

SESSION OF 2006

SUPPLEMENTAL NOTE ON SENATE BILL NO. 25

As Amended by House Committee on
Judiciary

Brief*

SB 25 would create three new terrorism related crimes; amend the asset forfeiture law to cover these crimes; provide there is no statute of limitation for the crimes of terrorism and illegal use of weapons of mass destruction; and extend the electronic surveillance law to cover the two crimes noted previously.

The bill does the following:

- The new crime of terrorism is defined as the commission of, the attempt to commit, or the conspiracy to commit any felony with the intent to intimidate or coerce the civilian population, influence government policy by intimidation or coercion, or to affect the operation of any unit of government. Terrorism is an off-grid person felony with a penalty of life imprisonment.
- The new crime of illegal use of weapons of mass destruction is defined as:

“(1) intentionally, knowingly and without lawful authority, developing, producing, stockpiling, transferring, acquiring, retaining or possessing any: (A) biological agent, toxin, or delivery system for use as a weapon; (B) chemical weapon; or (C) nuclear materials or nuclear byproduct materials for use as a weapon;
(2) knowingly assisting a foreign state or any organization to do any such activities as specified in paragraph (1); or
(3) attempting, threatening or conspiring to do either (1) or (2) above.”
- The new crime of illegal use of weapons of mass destruction is an off-grid person felony with a penalty of life imprisonment.

*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>

- The new crime of furthering the commission of the crimes of terrorism or illegal use of weapons of mass destruction is established. The crime is made a severity level 1, person felony with a sentence varying between 147 months to 653 months depending on the person's prior criminal history.
- An exception is made to statutes which provides for a reduced penalty for attempt, conspiracy, and criminal solicitation to commit crimes and provide instead that the attempt, conspiracy to commit, or criminal solicitation to commit the crimes of terrorism, or illegal use of weapons of mass destruction shall retain the same penalty as the actual crime.
- The prosecutor inquisition law is amended which permits prosecuting attorneys under KSA 22-3101 to permit the issuance of subpoenas without a court order for investigations regarding the crimes of terrorism and illegal use of weapons of mass destruction. This law currently is limited to gambling, liquor, racketeering, bribery, and drug-related crimes.
- Another provision would make the attempt, conspiracy, and solicitation penalties the same as commission of the actual crimes of terrorism and illegal use of weapons of mass destruction, *i.e.* an off-grid person felony with a penalty of life imprisonment.

Background

The bill was recommended by the 2004 Joint Committee on Kansas Security and supported by the chairman of that committee. Other proponents included a representative of the Kansas Bureau of Investigation who said the prosecution of the crimes of terrorism and illegal use of weapons of mass destruction would likely be prosecuted at the federal level, but that state laws were needed to provide authority for state law enforcement to investigate possible terrorist activity.

The Senate Committee amendments made the attempt, conspiracy, and solicitation penalties the same as commission of the actual crimes of terrorism and illegal use of weapons of mass destruction, *i.e.* an off-grid person felony with a penalty of life imprisonment.

The House Committee amendments would be technical and clarifying in nature.

The fiscal note stated the increase in prison admissions would be small and was not quantifiable.