

SESSION OF 2011

**SUPPLEMENTAL NOTE ON SENATE
SUBSTITUTE FOR HOUSE BILL NO. 2008**

As Recommended by Senate Committee on
Judiciary

Brief*

Senate Sub. for HB 2008 would add subsection (u) to 2010 Session Laws ch. 136, sec. 285, providing that the penalty for identity theft, identity fraud, and attempt or conspiracy to commit those crimes would be presumptive imprisonment when the person being sentenced has a prior conviction of identity theft, identity fraud, or attempt or conspiracy to commit those crimes. 2010 Session Laws ch. 136 recodifies the Kansas Criminal Code and will go into effect July 1, 2011.

Background

HB 2008, as introduced, would have made identity theft and identity fraud person felonies, rather than nonperson felonies. It also would have amended the severity levels for identity fraud and identity theft where the monetary loss to the victim is less than \$100,000, changing them from a level 8 to a level 9.

In the House Committee on Corrections and Juvenile Justice, Stephen Howe, Johnson County District Attorney, appeared in support of HB 2008. The Committee also received written testimony from AARP in support of the bill. No opponents presented testimony. The House Committee on Corrections and Juvenile Justice amended the bill by

*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>

changing the severity levels for identity fraud and identity theft where the monetary loss to the victim is less than \$100,000, from a level 8 to a level 9.

The Senate Committee on Judiciary amended the bill by adopting a substitute bill that would make the sentence for identity theft, identity fraud, and attempt or conspiracy to commit those crimes presumptive imprisonment when the person being sentenced has a prior conviction of identity theft, identity fraud, or attempt or conspiracy to commit those crimes.

The Kansas Sentencing Commission originally estimated an increase in 2012 of nine convictions pursuant to HB 2008, as introduced. During the Committee hearing, questions arose about whether the impact of the bill would be seen in 2012. After additional consideration, the Sentencing Commission estimates a nine bed increase in FY 2013 and an additional 12 by 2021. As the number of male inmates already exceeds capacity, the bed impact of this bill in addition to the impact of other possible legislation is likely to require additional expenditures. The *FY 2012 Governor's Budget Report* includes \$2.5 million for contract prison beds and if construction is necessary, the Department of Corrections has identified two expansion projects: two high medium housing units at El Dorado Correctional Facility with 512 beds, a cost of \$22.7 million for construction, and \$9.3 million for operation; and 1 minimum security housing unit at Ellsworth Correctional Facility with 100 beds, a cost of \$5.9 million for construction, and \$1.8 million for operation. The fiscal note indicates actual costs may vary and prison commitments that result in additional parolees could require additional staff and resources for effective supervision.