

February 24, 2014

The Honorable John Rubin, Chairperson  
House Committee on Corrections and Juvenile Justice  
Statehouse, Room 151-S  
Topeka, Kansas 66612

Dear Representative Rubin:

**SUBJECT:** Fiscal Note for HB 2706 by House Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2706 is respectfully submitted to your committee.

HB 2706 would create the new crimes of unlawful transmission of a visual depiction of a child, aggravated unlawful transmission of a visual depiction of a child, and unlawful possession of a visual depiction of a child.

Unlawful transmission of a visual depiction of a child is knowingly transmitting a visual depiction of a child 12 or more years of age in a state of nudity when the offender is less than 19 years of age and when the offender is less than six years of age older than the child. Unlawful transmission of a visual depiction of a child would be class A misdemeanor for a first offense and a severity level nine, person felony for second or subsequent convictions.

Aggravated unlawful transmission of a visual depiction of a child includes the conditions above and done with the intent to harass, embarrass, intimidate, or otherwise inflict emotional, psychological, or physical harm or with the intent to exhibit the visual depiction to more than one person. Aggravated unlawful transmission of a visual depiction of a child would be a severity level nine, person felony for a first offense and a severity level seven, person felony for second or subsequent violations.

Unlawful possession of a visual depiction of a child is knowingly possessing a visual depiction of a child 12 or more years of age in a state of nudity if committed by a person less than six years of age older than the subject of the visual depiction and the possessor of the depiction received it directly and exclusively from the child who is the subject of the visual depiction. Unlawful possession of a visual depiction of a child would be a severity level ten, person felony.

The crime of sexual exploitation of a child would not apply to possession of a visual depiction of a child if the person possessing the depiction is the child who is the subject of the visual depiction. Children who possess or transmit a visual depiction, as defined in the bill, would be classified as children in need of care.

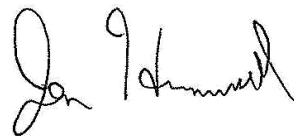
The Kansas Sentencing Commission estimates that passage of HB 2706 would result in an increase of 36 to 54 additional juvenile probationers in FY 2015 and require two to three additional juvenile facility beds needed each year. As of January, 2014, the available juvenile correctional facility capacity was 387 beds with a total juvenile population of 316 youth. The bill would have no effect on adult bed space needs and the Commission does not expect increases to its journal entry workload.

Because the bill adds new crimes, the Office of Judicial Administration indicates that HB 2706 has the potential to increase the number of cases related to unlawful transmission and possession of a visual depiction of a child filed in district courts and the number of appeals filed in appellate courts. This would increase the time spent by district and appellate court judicial and non-judicial personnel to process, research, and hear cases. Likewise, the additional cases could also result in the collection of added revenue from docket fees. However, it is not possible to predict the number of additional court cases or appeals that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined.

The Department for Children and Families states that the bill could result in a considerable increase to the number of children in foster care. The agency is not able to accurately estimate the caseload increase; however, each additional child in foster care would cost \$17,676 per year.

According to the Office of the Attorney General, the bill would have no fiscal effect on agency operations. Any fiscal effect associated with HB 2706 is not reflected in *The FY 2015 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Hummell". The signature is fluid and cursive, with the first name "Jon" being more prominent than the last name "Hummell".

Jon Hummell,  
Interim Director of the Budget

cc: Mary Rinehart, Judiciary  
Scott Schultz, Sentencing Commission  
Pat Scalia, BIDS  
Jeremy Barclay, KDOC  
Willie Prescott, Attorney General's Office