

March 5, 2015

The Honorable Jeff King, Chairperson  
Senate Committee on Judiciary  
Statehouse, Room 341-E  
Topeka, Kansas 66612

Dear Senator King:

**SUBJECT:** Fiscal Note for SB 191 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 191 is respectfully submitted to your committee.

SB 191 would add a specific provision within the crime of criminal discharge of a firearm that includes the reckless and unauthorized discharge of a firearm at a motor vehicle in which there is a human being, regardless of whether the person discharging the firearm knows or has reason to know that there is a human being present.

The bill would also create two new sentencing rules for criminal discharge of a firearm. If the trier of fact makes the finding that the offender discharging the firearm knew or reasonably should have known that a human being was present inside a dwelling, building, structure or motor vehicle the offender would be sentenced to presumptive imprisonment. In addition to the sentence imposed by the Kansas Sentencing Guideline Act, the offender would receive an additional 60 months imprisonment, to be served consecutively to any other term or terms of imprisonment. If the trier of fact makes a finding that the offender knew or reasonably should have known that a person less than 14 years of age was present in the dwelling, building, structure or motor vehicle, the additional term would be 120 months.

Based on three scenarios, the Kansas Sentencing Commission estimates that passage of SB 191 would result in an increase of zero, four and seven adult prison beds needed in FY 2016 and an increase of three, 11 and 17 adult prison beds needed in FY 2017. By FY 2025, it is estimated that 30, 51 and 80 adult prison beds would be needed. As of January 12, 2015, the available bed capacity is 9,636. Based upon the Commission's most recent ten-year projection contained in its *FY 2015 Adult Inmate Prison Population Projections* report, it is estimated that the year-end population will exceed available male capacity by 85 inmates in FY 2015, 109 inmates in FY 2016, and 162 inmates in FY 2017. The Department of Corrections intends to manage the original bed shortfall by housing inmates in contract beds until additional capacity can be constructed. SB 191 would add to those contract bed costs.

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Assuming a contract rate of \$40 per day, it may cost the Department of Corrections up to an additional \$102,200 (seven offenders x \$40 per day x 365 days) in FY 2016 and additional expenses ranging between \$438,000 and \$1,168,000 in FY 2017. Construction costs for adding capacity would depend upon the security level of the beds to be constructed and when construction is actually undertaken. Absent the passage of any other legislation, increases in the female population and the minimum security male population can be absorbed within existing resources. Likewise, any further prison commitments that result in additional parolees could require additional staff and resources so that the parolees could be effectively supervised.

According to the Office of Judicial Administration, the provisions requiring presumptive imprisonment and additional terms of imprisonment could result in more vigorous defense actions and additional appeals by defendants. This would increase expenditures for the Judicial Branch in the form of additional court staff time. However, it is not possible to predict the number of additional appeals that would arise or how complex and time-consuming the appeals and defense actions would be. Therefore, a precise fiscal effect cannot be determined.

The Kansas Sentencing Commission states that the bill would have no effect on the workload of the agency. Any fiscal effect associated with SB 191 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,  
Director of the Budget

cc: Jeremy Barclay, DOC  
Mary Rinehart, Judiciary  
Scott Schultz, Sentencing Commission