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GOVERNOR JEFF COLYER, M.D.
LARRY L. CAMPBELL, CHIEF BUDGET OFFICER

February 27, 2018

The Honorable Rick Wilborn, Chairperson
Senate Committee on Judiciary
Statehouse, Room 541-E
Topeka, Kansas 66612

Dear Senator Wilborn:

SUBJECT: Fiscal Note for SB 416 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 416 is respectfully submitted to your committee.

SB 416 would establish the new crime of deprivation of rights under color of law. The bill specifies that it would be a crime for a person under color of any law, statute, county resolution, ordinance, or resolution, to knowingly deprive another person of their constitutional rights by engaging in one of the acts listed below:

1. Causing bodily harm to another person;
2. Causing great bodily harm to another person or disfigurement of another person;
3. Causing bodily harm to another person with a deadly weapon, or in any manner whereby great bodily harm, disfigurement, or death could be inflicted;
4. Causing physical contact with another person when done in a rude, insulting, or angry manner, or in any manner whereby great bodily harm, disfigurement, or death could be inflicted;
5. Causing mental anguish, emotional harm, embarrassment, or similar distress to another person; or
6. Causing monetary loss to another person.

Each of the acts listed above would result in a different penalty ranging from a severity level four, person felony to a class A nonperson misdemeanor. SB 416 would create a cause of action for a person injured as a result of the deprivation of rights. This would include a damage cap and a statute of limitations for bringing actions and would allow the Attorney General to pursue

cases on behalf of any Kansas victims. The bill would require violators to pay restitution to the victim for expenses and attorney fees.

According to the Office of Judicial Administration, enactment of SB 416 could increase the number of cases filed in district courts because it creates new crimes with both a criminal and civil cause of action. This would increase the amount of time district court judicial and nonjudicial personnel would spend hearing, processing, and researching cases. Since some of the new crimes have a misdemeanor penalty, there could be additional supervision of offenders required to be performed by court service officers. The bill could increase the collection of docket fees in those cases filed under the bill's provisions.

The Kansas Sentencing Commission estimates that enactment if SB 416 could have an effect on prison admissions and bed space; however, the Commission cannot estimate an effect.

The Attorney General indicates enactment of SB 416 would require the agency to defend a civil case where the defendant is a state official or a state employee under the Kansas Tort Claims Act. Also, the agency states it would have to hire outside counsel to represent one of the parties because the Attorney General could not represent both the plaintiff and defendant in the same action. To handle these additional cases, the agency estimates additional State General Fund expenditures of \$174,391 for an additional Assistant Attorney General FTE position and an additional Legal Assistant FTE position in FY 2019. The agency also estimates other operating State General Fund expenditures of \$31,082 in FY 2019 for office rent, travel, and office supplies for the new positions. The Attorney General states these additional cases could run into the millions of dollars if a civil suit were successful and the state could end up paying the plaintiff's attorney, the defense attorney, and any judgment awarded by the court. Any fiscal effect associated with SB 416 is not reflected in *The FY 2019 Governor's Budget Report*.

Sincerely,



Larry L. Campbell
Chief Budget Officer

cc: Ashley Michaelis, Judiciary
Scott Schultz, Sentencing Commission
Linda Kelly, Corrections
Willie Prescott, Office of the Attorney General
Ruth Glover, Human Rights Commission