

March 4, 2025

The Honorable Kellie Warren, Chairperson
Senate Committee on Judiciary
300 SW 10th Avenue, Room 346-S
Topeka, Kansas 66612

Dear Senator Warren:

SUBJECT: Fiscal Note for SB 205 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 205 is respectfully submitted to your committee.

SB 205 would increase the criminal penalty for certain violations of breach of privacy when the victim is a child. Under current law, the crime of unlawfully installing or using a photographic camera of any type to record another identifiable person under or through the clothing being worn to view a person who is nude or in a state of undress without the consent or knowledge of that other person, is a severity level 8, person felony. For a second or subsequent conviction is a severity level 5, person felony if the conviction is within five years of the first conviction.

The bill would raise the penalty to a severity level 5, person felony when the victim is under 18 years of age, or an off-grid person felony when the offender is 18 years of age or older and the victim is under 14 years of age.

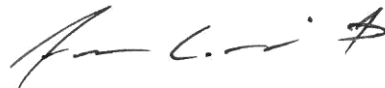
For the crime of unlawfully disseminating or permitting the dissemination of any videotape, photograph, film or image obtained in violation of the above-mentioned crime, the current penalty is a severity level 5, person felony. The bill would raise the penalties to a severity level 4, person felony when the victim is under 18 years of age, or an off-grid person felony when the offender is 18 years of age or older and the victim is under 14 years of age

The Office of Judicial Administration indicates the bill's provisions would increase criminal penalties so there could be less supervision of offenders required to be performed by court service officers, if enacted. The Office estimates the bill's enactment could decrease supervision fee revenue, which would have been credited to the State General Fund. However, a fiscal effect cannot be estimated.

The Kansas Sentencing Commission estimates that enactment of SB 205 would result in an increase of two adult prison beds needed by the end of FY 2026. By the end of FY 2035, 20 additional beds would be needed. The current estimated available bed capacity is 9,738 for males and 932 for females. Based upon the Commission's most recent ten-year projection contained in its *FY 2025 Adult Inmate Prison Population Projections* report, it is estimated that the year-end population will total 8,954 male and 921 female inmates in FY 2025 and 9,220 male and 961 female inmates in FY 2026. Because of the Commission's estimate of additional prison beds needed, the Kansas Department of Corrections estimates additional State General Fund expenditure of \$4,245 in FY 2026 and \$18,403 in FY 2027.

The Board of Indigents Defense Services indicates that the bill would increase agency expenditures on legal counsel and support staff; however, the increase in caseloads cannot be estimated. The Board estimates that on average, a severity level 4 or 5, person felony case currently requires 57 hours of direct work by an attorney to provide constitutionally adequate representation. Based on the rates of \$83.36 per hour for public defenders and \$125 per hour for assigned counsel, each new severity level 4 or 5, person felony case brought to the agency likely would result in State General Fund expenditures of \$4,752 to \$7,125. The Board indicates that on average, an off-grid, person felony case requires 167 hours of defense attorney work. For each new off-grid, person felony case brought to the agency likely would result in State General Fund expenditures of \$13,921 to \$20,875. The Board indicates that it may require 1.00 new FTE attorney position and possibly additional support staff depending on the number of new cases brought to the agency under the provisions of the bill. The agency indicates the estimated cost for the additional FTE attorney position would be \$123,375 from the State General Fund. Of that amount, \$111,375 would be for salaries and wages and \$12,000 would be for other operating expenditures. Any fiscal effect associated with SB 205 is not reflected in *The FY 2026 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam C. Proffitt", followed by a stylized flourish.

Adam C. Proffitt
Director of the Budget

cc: Scott Schultz, Kansas Sentencing Commission
Jennifer King, Department of Corrections
Heather Cessna, Board of Indigents Defense Services
Trisha Morrow, Judiciary