

SESSION OF 2012

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR SENATE
BILL NO. 39**

As Amended by Senate Committee of the Whole

Brief*

Sub. for SB 39 would amend the Kansas Offender Registration Act to create the category of aggravated sex offender, which would be defined as any person who, on or after July 1, 2012, is convicted of any sexually violent crime, if any of the parties involved is under 16 years old. Such offenders would be prohibited from residing within 500 feet of school property containing a structure used for K-12 instruction or activities. The prohibition would not apply if the offender is in the custody of a correctional facility or in the care or custody of any treatment facility. The sentencing court and the registering law enforcement agency would be required to inform such offenders of the residency restriction.

Background

SB 39 was introduced in 2011 by Senator Robert Olson. As introduced, the bill contained further penalties and restrictions applicable to aggravated sex offenders, including a 2,000-foot residency restriction, driver's license labeling, presumptive imprisonment for a registration violation, and departure sentence restrictions.

At a hearing before the 2011 Senate Judiciary Committee, Senator Olson and several private citizens testified in support of the bill. Written testimony in support was submitted by an Olathe City Council member and private citizens. A representative of the Kansas Supreme Court

*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>

testified as a neutral party. Representatives of the Kansas Juvenile Justice Authority and United Methodist Youthville, a criminal defense attorney, and a private citizen testified in opposition to the bill. Following the hearing, the Kansas Department of Corrections provided written testimony opposing the bill. The 2011 Senate Judiciary Committee tabled the bill.

Senator Olson appeared before the 2012 Senate Judiciary Committee with a proposed substitute bill, stating the substitute bill was intended to address concerns stated by members of the Committee. To this end, he removed all penalties and restrictions contained in the original bill, except a 500-foot residency restriction. The Committee recommended the substitute bill be passed.

The Senate Committee of the Whole amended the bill to clarify that the residency restriction would not apply to offenders in the custody of a correctional facility or in the care or custody of any treatment facility. The Committee of the Whole recommended the substitute bill be passed as amended.

The bed impact statement prepared by the Kansas Sentencing Commission for the original bill indicated the bill would result in 160 additional prison admissions by the end of FY 2013 and 191 additional prison admissions by the end of FY 2022. By the end of FY 2013, 158 additional prison beds would be needed and 502 additional prison beds would be needed by the end of FY 2022. During consideration of the bill, a representative of the Sentencing Commission indicated the bed impact was a product of the criminal sanctions contained in the original bill, but removed from the substitute bill.

The fiscal note on the bill, as introduced, noted the number of male inmates exceeded the available bed capacity, and the Department of Corrections had identified two capacity expansion projects: two high medium security housing units at El Dorado Correctional Facility that would provide 512

beds with a construction cost of \$22,687,232 (\$44,311 per bed X 512) and operating costs of \$9,339,904 (\$18,242 per bed X 512); and one minimum security housing unit at Ellsworth Correctional Facility that would provide 100 beds with a construction cost of \$5,935,000 (\$59,350 per bed X 100) and operating costs of \$1,832,000 (\$18,320 per bed X 100).

Any capacity needed beyond these options would require additional contract or construction costs. Actual construction costs would depend upon the security level of the beds to be constructed and when construction is actually undertaken, while the actual operating costs would depend upon the base salary amounts, fringe benefit rates, per meal costs, per capital health care costs, and other cost factors applicable at the time the additional capacity is occupied.

The bill, as introduced, would have the potential to increase litigation because of the new violations created by the bill. However, the Office of Judicial Administration indicated a precise fiscal effect cannot be determined, and would most likely be accommodated within the existing schedule of court cases without requiring additional resources.

The Department of Revenue indicated the bill, as introduced, would result in additional costs totaling \$30,296, including \$3,600 to modify the current driver's license system, \$9,000 to label driver's licenses with "Aggravated Sex Offender," and \$17,696 to modify the new driver's license system.

There is no fiscal note available for the substitute bill. However, the specific provisions of the original bill cited in the fiscal note do not appear in the substitute version.