

February 23, 2021

REVISED

The Honorable Fred Patton, Chairperson
House Committee on Judiciary
Statehouse, Room 519C-N
Topeka, Kansas 66612

Dear Representative Patton:

SUBJECT: Revised Fiscal Note for HB 2387 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2387 is respectfully submitted to your committee.

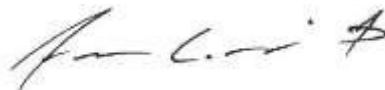
The bill would define the crime of operating an aircraft under the influence and set the penalties to be either a class A misdemeanor or a severity level 6, nonperson felony depending on certain conditions. The bill would also specify the fines, terms of imprisonment, public service conditions, conditions of probation, work release, or house release conditions that may apply. The bill would also outline a process for law enforcement to test for the presence of alcohol or drugs. The bill would allow a law enforcement officer to request a test if the officer has probable cause to believe a violation exists. The bill would also grant civil and criminal immunity to law enforcement officers acting in accordance with the provisions of the bill. A law enforcement officer would be allowed to request a person operating or attempting to operate an aircraft to submit to preliminary drug and alcohol screening if the officer has reasonable suspicion a violation has occurred. Finally, HB 2387 would repeal existing statute regarding operating an aircraft under the influence.

Since the original fiscal note was issued, the Sentencing Commission has provided information on the fiscal effect of the bill. The Kansas Sentencing Commission estimates that enactment of HB 2387 may have an impact on prison admissions and bed space, but that this effect cannot be determined at this time. 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 states that because operating an aircraft

under the influence is a class A nonperson misdemeanor or a severity level 6, nonperson felony the bill would have a minimal fiscal effect on probation or facility caseloads that could be absorbed within existing resources.

The Office of Judicial Administration indicates that enactment of the bill could result in additional cases being filed and could affect the complexity of the cases, which could result in additional time being spent by judges and court staff in processing and hearing these cases. The bill could also result in the collection of additional docket fees, fines and other costs. However, a fiscal effect cannot be determined because the number of additional cases cannot be estimated. Any fiscal effect associated with HB 2387 is not reflected in *The FY 2022 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: Randy Bowman, Corrections
Scott Schultz, Sentencing Commission
Debbie Thomas, Judiciary