

March 11, 2021

The Honorable Russell Jennings, Chairperson
House Committee on Corrections and Juvenile Justice
Statehouse, Room 151B-S
Topeka, Kansas 66612

Dear Representative Jennings:

SUBJECT: Fiscal Note for HB 2288 by Representative Coleman

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2288 is respectfully submitted to your committee.

HB 2288 would decriminalize the possession of certain drugs; however, any person in possession of certain drugs, controlled substances, or other analogs may incur a civil penalty that is not to exceed \$100 per violation. The bill would allow a county or district attorney to bring a civil action to seek civil penalties. If civil penalties are ordered by the court, the funds would be paid into the general fund of the county where the proceedings were instigated. In addition to the fine, the county or district attorney must refer the person to a drug abuse treatment program if the drug was a controlled substance other than marijuana.

The bill would make failure to comply with a drug treatment program an unclassified misdemeanor punishable by up to five days in jail, a fine not to exceed \$250 and a term of probation not to exceed six months when such a person was referred. Failure to comply would be an unclassified misdemeanor punishable by up to five days in jail, a fine not to exceed \$250, and a term of probation not to exceed six months. The bill includes several other provisions to amend statutes related to drug possession and drug crimes to:

1. Prohibit municipalities from criminalizing marijuana possession;
2. Remove certain drug crimes from felony murder;
3. Decrease the penalties for unlawful manufacture of a controlled substance;
4. Remove certain drug crimes from the criminal use of a communication facility;

5. Remove certain drugs from the crime of unlawfully obtaining a prescription drug;
6. Decrease criminal penalties for unlawful possession of certain drug analogs, unlawful possession of drug paraphernalia, and unlawful use or intent to use certain ammonia products;
7. Lower the penalties for certain drug related crimes;
8. Delete provisions related to unlawful distribution, possession with intent to distribute or manufacture with the intent to distribute;
9. Delete other requirements and provisions related to certain drug related crimes and convictions;
10. Revise the sentencing guidelines for certain drug crimes;
11. Delete provisions related to third or subsequent convictions of certain drug related crimes;
12. Delete provisions that certain drug abuse assessments must be included in presentence investigation reports;
13. Delete certain drug related crimes for when drug abuse treatment programs may be used as a nonprison sanction;
14. Delete references to certain drug related crimes; and
15. Add a requirement for presentence drug abuse assessments when a person is convicted of the new crime of failing to comply with a drug abuse treatment program, and require the programs to provide treatment if referred by the county or district attorney.

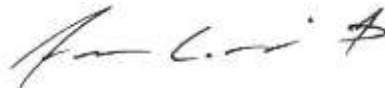
The bill would include technical amendments and would take effect upon publication in the statute book.

The Kansas Sentencing Commission estimates that enactment of HB 2288 would result in a decrease of 396 adult prison beds needed by the end of FY 2022. The Commission estimates an additional 986 beds would be reduced by the end of FY 2031. The current estimated available bed capacity is 9,420 for males and 948 for females. Based upon the Commission's most recent ten-year projection contained in its *FY 2020 Adult Inmate Prison Population Projections* report, it is estimated that the year-end population for available male capacity will be under capacity by 1,287 inmates in FY 2021 and 1,241 inmates in FY 2022. The Department of Corrections indicates that the reduction in prison population would reduce expenditures by \$3.5 million from the State general Fund in FY 2022 which includes 36.80 FTE positions systemwide. The Department notes that the reduction would be beneficial towards avoiding future prison costs and would improve the

ability to socially distance inmates to help mitigate the spread of the coronavirus in the facility, staff working at the facility, and inmates released into the community.

The Office of Judicial Administration indicates the passage of HB 2288 could increase the revenues and expenditures of the Judicial Branch from more pre-sentence investigations and supervision of offenders required by court services officers. However, a fiscal effect cannot be estimated.. Any fiscal effect associated with HB 2288 is not reflected in *The FY 2022 Governor's Budget Report*.

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: Scott Schultz, Sentencing Commission
Debbie Thomas, Judiciary
Randy Bowman, Corrections