder or voluntary manslaughter by reason of conduct if the person is forced, coerced, or deceived into performing as a direct result of being a victim of human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child. The person would be required to prove their status as a victim at the time of the conduct by a preponderance of the evidence. An official determination or documentation would not be required to assert the defense, but an official determination or documentation from a federal, state, local, or tribal government agency that indicates the defendant was a victim at the time of the conduct would create a rebuttable presumption that the conduct was a direct result of being a victim. The bill defines the term "coerced."

The bill specifies that persons who have already been convicted of or have completed a diversion agreement for offenses that they claim were a result of being a victim of human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child could petition for expungement, if the petition is supported by a preponderance of the evidence.

At the hearing on the petition for expungement, the court must order the petitioner's arrest record, conviction, or diversion expunged if the court finds that the petitioner is a victim of human trafficking, aggravated human trafficking, or commercial sexual exploration of a child and the petitioner can prove by a preponderance of the evidence that they were acting under coercion caused by the act of another at the time of the offense. A finding by the court that the petitioner was a victim of human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child at the time of the offense would be *prima facie* evidence of coercion.

The bill would specify that a court must not order any person to register under the Kansas Registration Act if the person is convicted of any crime or adjudicated as a juvenile offender for any offense and the court finds on the record that the person was less than 18 years of age at the time of the act; the person was a victim of human trafficking, aggravated human trafficking, or commercial sexual exploitation of a child; and the trafficker or the trafficking ring used force, fraud, or coercion to influence the person to commit the act.

The Office of Judicial Administration states enactment of SB 227 could have a fiscal effect on the Judicial Branch, as it could result in more time spent by court employees and judges processing and deciding these cases. According to the Office, a fiscal effect cannot be estimated until the Judicial Branch has had an opportunity to operate under the bill's provisions.

The Kansas Sentencing Commission estimates enactment of the bill could have an effect on prison admissions and beds; however, the Commission does not have enough information to estimate an effect.

Both the Office of the Attorney General and the Kansas Bureau of Investigation indicate enactment of SB 227 would not have a fiscal effect to the operations of either agency. Any fiscal effect associated with SB 227 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink that reads "L. L. Campbell". The signature is written in a cursive, flowing style.

Larry L. Campbell
Director of the Budget

cc: Chardae Caine, League of Municipalities
Jay Hall, Association of Counties
Willie Prescott, Office of the Attorney General
Paul Weisgerber, KBI
Linda Kelly, Corrections
Scott Schultz, Sentencing Commission
Janie Harris, Judiciary