

SESSION OF 2012

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2568

As Amended by Senate Committee on Judiciary

Brief*

HB 2568 would make several amendments to the Kansas Offender Registration Act. The bill would add "adjudications" alongside convictions throughout the bill and amend some key terms, including the removal of hospitals from the definition of "treatment facility." It also would add "sexual battery" to the definition of "sexually violent crime" and remove it from the list that classifies a person as a sex offender. Current law classifies a person as a sex offender, requiring registration, if the person has been convicted of a sexually violent crime or, with some exceptions, the person is adjudicated as a juvenile offender of a sexually violent crime. Additionally, prior to the passage of 2011 H. Sub. for SB 37, sexual battery was included in the definition of sexually violent crime.

Further, the bill would provide that courts are required to register offenders at conviction or adjudication, rather than at sentencing or disposition, and clarify the other responsibilities of the court with respect to offender registration at that time, including additional requirements if the offender is released. The bill would clarify, however, that the court must ensure the age of the victim is documented in the journal entry at the time of sentencing, rather than at conviction, as there is no journal entry at the time of conviction.

Similarly, the bill would revise the responsibilities with respect to offender registration of any correctional facility or the registering law enforcement agency's designee; the staff of any treatment facility; the registering law enforcement

*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>

agency, upon the reporting of any offender; and the Kansas Bureau of Investigation (KBI). The bill also would revise offender registration requirements to remove the requirement if an offender is in the care or custody of any treatment facility and amend requirements with respect to travel outside the U.S. and information that must be provided on the registration form.

Additionally, the bill would amend the 15-year registration requirement for some crimes by removing the requirement under sexual battery that one of the parties be less than 18 years of age and adding convictions of any person required by court order to register for an offense not otherwise required by the Kansas Offender Registration Act. It also would amend the lifetime registration requirement for the crime of aggravated human trafficking by removing the requirement the victim be less than 18 years of age.

The bill also would provide no internet website sponsored or created by a registering law enforcement agency or the KBI would be allowed to contain the address of any place where the offender is an employee or any other information about where the offender works. Such a website, however, would be required to contain a statement that employment information is publicly available and may be obtained by contacting the appropriate registering law enforcement agency or by signing up for community notification through the KBI website.

Additionally, the bill would provide when a court orders expungement of a conviction that requires registration, the offender still would be required to continue registering, although the registration would not be open to inspection by the public or posted on the internet. If the offender has an additional conviction that requires registration that is not expunged, registration for that conviction would remain open to the public and may be posted on the internet unless the registration has been ordered restricted.

Background

In the House Committee on Corrections and Juvenile Justice, representatives of the The KBI, Kansas Hospital Association, and the Kansas Department of Corrections offered testimony in support of HB 2568. The Committee also received testimony in opposition to the bill from the Kansas Association of Criminal Defense Lawyers and neutral testimony from the Office of Judicial Administration. The Committee amended the bill by adopting several amendments proposed by the conferees.

In the Senate Committee on Judiciary, representatives of the KBI appeared as proponents of the bill. A representative of the Kansas Association of Criminal Defense Lawyers offered testimony in opposition to the bill.

The Committee amended the bill by adding "sexual battery" to the definition of "sexually violent crime" and removing it from the list that classifies a person as a sex offender. Current law classifies a person as a sex offender, requiring registration, if the person has been convicted of a sexually violent crime or, with some exceptions, the person is adjudicated as a juvenile offender of a sexually violent crime. Additionally, prior to the passage of 2011 H. Sub. for SB 37, sexual battery was included in the definition of sexually violent crime.

The Committee also amended the bill to clarify that the court must ensure the age of the victim is documented in the journal entry at the time of sentencing, rather than at conviction, as there is no journal entry at the time of conviction.

Further, the bill was amended to provide when a court orders expungement of a conviction that requires registration, the offender still would be required to continue registering, although the registration would not be open to inspection by the public or posted on the internet. If the offender has an additional conviction that requires registration that is not

expunged, registration for that conviction would remain open to the public and may be posted on the internet unless the registration has been ordered restricted.

Finally, the Committee added a provision to require notice on the KBI website that employment information may be obtained by signing up for community notification through the KBI website.

The fiscal note indicates passage of HB 2568, as introduced, would have no fiscal effect on the KBI. The League of Kansas Municipalities and the Kansas Association of Counties estimate that the fiscal effect for local governments would be negligible and could be handled within current resources. The Kansas Sentencing Commission states the bill would have no effect on prison admissions or beds.