

February 12, 2014

The Honorable Jeff King, Chairperson
Senate Committee on Judiciary
Statehouse, Room 341-E
Topeka, Kansas 66612

Dear Senator King:

SUBJECT: Fiscal Note for SB 354 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 354 is respectfully submitted to your committee.

SB 354 would expand the crime of mistreatment of dependent adults by adding “elder persons.” Mistreatment of elder persons or dependent adults would be amended to include wrongfully taking the personal property or financial resources of an elder person or dependent adult through the following acts:

1. Undue influence, coercion, harassment, duress, deception, false representation, false pretense, or without adequate consideration to the elder person or dependent adult;
2. A violation of the Kansas Power of Attorney Act; or
3. A violation of the Kansas Uniform Trust Code.

It would be an affirmative defense that (1) the personal property or financial resources were given as a gift consistent with a pattern of gift giving to a person or a class of individuals that existed before the elder person or dependent adult became vulnerable; or (2) a court approved the transaction before the transaction occurred.

The Kansas Sentencing Commission estimates that passage of SB 354 would result in an increase of one to three adult prison beds needed in FY 2015 and an increase of three to 11 adult prison beds needed by FY 2024. As of January 13, 2014, the available bed capacity is 9,636. Based upon the Commission’s most recent ten-year projection contained in its *FY 2014 Adult Inmate Prison Population Projections* report, by the end of FY 2014 and FY 2015 it is estimated that the number of inmates will be below available capacity by 103 beds and 196 beds, respectively. However, starting in FY 2017 it is expected that the adult correctional facilities will again be over capacity. While the bed space requirements of SB 354 could be handled

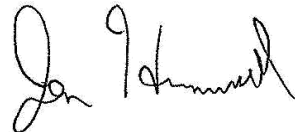
within existing capacity in the short term, the bill will add to capacity challenges occurring in the near future.

Continued population increases eventually will require construction of new cell houses at the El Dorado Correctional Facility. This project would include building two new medium security housing units, which would provide a total of 512 beds. It is estimated that the new units would have a construction cost of approximately \$24.4 million and operating costs of approximately \$8.4 million (or about \$45.00 per inmate per day). If bonds are used to finance the construction of the units, bonding authority would be required in FY 2016 so that operations at the new cell houses could begin in FY 2017.

The Office of Judicial Administration indicates that SB 354 has the potential to increase the number of cases relating to mistreatment of elder persons or dependent adults 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 Kansas Sentencing Commission notes that the bill would add to the journal entry workload of the agency; however, additional resources would not be needed. Any fiscal effect associated with SB 354 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 and the last name "Hummell" following in a similar style.

Jon Hummell,
Interim Director of the Budget

cc: Mary Rinehart, Judiciary
Scott Schultz, Sentencing Commission
Pat Scalia, BIDS
Jeremy Barclay, KDOC