

February 10, 2023

The Honorable Kellie Warren, Chairperson
Senate Committee on Judiciary
300 SW 10th Avenue, Room 346-S
Topeka, Kansas 66612

Dear Senator Warren:

SUBJECT: Fiscal Note for SB 158 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 158 is respectfully submitted to your committee.

SB 158 would create the Community Defense and Human Trafficking Reduction Act to regulate sexually oriented businesses. The bill would allow reasonable and uniform regulations to be established to prevent the harmful secondary effects of sexually oriented businesses within the state and to prevent human trafficking that is often associated with sexually orientated businesses. The bill would prohibit sexually oriented businesses from being within 1,000 feet of schools, churches, and other listed entities. No one could establish a sexually oriented business if a person with an influential interest in the business has been convicted of certain crimes. The bill would also establish requirements for employees of such businesses, including their distance from patrons. For businesses that exhibit sexually explicit videos or films, the bill would create requirements for the layout of such businesses' interiors, including the number and placement of operator's stations. The sale, use, and consumption of alcoholic beverages would be prohibited at sexually oriented businesses.

Businesses failing to meet the requirements would have 180 days to comply. Noncompliance of the Act would be a class C misdemeanor with each continuing day of noncompliance constituting a separate offense. Habitual violations of any law regarding sexually oriented businesses would be considered a common nuisance. The bill would establish a defense to liability for individuals who managed, supervised, or controlled the sexually oriented business that did not knowingly or recklessly allow such violations or were powerless to prevent such violations.

The Attorney General indicates it is likely that the constitutionality of the legislation would be challenged. The case would likely need to go through the appellate process to get a definitive

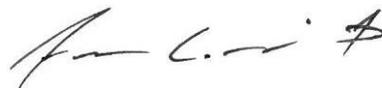
ruling on the validity of the law. Depending on which court system the case was filed in, federal or state, an appellate decision could take two to four years. The Attorney General states that outside counsel might need to be hired by the state to defend such a lawsuit, depending on the caseloads of in-house attorneys. If a challenge is successful, the state could be ordered to pay the plaintiff's attorney fees and costs. The Attorney General also notes that the bill could have an effect on criminal prosecution, mainly for county and local prosecutors, because the bill would create a new subsection of criminal offenses. However, a precise fiscal effect cannot be estimated.

The Office of Judicial Administration indicates enactment of the bill could increase the number of cases filed in district courts because it creates a new crime. This would increase the time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. Since the crime carries a misdemeanor penalty, there could also be more supervision of offenders required to be performed by court services officers. The bill could also result in the collection of supervision fees, docket fees, and fines in cases filed under the provisions of the bill. However, the Office states a precise fiscal effect cannot be estimated until the courts have had an opportunity to operate under the provisions of the bill.

The Sentencing Commission and the Department of Corrections indicate enactment of the bill would not have a fiscal effect on the agencies. Any fiscal effect associated with SB 158 is not reflected in *The FY 2024 Governor's Budget Report*.

The League of Kansas Municipalities indicates enactment of the bill would increase costs to local law enforcement agencies to provide training and to enforce the bill's provisions. However, a fiscal effect cannot be determined at this time. The Kansas Association of Counties states enactment of the bill would not have a fiscal effect on counties.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Vicki Jacobsen, Judiciary
Scott Schultz, Sentencing Commission
Randy Bowman, Department of Corrections
John Milburn, Office of the Attorney General
Wendi Stark, League of Kansas Municipalities
Jay Hall, Kansas Association of Counties