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PREPARED BY: Doug Nichols
DATE PREPARED: February 2, 2011
PHONE: 471-0052

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2011-12		FY 2012-13	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

This bill would change provisions relating to assault, assault on an officer, and offenses by a confined person.

The Department of Health and Human Services (HHS) estimates no fiscal impact.

The Nebraska Department of Correctional Services (NDCS) states that this bill is likely to result in an increase in admissions to NDCS, but the impact is not determinable at this time. Their response follows:

I. LB242 changes provisions regarding assault and assault on an officer to include employees of the Department of Health & Human Services (DHHS) who work in a youth rehabilitation and treatment center.

- Assault on an officer in the 1st degree is a class ID felony (3-50 years imprisonment)
- Assault on an officer in the 2nd degree is a Class II felony (1-50 years imprisonment)
- Assault on an officer in the 3rd degree is a Class IIIA felony (0-5 years imprisonment)

II. The bill also adds employees of the Department of Health & Human Services (DHHS) who work in a youth rehabilitation and treatment center to the section regarding assault on an officer using a motor vehicle, which is a Class IIIA felony.

IV. The bill also adds employees of the Department of Health & Human Services (DHHS) who work in a youth rehabilitation and treatment center to the sections regarding persons who are legally confined and intentionally, knowingly, or recklessly cause bodily injury to another person shall be guilty of a Class IIIA felony, or a Class III if a deadly or dangerous weapon is used.

V. The bill also adds employees of the Department of Health & Human Services (DHHS) who work in a youth rehabilitation and treatment center to the section regarding persons who are legally confined and who commit assault in the 1st, 2nd or 3rd degree, or make terroristic threats, or commits kidnapping or false imprisonment shall be guilty of a Class II felony.

Discussion: 1st degree assault that is not against an officer is a Class II felony (1-50 years); 2nd degree assault is a Class III felony (1-20 years); and 3rd degree assault is a Class I misdemeanor (0-1 year). While the bill will increase penalties for all three classes of assault if committed against an DHHS employee who works in a youth rehabilitation & treatment center, the most significant change in penalty would be changing assault in the 3rd degree from a misdemeanor to a felony, since if convicted of that offense and sentenced to at least one year, the statutes specify that the sentence shall be served in institutions under the jurisdiction of the Department of Correctional Services.

There were approximately 1577 juveniles (average daily count) housed at the youth rehabilitation and treatment centers in 2009-10. The Nebraska Department of Correctional Services (NDCS) does not have information on the number of assaults at these centers. There were 27 admissions to DCS in CY2009, and 23 in CY2010 for assault on an officer in the 3rd degree (0-5 yrs imprisonment). All but three had a minimum sentence of at least one year. Six of the individuals had the maximum sentence of five years. There were three admissions in CY2009 and two admissions in CY2010 for assault on an officer in the 2nd degree; and one admission in CY2010 for assault on an officer in the 1st degree.

While this bill will likely result in an increase in the number of admissions to the NDCS for the offense of assault on an officer, the impact is not determinable. DCS current inmate population is 4,599 (1/18/2011 Tuesday Count). The FY10 per diem (cost per day of feeding, clothing, housing, medical, etc) for an individual inmate was \$5,625/yr.

DEPARTMENT OF ADMINISTRATIVE SERVICES

REVIEWED BY	Joe Wilcox	DATE	2/2/11	PHONE	471-2526
<p>COMMENTS</p> <p>DHHS – Concur with agency analysis.</p> <p>CORRECTIONAL SERVICES – No basis to dispute agency analysis.</p>					

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

State Agency or Political Subdivision Name:(2) Department of Health and Human Services

Prepared by: (3) Willard Bouwens

Date Prepared:(4) February 1, 2011

Phone: (5) 471-8072

	FY 2011-2012		FY 2012-2013	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	\$0	\$0	\$0	\$0

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

There is no fiscal impact to the Department of Health and Human Services.

MAJOR OBJECTS OF EXPENDITURE

PERSONAL SERVICES:

POSITION TITLE	NUMBER OF POSITIONS		2011-2012 EXPENDITURES	2012-2013 EXPENDITURES
	11-12	12-13		
Benefits.....				
Operating.....				
Travel.....				
Capital Outlay.....				
Aid.....				
Capital Improvements.....				
TOTAL.....			\$0	\$0

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LEGISLATIVE FISCAL

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2011

LB 242 FISCAL NOTE

State Agency OR Political Subdivision Name: (2) DEPARTMENT OF CORRECTIONAL SERVICES

Prepared by: (3) Kate Morris

Date Prepared: (4) 1/31/2011

1/31/2011

Phone: (5) 479-5702

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2011-2012		FY 2012-2013	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	not determinable	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	_____	_____	_____	_____

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Benefits				
Operating				
Travel				
Capital outlay				
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Other				
Capital improvements				
TOTAL				