

January 22, 2015

The Honorable Gregory Smith, Chairperson
Senate Committee on Corrections and Juvenile Justice
Statehouse, Room 441-E
Topeka, Kansas 66612

Dear Senator Smith:

SUBJECT: Fiscal Note for SB 1 by Senator Haley

In accordance with KSA 75-3715a, the following fiscal note concerning SB 1 is respectfully submitted to your committee.

SB 1 would change the way sentencing is imposed when an offender's crime is motivated entirely or in part by the race, color, religion, ethnicity, national origin, or sexual orientation of the victim or the crime motivated by the mere perception or belief that the victim has these traits, whether or not the offender is correct. Under current law, this type of motivation may be used as an aggravating factor when a judge imposes an upward departure from the presumptive sentence prescribed in the Kansas Criminal Code. SB 1 would remove this motivation as a general aggravating factor, and instead place it within the statute governing sentencing for non-drug crimes, along with specific penalties.

If the underlying crime carries a presumptive term of imprisonment, the sentence would be double the maximum duration of the presumptive term. If the underlying crime carries a presumptive non-prison term, the sentence would be presumptive imprisonment for double the maximum duration of the presumptive imprisonment term. If the underlying crime is off-grid, the sentence would be double the sentence prescribed by law for the crime.

The Attorney General would be required to collect and disseminate data on criminal acts that demonstrate prejudice on the basis of race, color, religion, ethnicity, national origin, sexual orientation, or disability. The Attorney General must also provide training for all law enforcement officers in identifying, responding to and reporting criminal acts under the bill. The Kansas Commission on Peace Officers' Standards and Training would be required to develop and certify a course of such training.

Estimated State Fiscal Effect				
	FY 2015 SGF	FY 2015 All Funds	FY 2016 SGF	FY 2016 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$162,164	\$162,164
FTE Pos.	--	--	--	2.00

The Attorney General indicates that collecting data on the criminal acts in SB 1 and establishing a training program for law enforcement officers would require additional State General Fund expenditures of \$162,164 for the salaries and benefits of 2.00 new FTE positions and other associated expenses in FY 2016. A new administrative assistant position (\$46,823 salary and benefits) would be needed to collect, manage, and disseminate information received from law enforcement agencies regarding hate crimes. A new trainer position (\$73,338 salary and benefits) would be needed to provide statewide training to approximately 435 law enforcement agencies in Kansas. Other costs include \$18,000 for a vehicle and \$24,003 for office space, furniture, information systems, telecommunications, and other one-time setup costs. Total expenditures for FY 2017 would decrease to \$135,679.

According to the Office of Judicial Administration, it is possible that the changes in the bill will create more trials in the district courts causing judicial and non-judicial staff to spend more time processing, researching, and hearing cases. It is also likely that appellate courts would receive more requests for appeals. While the additional trials and appeals would cause additional court costs, increases to the number of appeals would result in the collection of additional docket fee revenue. 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.

The Kansas Sentencing Commission reports that SB 1 would have an impact on prison admissions and prison beds. However, not enough data exist in the Commission's or Kansas Bureau of Investigation's databases from which to make a precise estimate. The Commission notes that in FY 2014 there were 85 upward departure sentences with no offenders receiving the hate crime aggravating factor as part of their sentence. The bill would have no effect on the workload of the Commission.

The Kansas Commission on Peace Officer's Standards and Training estimates that any fiscal effect resulting from establishing a training course could be carried out within budgeted resources. Any fiscal effect associated with SB 1 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,



Shawn Sullivan,
Director of the Budget

cc: Gary Steed, Peace Officers
Mary Rinehart, Judiciary
Jeremy Barclay, Corrections
Scott Schultz, Sentencing Commission
Willie Prescott, Attorney General's Office