

January 28, 2014

The Honorable Lance Kinzer, Chairperson  
House Committee on Judiciary  
Statehouse, Room 165-W  
Topeka, Kansas 66612

Dear Representative Kinzer:

**SUBJECT:** Fiscal Note for HB 2442 by House Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2442 is respectfully submitted to your committee.

HB 2442 would amend current law by increasing the penalties for drivers who flee or elude police officers. The penalty for a first conviction for fleeing, eluding, or failing to stop for a pursuing police vehicle or bicycle would increase from a Class B nonperson misdemeanor to a Class A nonperson misdemeanor. The penalty for a second conviction of the same crimes would increase from a Class A nonperson misdemeanor to a severity level nine, person felony. A third or subsequent conviction would increase from a severity level nine, person felony to a severity level six, person felony.

Under current law, drivers who fail to stop for police road blocks, drive around tire deflating devices, engage in reckless driving, are involved in motor vehicle accidents or intentionally cause damage to property, commit five or more such violations, or attempt to elude capture for the commission of any felony all while fleeing or eluding pursuing police vehicles could be convicted of a severity level nine, person felony. HB 2442 would add that second convictions of the above crimes within the immediately preceding five years would be severity level six, person felonies and third or subsequent convictions within the immediately preceding ten years would be severity level five, person felonies.

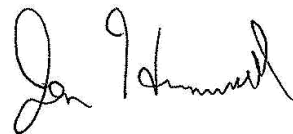
The Office of Judicial Administration indicates that HB 2442 could result in more motions and trials from offenders entering "not guilty" pleas to avoid the increased penalties. While these court actions would have costs they could also result in the collection of added revenue from docket fees and penalties. Moreover, court service officers could experience additional workloads from more probationers on supervision or from probationers who are on supervision for longer periods of time. However, it is not possible to predict the number of additional court actions and probationers resulting from the bill. Therefore, a precise fiscal effect cannot be determined.

Using FY 2013 cost and caseload data, the Board of Indigents Defense Services estimates the bill would add 437 additional cases which would require \$348,276 from the State General Fund in FY 2015. It is expected that the elevated caseloads would continue into the out-years and the costs would be ongoing. The total amount includes \$210,176 for assigned counsel (256 cases X \$821 cost per case) and \$138,100 for 2.00 Public Defender FTE positions to handle approximately 181 cases.

The Kansas Sentencing Commission estimates that passage of the bill would result in an increase of 56, 76, or 96 adult prison beds needed by FY 2015 based on three different scenarios that reflect increasing percentages of offenders who may be convicted under the new penalties. As of January 13, 2014, the available bed capacity is 9,636. Based upon the commission's most recent ten-year projection contained in its *FY 2014 Adult Inmate Prison Population Projections* report, by the end of FY 2014 and FY 2015 it is estimated that the number of inmates will be below available capacity by 103 beds and 196 beds, respectively. However, starting in FY 2017 it is expected that the adult correctional facilities will again be over capacity.

Continued population increases eventually will require construction of new cell houses at the El Dorado Correctional Facility. This project would include building two new medium security housing units, which would provide a total of 512 beds. It is estimated that the new units would have a construction cost of approximately \$24.4 million and operating costs of approximately \$8.4 million (or about \$45.00 per inmate per day). If bonds are used to finance the construction of the units, bonding authority would be required in FY 2016 so that operations at the new cell houses could begin in FY 2017. By increasing the number of beds needed, passage of HB 2442 could require that construction begin a year earlier or additional funds be appropriated for contract beds until the new cell houses are available. Any fiscal effect associated with HB 2442 is not reflected in *The FY 2015 Governor's Budget Report*.

Sincerely,



Jon Hummell,  
Interim Director of the Budget

cc: Scott Schultz, Sentencing Commission  
Jeremy Barclay, DOC  
Mary Rinehart, Judiciary  
Steve Neske, Revenue  
Pat Scalia, BIDS