

February 7, 2011

The Honorable Tim Owens, Chairperson  
Senate Committee on Judiciary  
Statehouse, Room 559-S  
Topeka, Kansas 66612

Dear Senator Owens:

**SUBJECT:** Fiscal Note for SB 39 by Senator Olson

In accordance with KSA 75-3715a, the following fiscal note concerning SB 39 is respectfully submitted to your committee.

SB 39 would amend the Kansas Offender Registration Act by expanding the definition of sex offender and adding the new classification of aggravated sex offender. Any person convicted of any sexually violent crime on or after April 14, 1994, and on or before July 1, 2011, would be classified as a sex offender. After July 1, 2011, the law would specify that any person convicted of a sexually violent crime in which none of the parties involved is less than 16 years of age would be classified as a sex offender; however, if one of the parties involved is less than 16 years of age, a convicted person would be classified as an aggravated sex offender.

Aggravated sex offenders who change residences would be required to send written notification of the new address within 24 hours to the local law enforcement agency where the offender last registered and the Kansas Bureau of Investigations (KBI). Moreover, aggravated sex offenders would be prohibited from residing within 2,000 feet or loitering within 500 feet of any licensed child care facility, home day care, or school property. The loitering provision would not apply to parents, custodians, or legal guardians who have received permission from child care operators or school officials to be present at the child care facility or on school property.

The Department of Revenue Division of Motor Vehicles would be required to include an "aggravated sex offender" label on all licenses issued to aggravated sex offenders. The Division would also be required to suspend for six months the driving privileges of any sex offender who has violated the Kansas Offender Registration Act. The sentence for any violations of the Act would be presumptive imprisonment and judges would not be permitted to impose downward dispositional departure sentences. Finally, any person required to register under the Act would be prohibited from participating in any Halloween activities.

The Kansas Sentencing Commission estimates that passage of SB 39 would result in an increase of 122 adult prison beds in FY 2012 and an increase of 465 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

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Page 2—Fisc\_Note\_Sb39

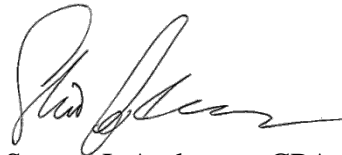
394 beds, respectively. To address capacity issues, the Governor's recommended FY 2012 budget includes \$2.5 million for contract prison beds. If it is determined that facility construction is necessary, the Department of Corrections has identified two capacity expansion projects: two high medium security 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).

Any capacity needed beyond the options outlined above could require additional contract or construction costs. The actual construction costs would depend upon the security level of the beds to be constructed and when construction is actually undertaken, while the actual operating costs would depend upon the base salary amounts, fringe benefit rates, per meal costs, per capita health care costs, and other cost factors applicable at the time the additional capacity is occupied. Likewise, any further prison commitments that result in additional parolees could require additional staff and resources so that the additional parolees can be effectively supervised.

SB 39 also has the potential for increasing litigation in the courts because of the new violations created by the bill. 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.

It is estimated by the Department of Revenue that additional costs totaling \$30,296 from the State General Fund would be incurred as a result of the bill's passage. Included in the amount is \$3,600 in programming costs to modify the current driver's license system; \$9,000 to place the "Aggravated Sex Offender" label on certain licenses; and \$17,696 in programming costs to make modifications to the new driver's license system, which is currently under development. Any fiscal effect associated with SB 39 is not reflected in *The FY 2012 Governor's Budget Report*.

Sincerely,



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

cc: Steve Neske, Revenue  
Brenda Harmon, Sentencing  
Pat Scalia, BIDS  
Meagan Pinegar, Attorney General's Office

Jeremy Barclay, KDOC  
Keith Bradshaw, JJA  
Mary Rinehart, Judiciary