

February 14, 2024

The Honorable Kellie Warren, Chairperson
Senate Committee on Judiciary
300 SW 10th Avenue, Room 346-S
Topeka, Kansas 66612

Dear Senator Warren:

SUBJECT: Fiscal Note for SB 393 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 393 is respectfully submitted to your committee.

SB 393 would establish automatic expungement of records under certain circumstances after July 1, 2025. The bill would require criminal charges against a person to be automatically expunged if the person is acquitted of criminal charges or an order is entered that dismisses the criminal charge. The bill lists timeframes for processing the automatic expungements and outlines legal actions a defendant may take to petition for automatic expungement. Automatic expungements would not apply to diversion agreements for the crime of driving under the influence. The bill would require the clerk of the court to send a certified copy of the order of expungement to the Kansas Bureau of Investigation (KBI). The KBI would be required to send a copy of such order to the Federal Bureau of Investigation, the Secretary of Corrections, the appellate courts, and any other criminal justice agency that may have a record of the arrest, charge, conviction, acquittal, dismissal, or diversion. After the order of expungement is entered, the petitioner would be treated as not having been arrested, charged, acquitted, dismissed, or diverted of the crime except under certain circumstances. The bill would require that a person whose previous arrests, convictions, or diversions have prevented them from owning, transporting, or possessing a firearm under federal and state laws would have those rights fully restored after expungement. The bill lists certain cases in which the custodian of expunged records could disclose the existence of the records.

Estimated State Fiscal Effect			
	FY 2024	FY 2025	FY 2026
Expenditures			
State General Fund	--	\$314,140	\$314,140
Fee Fund(s)	--	--	--
Federal Fund	--	--	--
Total Expenditures	--	\$314,140	\$314,140
Revenues			
State General Fund	--	--	--
Fee Fund(s)	--	--	--
Federal Fund	--	--	--
Total Revenues	--	--	--
FTE Positions	--	4.50	4.50

The KBI indicates that enactment of the bill would significantly increase the volume of expungements it processes, and it would need \$314,140 from the State General Fund beginning in FY 2025 for an additional 4.50 FTE positions. Of this amount, the KBI indicates \$204,681 is for 3.00 Administrative Officer FTE positions (\$68,227 for each position), \$75,345 is for 1.00 Public Service Administrator FTE position, and \$34,114 is for a 0.50 Administrative Assistant FTE position. The KBI notes that it currently has one expungement clerk and averages 3,200 expungements per year. In calendar year 2023, the KBI reports there were a total of 18,152 court events in the computerized criminal history repository that were acquittals or dismissals, which is over five times more than is currently being processed annually. The additional positions would ensure the KBI can handle the increased workload in a timely manner.

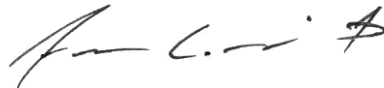
The Sentencing Commission indicates that enactment of the bill could result in a reduction of future arrests or convictions and could decrease the number of beds needed, but a precise effect cannot be determined. The current estimated available bed capacity is 9,668 for males and 932 for females. Based upon the Commission’s most recent ten-year projection contained in its *FY 2024 Adult Inmate Prison Population Projections* report, it is estimated that the year-end population will total 8,556 male and 828 female inmates in FY 2024 and 8,847 male and 870 female inmates in FY 2025.

The Department of Corrections (DOC) is responsible for entering admission and discharge data into its data management system. The agency indicates enactment of the bill could require some additional data entry when an individual under supervision of DOC is granted an expungement to remove their information from DOC systems. However, any fiscal effect would be negligible and could be absorbed within existing resources.

The Office of Judicial Administration indicates the bill's provisions allow petitions to be filed with the district courts and requires court hearings for these cases. This could increase the

time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. The Office states that most of the district court clerk's duties that would be required in the bill's provisions are already being performed under existing law. However, the bill would require the district court clerk to expunge criminal records within 30 days of the court order. To accomplish this duty, district court clerks would have to enter an event in the case management system as a reminder. A report would need to be run daily to find cases that are to be expunged, which would increase the workload for district court clerks. Enactment of the bill could increase the collection of docket fees in cases filed under the provisions of the bill, which would be deposited into the State General Fund. However, a precise fiscal effect on the Judicial Branch cannot be determined. Any fiscal effect associated with SB 393 is not reflected in *The FY 2025 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam C. Proffitt", with a stylized flourish at the end.

Adam C. Proffitt
Director of the Budget

cc: Trisha Morrow, Judiciary
Paul Weisgerber, Kansas Bureau of Investigation
Jennifer King, Department of Corrections
Wendi Stark, League of Kansas Municipalities
Keith Kocher, Kansas Lottery
Brandi White, Kansas Racing & Gaming Commission
Leigh Keck, Department for Aging & Disability Services
Scott Schultz, Kansas Sentencing Commission
Doug Schroeder, Peace Officers Standards & Training
William Hendrix, Office of the Attorney General