

SESSION OF 2011

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2009

As Recommended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2009 would create the crime of “home improvement fraud,” with the following penalties dependent on the total amount of money paid or damages caused: for an amount of \$100,000 or more, it would be a severity level 5, nonperson felony; for an amount of at least \$25,000 but less than \$100,000, a severity level 7, nonperson felony; for an amount of at least \$1,000 but less than \$25,000, a severity level 9 nonperson felony; and for an amount less than \$1,000, a class A, nonperson misdemeanor.

The crime of “home improvement fraud” would be defined in the act as causing an owner to enter into a home improvement contract by:

- Knowingly using or employing deception, false pretense, or false promise;
- Knowingly creating or reinforcing a false impression regarding the condition of the owner’s dwelling or property;
- Knowingly making a false statement of material fact or omitting a material fact relating the home improvement contract;
- Damaging property of the owner with the intent to induce the owner to enter into or extend a home improvement contract; or

*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>

- Receiving money for the purpose of obtaining or paying for services, labor, materials, or equipment and failing to apply that money for those purposes as shown by:
 - Failing to substantially complete the home improvement for which the funds were provided; or
 - Diverting that money to a use other than the purpose for which the funds were provided.

The bill also would define some of the key terms.

Background

In the House Committee on Corrections and Juvenile Justice, Stephen Howe, Johnson County District Attorney, appeared in support of HB 2009. The Committee also received written testimony from AARP. No opponents offered testimony.

The Kansas Sentencing Commission estimates that 23 percent of 20, 40, and 60 offenders would be sentenced to prison. Under these scenarios, the bill could result in an increase of 4, 4, or 8 prison beds in FY 2012 and 8, 10, or 17 beds in FY 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 Governor's Recommended FY 2012 Budget 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 at a cost of \$22.7 million for construction and \$9.3 million for operation; and one minimum security housing unit at Ellsworth Correctional Facility with 100 beds at a cost of \$5.9 million for construction and \$1.8 million for operation.