

March 23, 2023

The Honorable Beverly Gossage, Chairperson  
Senate Committee on Public Health and Welfare  
300 SW 10th Avenue, Room 142-S  
Topeka, Kansas 66612

Dear Senator Gossage:

**SUBJECT:** Fiscal Note for SB 320 by Senate Committee on Ways and Means

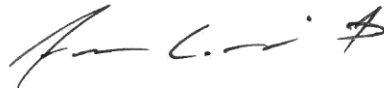
In accordance with KSA 75-3715a, the following fiscal note concerning SB 320 is respectfully submitted to your committee.

SB 320 would create the Born-Alive Infants Protection Act. The bill would define “born alive” to mean the complete expulsion or extraction of a human being from its mother, at any stage of development, who, after such expulsion or extraction, breathes or has a beating heart, pulsation of the umbilical cord or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section or induced abortion. The bill would also make various other definitions and amend current statutes to match definitions within the bill. The bill would contain requirements for healthcare providers and employees of medical facilities in situations when an abortion or attempted abortion resulted in a child being born alive. The bill would define criminal and civil actions allowed for violations of the Act. Medical care facilities in which an infant was born alive would be required to submit an annual report to the Kansas Department of Health and Environment. In addition, the bill would contain a severability clause and would detail confidentiality of certain information collected under the Act, the confidentiality provisions would sunset on July 1, 2028.

According to the Kansas State Board of Healing Arts, enactment of SB 320 could result in an increase in complaints, investigations, and potential litigation but the additional workload would be managed within existing resources. The Office of the Attorney General reports that the bill is likely to be challenged on constitutional grounds in state court. The litigation could be ongoing and would be likely to reach the appellate level. The agency is unable to determine the amount of additional workload resulting from passage of the bill but anticipates handling within existing resources.

The Office of Judicial Administration states enactment of SB 320 could increase the number of cases filed in district court because it allows for civil actions and creates new crimes, which could result in more time spent by judicial and nonjudicial personnel processing, researching, and hearing cases. The Office estimates enactment of the bill could result in the collection of docket fees and fines assessed in those cases filed under the bill's provisions. According to the Office, a fiscal effect cannot be estimated. The Kansas Department of Health and Environment and the Kansas Department for Children and Families report that enactment of SB 320 would not have a fiscal effect on agency operations. Any fiscal effect associated with SB 320 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,

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

Adam Proffitt  
Director of the Budget

cc: Amy Penrod, Department of Health & Environment  
Vicki Jacobsen, Judiciary  
Kim Holter, Department for Children & Families  
Susan Gile, Board of Healing Arts  
John Milburn, Office of the Attorney General