

February 27, 2020

The Honorable Rick Wilborn, Chairperson  
Senate Committee on Judiciary  
Statehouse, Room 541C-E  
Topeka, Kansas 66612

Dear Senator Wilborn:

**SUBJECT:** Fiscal Note for SB 388 by Senator Miller

In accordance with KSA 75-3715a, the following fiscal note concerning SB 388 is respectfully submitted to your committee.

SB 388 would eliminate the provision in current law that sodomy is between persons who are 16 or more years of age and members of the same sex. The bill would also criminalize sodomy that occurred when the victim gave consent, but the consent was obtained through a knowing misrepresentation that the sodomy was medically or therapeutically necessary or legally required. The bill would define aggravated sexual battery as the touching of a victim who is 16 or more years of age with the intent to arouse the offender when the consent was obtained through a misrepresentation that the touching was medically or therapeutically necessary or legally required.

The Office of Judicial Administration indicates that enactment of the bill could increase the number of cases filed in district courts because it expands the crimes of aggravated criminal sodomy and aggravated sexual battery. This would 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 additional docket fees in cases filed under the provisions of the bill. However, a fiscal effect cannot be determined because the number of additional cases cannot be estimated.

The Kansas Sentencing Commission estimates that enactment of SB 388 could have an effect on prison admissions, prison beds, and the workload of the Commission. However, a fiscal effect cannot be determined. The current estimated available bed capacity is 9,916. 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 capacity will be over capacity by 258 inmates in FY 2020 and 524 inmates in FY 2021. The Department

of Corrections would house any additional inmates over the capacity limit in county jails or out-of-state contract beds at a rate ranging from \$40 per day to \$74.76 per day. Any fiscal effect associated with SB 388 is not reflected in *The FY 2021 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Campbell". The signature is fluid and cursive, with a large initial "L" and a long, sweeping underline.

Larry L. Campbell  
Director of the Budget

cc: Mary Rinehart, Judiciary  
Scott Schultz, Sentencing Commission  
Randy Bowman, Corrections