

February 7, 2022

The Honorable Kellie Warren, Chairperson  
Senate Committee on Judiciary  
Statehouse, Room 346-S  
Topeka, Kansas 66612

Dear Senator Warren:

**SUBJECT:** Fiscal Note for SB 352 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 352 is respectfully submitted to your committee.

SB 352 would establish the Community Defense and Human Trafficking Reduction Act to regulate sexually oriented businesses and to prevent human trafficking that is often associated with sexually oriented businesses. The bill would prohibit the establishment of a sexually oriented business within 1,000 feet of any pre-existing accredited public or private elementary or secondary school, house of worship, state-licensed day care facility, public library, public park, residence, or other sexually oriented business. This provision would not apply to any sexually oriented business lawfully established before the effective date of the Act. SB 352 would prohibit the establishment of a sexually oriented business if a person with an influential interest in the sexually oriented business has been convicted of a specified criminal activity within the preceding eight years.

The bill would prohibit a person from appearing nude in a sexually oriented business. An employee of a sexually oriented business could appear semi-nude only on a fixed stage at least 18 inches from the floor and at least six feet from all patrons in a room of at least 600 square feet. The semi-nude employee would be prohibited from touching a patron or the patron's clothing. SB 352 would impose certain space, configuration, and monitoring restrictions on a sexually oriented business that shows film or other video reproduction of specified sexual activities or specified anatomical areas.

SB 352 would require a sexually oriented business to remain closed between midnight and 6:00 a.m., prohibit anyone under the age of 18 from being on the premises, and prohibit the sale, use, or consumption of alcoholic beverages on the premises.

A violation or refusal to comply with these provisions would constitute a class C misdemeanor. Each day that a violation occurs and each separate occurrence would be a separate offense. Finally, the bill would label habitual violations of any law regulating sexually oriented businesses as common nuisances.

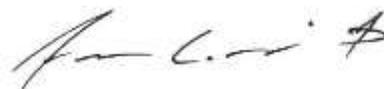
The Office of Judicial Administration states that enactment of SB 352 could increase the number of cases filed in district court because the bill's provisions would create a new crime, which could result in more time spent by court employees and judges processing and hearing cases. Since the crime carries a misdemeanor penalty, there could be additional supervision of offenders required to be performed by court service officers. The Office also indicates enactment of the bill could result in the collection of additional docket fees, supervision fees, and fines assessed in those cases filed under the bill's provisions. 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 Office of the Attorney General states the bill's enactment would likely be challenged on constitutional grounds. The Office estimates the case would likely need to go through the appellate process to get a definitive ruling on the validity of the legislation. The Office further estimates it could take two to four years to receive an appellate decision. Further, the Office estimates it is possible that outside counsel would need to be hired by the state to defend a lawsuit, depending on the caseload of in-house attorneys, which the agency estimates could cost several hundred thousand dollars over the life of the lawsuit. If a challenge were successful, the state could be ordered to pay the plaintiff's attorney fees and costs, according to the agency.

The Kansas Sentencing Commission states enactment of the bill would not have an effect on prison admissions or bed space. Both the Kansas Bureau of Investigation and the Department of Corrections state enactment of SB 352 would not have a fiscal effect on the operations of either agency. Any fiscal effect associated with SB 352 is not reflected in *The FY 2023 Governor's Budget Report*.

Both the League of Kansas Municipalities and the Kansas Associations of Counties state that enactment of the bill could result in increased costs to local governments related to enforcing the bill's provisions, but the amount cannot be determined at this time.

Sincerely,



Adam Proffitt  
Director of the Budget

cc: Vicki Jacobsen, Judiciary  
Paul Weisgerber, KBI  
Scott Schultz, Sentencing Commission  
Willie Prescott, Office of the Attorney General  
Wendi Stark, League of Municipalities  
Jay Hall, Association of Counties  
Randy Bowman, Corrections