

March 6, 2023

The Honorable Will Carpenter, Chairperson
House Committee on Federal and State Affairs
300 SW 10th Avenue, Room 346-S
Topeka, Kansas 66612

Dear Representative Carpenter:

SUBJECT: Fiscal Note for HB 2441 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2441 is respectfully submitted to your committee.

HB 2441 would create the Anti-Red Flag Gun Seizure Act. The bill would define a red flag law as any law, rule, regulation, or executive order that directs the temporary or permanent seizure of any firearm, firearm accessory, or ammunition of an individual without the adjudication of a competent court or any federal or state statute, rule, regulation, or judicial order that prohibits a citizen from owning, possessing, transporting, transferring, or receiving any firearm, firearm accessory, or ammunition or requires the seizure or surrender of any firearm, firearm accessory, or ammunition from a citizen, with certain exceptions.

The bill would consider any federal law; rule; regulation; executive, administrative, or judicial order that is a red flag law an infringement on the people's right to keep and bear arms under the United States Constitution and would make any red flag law invalid and unenforceable in the state. The bill would also prohibit any state agency, political subdivision, or state or municipal law enforcement agency from receiving or expending any federal moneys to enforce any red flag law. Employees of any state agency, political subdivision, or state or municipal law enforcement agency would be prohibited from enforcing any red flag law. Any law enforcement agency or political subdivision that employs a law enforcement officer that violates the provisions of the bill would be liable for any damages resulting from the violation and would be subject to civil penalties of \$50,000 for each occurrence. Any law enforcement agency or political subdivision that employs an individual who previously acted as an official, agent, employee, or deputy of the government, or otherwise acted under the color of federal law within the borders of the state after the effective date of the Act that enforced any red flag law or gave material aid and support to another individual or agency of the government to enforce any red flag law would be subject to civil penalties of \$50,000 for each employee.

Individuals aggrieved by violations of the bill would be allowed to seek injunctive relief from the court. Courts would be required to hold a hearing within 30 days and could award reasonable attorney fees and court costs to the prevailing party unless the party is the state or one of its political subdivisions. The bill would take effect after its publication in the statute book.

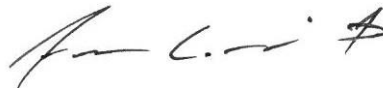
The Office of Judicial Administration indicates enactment of the bill could increase the number of cases filed in district courts because it allows for a civil action to be filed and requires court hearings to be held within 30 days. This could increase the time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. The bill could also result in the collection of docket fees, which would be deposited into the State General Fund. However, the Office states a precise fiscal effect cannot be determined until the Judicial Branch has had an opportunity to operate under the bill's provisions.

The Attorney General states that it is possible the bill could be challenged in state or federal court, but it is not possible to determine whether the law would be challenged nor the potential success or failure of efforts to defend the law. As a result, a fiscal effect cannot be estimated.

The Kansas Bureau of Investigation and the Highway Patrol indicate enactment of the bill would not have a fiscal effect on the agencies. Any fiscal effect associated with HB 2441 is not reflected in *The FY 2024 Governor's Budget Report*.

The League of Kansas Municipalities indicates enactment of the bill could increase expenditures for cities if local governments are subjected to the civil liability penalties outlined in the bill. The Kansas Association of Counties states that the bill could decrease revenue for counties if failure to enforce red flag laws would be a violation of federal law that results in decreased federal funding.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Vicki Jacobsen, Judiciary
John Milburn, Office of the Attorney General
Wendi Stark, League of Kansas Municipalities
Jay Hall, Kansas Association of Counties
Paul Weisgerber, Kansas Bureau of Investigation
Sherry Macke, Highway Patrol