

March 17, 2021

REVISED

The Honorable John Barker, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 285A-N
Topeka, Kansas 66612

Dear Representative Barker:

SUBJECT: Revised Fiscal Note for HB 2251 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2251 is respectfully submitted to your committee.

Under the provisions of HB 2251, the court must issue an order requiring the defendant to relinquish all firearms in the defendant's custody, control, or possession, and any conceal carry license issued to the defendant upon:

1. The court's issuance of a qualifying protective order against the defendant; or
2. The conviction of the defendant for domestic battery or any misdemeanor for a domestic violence offense.

A defendant subject to a relinquishment order issued would be required to relinquish all firearms in the defendant's custody, control, or possession to the sheriff of the county in which the court issuing the relinquishment order is located or to a licensed federal firearms dealer. The defendant would also be required to relinquish any concealed carry license issued to the sheriff of the county in which the court issuing the relinquishment order is located.

The bill describes the requirements for proof of relinquishment, length of relinquishment, and return of firearms following the expiration of the relinquishment order. The bill specifies that it would be a severity level eight, nonperson felony for a person to possess a firearm or concealed carry license issued while there is a relinquishment order.

Since the original fiscal effect statement was issued, the Office of Judicial Administration was able to gather data to estimate expenditures for FY 2022 and FY 2023. The agency would require \$510,000 in FY 2022 and \$547,500 in FY 2023 from the State General Fund to support 12.00 District Court Clerk FTE positions. The Office states that the bill would require judges to issue orders and search warrants, clerks to track if the offender provided proof of relinquishment of firearms and to notify the sheriff if proof of relinquishment is not filed, and district courts to hold hearings. The Office indicates that there is not a current process or system to track proof of relinquishment and therefore the bill would most likely result in a manual calendaring process being performed by the district court clerks. In calendar year 2018, case data indicates that there were 13,658 protection from abuse and protection from stalking cases filed and 2,651 criminal cases where the most serious charge was a domestic violence misdemeanor charge. If 75.0 percent of the protection from abuse and protection from stalking cases would have permanent protection orders entered, then there would be 10,244 (13,658 x 75.0 percent) orders issued under the provisions of the bill. The Office estimates that two hours of additional work would be performed by district court clerks on each case, which would result in 25,790 (10,244 + 2,651) x 2 hours) additional hours spent each year, which would require an additional 12.00 District Court Clerk FTE positions at a cost of \$510,000 in FY 2022 and \$547,500 in FY 2023 from the State General Fund. The Office also states that it is possible that programming changes could be performed to the current case management system to relieve the manual tracking by clerks, but it would result in additional expenditures to perform those changes. The bill could also result in the collection of additional docket fees. However, a fiscal effect regarding alterations to the case management system or the collection of docket fees cannot be estimated.

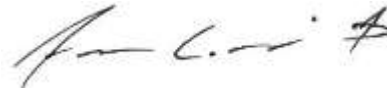
According to the Office of the Attorney General, if enacted, the bill would likely be challenged on constitutional grounds. If the bill is challenged, it would go through the appellate process to receive a definitive ruling on the validity of the law. Depending on which court system, federal or state, the case was filed in, an appellate decision could take two to four years. Due to the specialized civil liberty components of the litigation, the agency anticipates that specialized outside counsel would be required, which could result in several hundred thousand dollars over the life of the lawsuit. If the case would go to the United States Supreme Court, the litigation costs would further increase, and the case could take another one to two years to resolve. If the challenge was successful, the state could be ordered to pay the plaintiff's attorney's fees and other costs that could more than double the cost to the state. However, a fiscal effect cannot be estimated.

The Kansas Sentencing Commission estimates enactment of the bill could have an effect on prison admissions, bed space and journal entry workload; however, the Commission does not have enough information to estimate an effect. Based upon the Commission's most recent ten-year projection contained in its FY 2021 Adult Inmate Prison Population Projections report, it is estimated that the year-end population will be 8,880 inmates in FY 2021 and 8,920 inmates in FY 2022. The Department of Corrections indicates that an increase in the prison population would have a detrimental effect on its ability to provide for social distancing among its population, which could contribute to spread of COVID-19 among residents in the facility, staff working at the facility, and residents released into the community.

The Kansas Highway Patrol indicates that it currently supports local law enforcement to serve warrants. Therefore, the bill could result in increased time serving warrants; however, the agency states the effect would be negligible and could be absorbed within existing resources. The Kansas Bureau of Investigation states that enactment of the bill would not have a fiscal effect. Any fiscal effect associated with HB 2251 is not reflected in *The FY 2022 Governor's Budget Report*.

The Kansas Association of Counties indicates enactment of the bill would have a fiscal effect on Kansas counties because the bill would require the county sheriff to store and maintain any relinquished firearms. If the defendant is not present at the time that an order is issued, the sheriff would also have to serve the order and seize the firearms, which could create a dangerous situation. However, the Association does not have enough information to estimate what that effect might be. The League of Kansas Municipalities indicates that the bill would increase expenditures to local law enforcement entities because it would require officers to serve relinquishment order, retrieve or accept firearms, and issue certificates or relinquishment. However, the League cannot estimate the fiscal effect.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Debbie Thomas, Judiciary
Willie Prescott, Office of the Attorney General
Wendi Stark, League of Municipalities
Jay Hall, Association of Counties
Randy Bowman, Corrections
Paul Weisgerber, KBI
Sherry Macke, Highway Patrol
Scott Schultz, Sentencing Commission