

January 28, 2022

The Honorable Stephen Owens, Chairperson
House Committee on Corrections and Juvenile Justice
Statehouse, Room 546-S
Topeka, Kansas 66612

Dear Representative Owens:

SUBJECT: Fiscal Note for HB 2516 by House Committee on Corrections and Juvenile Justice

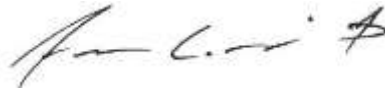
In accordance with KSA 75-3715a, the following fiscal note concerning HB 2516 is respectfully submitted to your committee.

HB 2516 would require prior adult convictions or juvenile adjudications for felony or misdemeanor crimes necessary to establish appropriate classifications on the criminal history scale or establish a special sentencing rule to be attached to the criminal history worksheet in presentence investigation reports. Such prior convictions or juvenile adjudications would then become part of the court record. If an offender raises a challenge to the criminal history for the first time on appeal, the bill would require the offender to have the burden of designating a record that shows prejudicial error. If an offender fails to provide such records, the appellate court would be required to dismiss the claim. If there is a reasonable question as to whether prejudicial error exists, the appellate court would be allowed to remand the case.

The Sentencing Commission indicates that it does not collect data on appellate court cases but would change criminal history scores in its journal entry databases if a corrected journal entry is received. A corrected criminal history score would likely have no impact on prison admissions, as the offender would already be serving their sentence in a prison facility or would be on probation while on appeal. The Commission indicates that it is possible that a corrected sentence may result in an overall reduction of prison beds needed, but the effect is likely to be minimal. The current estimated available bed capacity is 9,428 for males and 936 for females. Based upon the Commission's most recent ten-year projection contained in its *FY 2022 Adult Inmate Prison Population Projections* report, it is estimated that the year-end population will total 7,782 male and 756 female inmates in FY 2022 and 7,736 male and 730 female inmates in FY 2023.

The Office of Judicial Administration indicates that enactment of the bill would allow appeals of rulings that are not currently appealable and allow district courts to take various actions while a direct appeal occurs. The Office states the bill would require court services officers to complete additional presentence investigations and assessments and indicates that obtaining journal entry records from out of state can be difficult and often take a month or longer to receive which could delay sentencing hearings. However, a fiscal effect cannot be estimated because the amount of additional work required by court services officers and district court clerks is unknown. Any fiscal effect associated with HB 2516 is not reflected in *The FY 2023 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
Vicki Jacobsen, Judiciary