

February 23, 2021

The Honorable Sean Tarwater, Chairperson
House Committee on Commerce, Labor and Economic Development
Statehouse, Room 151D-S
Topeka, Kansas 66612

Dear Representative Tarwater:

SUBJECT: Fiscal Note for HB 2370 by House Committee on Commerce, Labor and Economic Development

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2370 is respectfully submitted to your committee.

HB 2370 would provide that a criminal conviction may act as a bar to licensure, certification, or registration only if the conviction was directly related to the specific duties and responsibilities of such designation in a way that would present a risk to public safety as determined on an individualized evaluation of the applicant. Upon petition by an applicant, the person, board, commission, or similar body responsible for the licensure, certification or registration would be required to issue a binding written opinion as to whether a criminal conviction would bar the applicant from such designations if the applicant has not had subsequent criminal convictions, pending criminal charges, or related previously undisclosed convictions. If there is a denial based on a criminal conviction, the bill would require specific written notification with certain information to be provided to the applicant, including the reason for denial and when they could reapply. Finally, the bill would remove agencies currently exempt from this process and would apply the provisions to all agencies providing licensing, certification or registration unless there is a federal law governing the same.

The Office of the Attorney General indicates that enactment of the bill would require it to provide written decisions regarding criminal offenses barring licensure for its private investigator and bail enforcement agent licensing, registration, and certification processes. The Office indicates that the bill would require additional staff time and resources dedicated to researching criminal history and reviewing conviction records along with providing the required written notices related to denials. The Office also expects that there would be an increase in the number of appeals to the Office of Administrative Hearings for denied licenses, which would also increase the Attorney General's expenditures by approximately \$10,000 from the State General Fund

beginning in FY 2022. The Office of the Attorney General states that it would need to hire an additional 1.00 Investigator FTE position to comply with the requirements of the bill at a total cost of \$87,628 from the State General Fund in FY 2022. Of this amount \$73,363 would be for salaries and wages and \$14,265 would be for office rent, IT services, training, and supplies.

The Board of Pharmacy indicates that enactment of the bill could require it to adopt or amend rules and regulations to be in compliance. This would create minimal increases in staff time involved in reviewing, drafting revisions, and submitting rules and regulations through the administrative regulatory or legislative processes. Agency forms, information circulars, and publications would also need to be updated and staff would need to be retrained on the requirements of the bill. The agency estimates that expenditures would increase by approximately \$5,000 in FY 2022, which could be absorbed within existing resources. The Board of Pharmacy also indicates the bill would create ongoing costs regarding the pre-application review and determination for licensure. The agency states that the majority of applications with criminal histories are often submitted incomplete to the Board, which requires significant follow-up, correspondence, and review. The agency indicates it would attempt to make the review process revenue neutral. However, if a large number of determinations are requested by prospective applicants, the agency states that the \$50 application fee may need to be increased. The agency also states that it anticipates an increase in the number of complaints, investigations, and disciplinary actions related to impaired licensees, violations of the Pharmacy Practice Act, drug theft, and new criminal charges associated with the enactment of the bill. However, the agency indicates that such costs would be difficult to estimate but would be funded by the Pharmacy Fee Fund and would not be offset by any revenue produced by the bill.

The Board of Emergency Medical Services indicates that enactment of the bill would result in individuals requesting petitions, which would require approximately one hour of legal review per applicant prior to the issuance of a binding opinion. A fiscal effect cannot be determined because the number of petitions that would be requested cannot be estimated. However, the agency states that the \$50 application fee would likely be insufficient to fund the potential costs of legal review.

The Behavioral Sciences Regulatory Board indicates that enactment of the bill could lead to increased staff time to comply with the new process concerning criminal convictions. However, a fiscal effect cannot be determined because the number of potential licensees that would be affected by the bill cannot be estimated.

The Board of Accountancy indicates that enactment of the bill could result in additional applications and petitions, which would increase the amount of time and expenditures incurred by its legal counsel. However, a fiscal effect cannot be determined because the number of additional applications and petitions cannot be estimated.

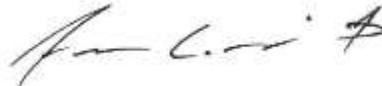
The Board of Technical Professions indicates that enactment of the bill would require the agency to conduct investigations, hold hearings, issue binding decisions, and defend any court appeals. The Board also indicates that the bill would require it to create a complete list of criminal offenses from any jurisdiction that would bar licensure, which would increase board meetings,

staff time, and legal services. However, a fiscal effect cannot be estimated but is expected to be significant for this agency.

The Kansas Highway Patrol indicates that enactment of the bill would have no fiscal effect on the agency. Any fiscal effect associated with HB 2370 is not reflected in *The FY 2022 Governor's Budget Report*.

The League of Kansas Municipalities indicates that enactment of the bill could increase expenditures for cities related to administrative costs of reviewing ordinances, licenses, and employment standards. However, a fiscal effect cannot be estimated.

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: Sherry Macke, Highway Patrol
Susan Somers, Board of Accountancy
David Fye, Behavioral Sciences
Alexandra Blasi, Board of Pharmacy
Willie Prescott, Office of the Attorney General
Larry Karns, Technical Professions
Wendi Stark, League of Municipalities
Jay Hall, Association of Counties
Joe House, EMS