

February 22, 2021

The Honorable Russell Jennings, Chairperson
House Committee on Corrections and Juvenile Justice
Statehouse, Room 151B-S
Topeka, Kansas 66612

Dear Representative Jennings:

SUBJECT: Fiscal Note for HB 2349 by House Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2349 is respectfully submitted to your committee.

HB 2349 would create a process for registered offenders to waive payment of quarterly registration fees for up to three years. The bill would remove the penalty for obstructing apprehension or prosecution as it relates to registering, which is a severity level five, person felony. The bill would remove certain language regarding the definition of “sex offender” under the Kansas Offender Registration Act. The bill would make the crime of aggravated violation of the Act a severity level eight, nonperson felony. A violation of the Act would be a class B nonperson misdemeanor upon a first conviction and a class A nonperson misdemeanor upon a second conviction and would remove provisions regarding third and subsequent violations. A violation consisting only of failing to remit payment to the sheriff’s office would be a class C nonperson misdemeanor. When the underlying crime for which the offender is required to be registered under the Act is a misdemeanor, the bill would make an aggravated violation of the Act a class A nonperson misdemeanor.

The bill would remove certain offenses from the 15-year registration duration and would amend it to a five-year registration for certain offenses. The bill would also remove language requiring registration for an offender less than 14 years of age who is adjudicated as a juvenile for an act which if committed by an adult would constitute a sexually violent crime. Finally, the bill would allow an offender to file a verified petition for relief from registration requirements after a specific duration. However, offenders declared to be sexually violent predators would not be allowed to petition for relief from registration requirements.

Estimated State Fiscal Effect				
	FY 2021 SGF	FY 2021 All Funds	FY 2022 SGF	FY 2022 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$160,725	\$160,725
FTE Pos.	--	--	--	--

The Kansas Sentencing Commission estimates that enactment of HB 2349 would result in a decrease of 68 adult prison beds by the end of FY 2022. By the end of FY 2031, 132 fewer beds would be needed. The current estimated available bed capacity is 9,420 for males and 948 for females. 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 male capacity will be under capacity by 1,287 inmates in FY 2021 and 1,241 inmates in FY 2022. The Department of Corrections indicates that the reduction in prison population would not be sufficient to reduce current prison expenditures. The Department notes that the reduction would be beneficial towards avoiding future prison costs and would improve the ability to socially distance inmates to help mitigate the spread of the coronavirus in the facility, staff working at the facility, and inmates released into the community.

The Office of Judicial Administration indicates that enactment of the bill would require district court clerks to file the petitions, schedule the hearings, and provide a copy of the order from the judge to the petitioner. This would also include offenders who were convicted out of state but now live in Kansas. The Office indicates the new requirements would increase the workload of the district court personnel, and depending on the number of petitions, it is possible that additional trial court clerks would need to be hired to handle the increased workload. In addition, the bill includes a crime that would be amended to lower the penalties for obstructing apprehension or prosecution as it relates to an offender’s requirement to register, which includes a potential penalty of probation. This could require more supervision of offenders by court services officers. The Office also indicates that enactment of the bill could reduce revenues because it allows an offender to have the docket fee waived when filing a petition. The Office further notes that the bill would affect local governments as each offender currently pays the registration fee to the local law enforcement agency. However, a fiscal effect cannot be determined because the number of additional petitions that would be received and supervision that would be required cannot be estimated.

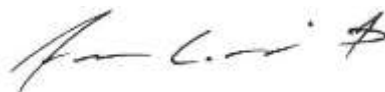
The Kansas Bureau of Investigation (KBI) indicates that enactment of the bill would require 3,777 offenders to be removed from the registry. Of this amount, 1,767 would be single-entry registrations while 2,010 would be dual registrations for employment and school requirements that would also need to be removed. The KBI estimates that it will take approximately 75 minutes per record and would require 5.00 Administrative Officer FTE positions 23.5 weeks to complete the removals. The agency states it would cost \$121,600 from the State General Fund in FY 2022 to complete the removals, which would be done on overtime status therefore alleviating the need to hire any additional staff. The bill would also require drug

offenders to be removed from the public registry and made available only to law enforcement. There are currently 5,746 drug offenders on the registry and the KBI estimates it will take 15 minutes to move each offender off the public registry, would require the same 5.00 Administrative Officer FTE positions seven weeks to complete the removals, and would cost \$37,000 from the State General Fund in overtime in FY 2022. In addition, the agency states that minor programming would need to be performed to the registry to create a new five-year term for drug offenders, which is expected to cost \$2,125 from the State General Fund in FY 2022. In total, the KBI estimates that enactment of the bill would increase expenditures in FY 2022 by \$160,725 from the State General Fund.

The KBI also notes that the removal of the requirement for a sex offender to register in the location of employment and school would make Kansas out of compliance with the federal Adam Walsh Child Protection and Safety Act of 2006 (Adam Walsh Act). The KBI states that Kansas was one of the leading states to substantially implement the Adam Walsh Act in 2011. States not complying with the Adam Walsh Act would lose 10.0 percent of their funding under the federal Ed Byrne Justice Assistance Grant program, which is currently used by multiple criminal justice agencies across Kansas.

The Office of the Attorney General indicates that enactment of the bill could increase litigation at the trial level for offenders who were convicted by prosecutors from the Office seeking to remove themselves from the registry. The Office also notes that the majority of the burden for litigation with persons seeking relief from the requirement to register would be on the county and district attorneys. However, the fiscal effect cannot be determined because the number of additional cases and litigation that would be required cannot be estimated. Any fiscal effect associated with HB 2349 is not reflected in *The FY 2022 Governor's Budget Report*.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Scott Schultz, Sentencing Commission
Randy Bowman, Corrections
Debbie Thomas, Judiciary
Paul Weisgerber, KBI
Willie Prescott, Office of the Attorney General