

February 17, 2011

The Honorable Pat Colloton, Chairperson
House Committee on Corrections and Juvenile Justice
Statehouse, Room 167-W
Topeka, Kansas 66612

Dear Representative Colloton:

SUBJECT: Fiscal Note for HB 2318 by House Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2318 is respectfully submitted to your committee.

HB 2318 would amend several criminal controlled substance violations by creating new penalty levels based on amounts possessed with the intent to distribute. Penalties would be increased for offenders who distribute or possess with the intent to distribute controlled substances within 1,000 feet of any school property. Distribution of schedule V controlled substances would be a class A, person misdemeanor; however, in cases where the substance was distributed or possessed with the intent to distribute to a minor under 19 years of age, the penalty would be a severity level 7, person felony. Possession of any drug paraphernalia with the intent to manufacture or distribute controlled substances would be considered attempts to violate drug laws. For prosecutions, the bill would create a rebuttable presumption of intent to distribute if any person possessed certain quantities of controlled substances.

The Kansas Sentencing Commission estimates that passage of HB 2318 would result in an increase of three adult prison beds in FY 2012 and no increases to adult prison beds by FY 2021. Currently, the number of male inmates exceeds the available bed capacity of 8,259, and based upon the Kansas Sentencing Commission projections, it is estimated that at the end of FY 2011 and FY 2012, the number of male inmates will exceed available capacity by 235 beds and 394 beds, respectively. To address capacity issues, the Governor's recommended FY 2012 budget includes \$2.5 million for contract prison beds. If it is determined that facility construction is necessary, the Department of Corrections has identified two capacity expansion projects: two high medium security housing units at El Dorado Correctional Facility that would provide 512 beds with a construction cost of \$22,687,232 (\$44,311 per bed X 512) and operating costs of \$9,339,904 (\$18,242 per bed X 512); and one minimum security housing unit at Ellsworth Correctional Facility that would provide 100 beds with a construction cost of \$5,935,000 (\$59,350 per bed X 100) and operating costs of \$1,832,000 (\$18,320 per bed X 100).

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HB 2318 has the potential for increasing litigation in the courts because of the amended violations. If it does, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. However, it is not possible to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources. Any fiscal effect associated with HB 2318 is not reflected in *The FY 2012 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", with a long horizontal flourish extending to the right.

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Brenda Harmon, Sentencing
Jeremy Barclay, KDOC
Mary Rinehart, Judiciary
Pat Scalia, BIDS