

January 31, 2018

The Honorable Blaine Finch, Chairperson  
House Committee on Judiciary  
Statehouse, Room 519-N  
Topeka, Kansas 66612

Dear Representative Finch:

**SUBJECT:** Fiscal Note for HB 2458 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2458 is respectfully submitted to your committee.

HB 2458 would amend the crime of murder in the first degree to add mistreatment of a dependent adult or of an elder person to the list of inherently dangerous felonies that can underlie a charge of first degree murder.

The bill would amend the crimes of mistreatment of a dependent adult and mistreatment of an elder person. Mistreatment of a dependent adult and mistreatment of an elder person would both include the act of taking personal property or financial resources by violation of the act for obtaining a guardian or a conservator, or both. Mistreatment of an elder person would also include knowingly inflicting physical injury, unreasonable confinement, or unreasonable punishment upon an elder person. HB 2458 would change the definition of "elder person" from 70 to 60 years of age or older.

HB 2458 would increase certain monetary limitations for determining severity levels for both mistreatment of a dependent adult and mistreatment of an elder person, when the violation at issue involves the taking of personal property or financial resources. Under current law, taking of personal property or financial resources of at least \$1,000, but less than \$25,000 is a severity level seven, person felony. The bill would increase the lower limit amount from \$1,000 to \$1,500. Under current law, the limit for taking of personal property or financial resources of less than \$1,000 is a class A misdemeanor. The bill would increase the limit to \$1,500. HB 2458 would also increase the limit from \$1,000 to \$1,500 for the taking of personal property or financial resources for individuals who have been convicted two or more times in the preceding five years, which is currently classified as a severity level seven, person felony.

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The bill would classify the new crime of mistreatment of an elder person through knowingly inflicting physical injury, unreasonable confinement, or unreasonable punishment as a severity level five, person felony.

HB 2458 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 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.

The Kansas Sentencing Commission estimates that HB 2458 would result in an increase of one to two adult prison beds needed in FY 2019. By FY 2028, an additional one to three beds would be needed. As of January 12, 2018, the available bed capacity is 9,575 for males and 915 for females. Based upon the Commission's most recent ten-year projection contained in its *FY 2018 Adult Inmate Prison Population Projections* report, it is estimated that the year-end population for available male capacity will be under capacity by 363 inmates in FY 2018 and 187 inmates in FY 2019. The Department would house any additional male inmates over the capacity limit in contract jail beds. Based on the Commission's projections, the Department could absorb the additional prison beds in FY 2019; however, the Department could require additional expenditures if an increase in prison beds exceeds the capacity limit in future fiscal years. Any fiscal effect associated with HB 2458 is not reflected in *The FY 2019 Governor's Budget Report*.

Sincerely,



Shawn Sullivan,  
Director of the Budget

cc: Ashley Michaelis, Judiciary  
Scott Schultz, Sentencing Commission  
Cody Gwaltney, Aging & Disability Services  
Willie Prescott, Office of the Attorney General  
Linda Kelly, Corrections