



Honorable Ernest L. Johnson, Chair
Honorable Richard M. Smith, Vice Chair
Sarah E. Fertig, Executive Director

Sam Brownback, Governor

MEMORANDUM

To: Dennis Taylor, Secretary of Administration
Attn: Brendan Yorkey
From: Sarah Fertig, Executive Director
Date: March 2, 2011
Re: Revised Prison Bed Impact, HB 2008 Identity Theft – *as Amended by House Committee*

BILL SUMMARY

HB 2008 as initially introduced would amend the crime of identity theft from a severity level 8, nonperson felony to a person felony, and from a severity level 5, nonperson felony to a person felony when the monetary loss to the victim is more than \$100,000. This bill would also amend identity fraud from severity level 8, nonperson felony to person felony.

As amended by House Committee, identity theft and identity fraud would be changed to severity level 9, person felonies. Identity theft crimes in which the monetary loss to the victim is more than \$100,000 would remain severity level 5 person felonies as drafted in the initial version of this bill.

KEY ASSUMPTIONS

- The target population of the bill includes offenders who commit the crime of identity theft under K.S.A. 21-4018(a) and identity fraud under K.S.A. 21-4018(b).
- Change from nonperson to person would elevate criminal history scores and offenders convicted under this statute would have increased penalties in the future.
- The projected prison admission growth rate is assumed to be 2.75% in FY 2012 and 2% annually from 2013 and forward, which is the same percentage used in relation to the baseline prison population forecast produced in August 2010 by the Kansas Sentencing Commission.
- The new policy effective date is assumed to be on July 1, 2011.

FINDINGS

- In 2010, 149 offenders were convicted of identity theft and fraud under 21-4018. Of this number,
 - 129 (86.6%) were sentenced at nondrug severity level 8 and
 - 20 were sentenced at nondrug severity level 10.
- In 2010, 42 offenders were admitted to prison under K.S.A. 21-4018. Of this number,
 - 14(33.3%) were new court commitments;
 - 24(57.1%) were probation condition violators and
 - 4 (9.5%) were probation violators with new sentence.

IMPACT ASSESSMENT

- **Current Policy:** If current policy remains unchanged,
 - by the year 2012, 30 prison beds will be needed and

Senate Judiciary

3-3-11
Attachment 1

- by the year 2021, 41 prison beds will be needed.
- **Impact:** If the current severity level 8, nonperson felony changes to a **severity level 9**, person felony and the current severity level 5, nonperson felony changes to a person felony,
 - by the year 2012, 30 prison beds will be needed and
 - by the year 2021, 44 prison beds will be needed.

IMPACT OF THE BILL

- **Impact of Prison Admissions:** This bill would result in no additional prison admissions.
- **Impact of Prison Beds:** This bill would result in **no** additional prison beds needed in FY 2012 because there is an average 11-month delay between the commission of a crime and sentencing for such crime, and two convictions for person felonies would be required before prison would be the presumptive sentence. Thus, it is assumed that the earliest second conviction would occur in FY 2013, with sentencing occurring in FY 2014. **3** additional prison beds needed in FY 2021.
- **Impact on the workload of the Commission:** The amendments of this bill would not increase the workload of the journal entry of the Commission.

HB 2008 as Amended by House Committee - Impact Assessment

Fiscal Year	Current Policy Unchanged	Change N8, Nonperson Felony to N9, Person Felony and N5, Nonperson Felony to Person Felony	Additional Prison Beds Needed
2012	30	30	0
2013	30	30	0
2014	30	35	5
2015	31	36	5
2016	39	41	2
2017	37	44	7
2018	37	42	5
2019	40	45	5
2020	37	42	5
2021	41	44	3