

SESSION OF 2003

SUPPLEMENTAL NOTE ON SENATE BILL NO. 243

As Amended by Senate Committee on
Judiciary

Brief*

SB 243 adds the drug "dichloralphenazone" to Schedule IV of the Uniform Controlled Substances Act and the bill clarifies the definition of "drug paraphernalia" to exclude any drug product containing ephedrine and various other chemicals that can be used in the manufacture of methamphetamines. Various conforming amendments are made to criminal statutes to reflect the definitional clarification.

The Senate Committee added the clarification to the definition of "drug paraphernalia."

Background

The Senate Committee amendments are intended to address the 2002 Kansas Court of Appeals case of *State v. Frazier*, __KA2d__ 42 P.3d 188 (2002).

The Court vacated a sentence imposed for a conviction of possession of ephedrine or psuedoephedrine, ingredients used for the manufacture of methamphetamine, a drug severity level 1 felony under KSA 65-7006(a) and held instead the proper sentence was for the crime of possession of drug paraphernalia under KSA 65-4152(a)(3), a drug severity level 4 crime. The defendant had argued and the Court agreed that both crimes had identical elements, therefore, he should have been sentenced under the crime with the less severe sentence.

The Kansas Sentencing Commission had based its prison population estimates using the *Frazier* Court ruling. The Commission estimates the Senate Committee amendment will increase prison bed

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/klrd>

needs by 61 to 100 by the end of FY 2004 and between 381 to 612 added beds by the end of FY 2013.