

February 15, 2023

REVISED

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

Dear Senator Warren:

**SUBJECT:** Revised Fiscal Note for SB 238 by Senate Committee on Judiciary

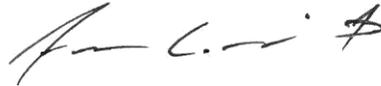
In accordance with KSA 75-3715a, the following revised fiscal note concerning SB 238 is respectfully submitted to your committee.

SB 238 would make amendments to statutes related to fentanyl. The bill would require the sentences for unlawful distribution of fentanyl or the possession of fentanyl with intent to distribute to be presumptive imprisonment. Material containing any quantity of a fentanyl-related controlled substance would be presumed imprisonment and would be two times the maximum duration of the presumptive term of imprisonment. Such a sentence would not be considered a departure from the sentencing grid and would not be subject to appeal. If the trier of fact found beyond a reasonable doubt that the controlled substance involved was likely to be attractive to minors because of its appearance or packaging, the sentence for unlawful distribution or possession with intent to distribute fentanyl would be presumed imprisonment and would be two times the maximum duration of the presumptive term of imprisonment. Such a sentence would not be considered a departure and would not be subject to appeal.

Since the original fiscal note was issued, the Sentencing Commission and the Department of Corrections have provided information on the fiscal effect of this bill. The Kansas Sentencing Commission estimates that enactment of SB 238 would result in an increase of six adult prison beds needed by the end of FY 2024. By the end of FY 2033, 79 additional beds would be needed. The current estimated available bed capacity is 9,428 for males and 936 for females. Based upon the Commission's most recent ten-year projection contained in its *FY 2023 Adult Inmate Prison Population Projections* report, it is estimated that the year-end population will total 7,933 male and 764 female inmates in FY 2023 and 8,043 male and 740 female inmates in FY 2024. The Department of Corrections indicates enactment of the bill would have a negligible fiscal effect on current operations that could be absorbed within existing resources.

The Office of Judicial Administration indicates enactment of the bill would have no fiscal effect on the operations of the Judicial Branch. Any fiscal effect associated with SB 238 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt  
Director of the Budget

cc: Vicki Jacobsen, Judiciary  
Scott Schultz, Sentencing Commission  
Randy Bowman, Department of Corrections