

SESSION OF 2011

SUPPLEMENTAL NOTE ON SENATE BILL NO. 63

As Recommended by Senate Committee on
Judiciary

Brief*

SB 63 would amend the crime of sexual exploitation of a child. Current law prohibits, among other actions:

- Employing, using, persuading, inducing, enticing or coercing a child under 18 years of age to engage in sexually explicit conduct with the intent to promote any performance; or
- Promoting any performance that includes sexually explicit conduct by a child under 18 years of age, knowing the character and content of the performance.

The bill would amend these provisions to also prohibit such conduct regarding a person the offender *believes* to be under 18 years of age.

Note: The bill, as formatted, appears to make additional changes. However, these are actually changes made by the 2010 Legislature. They must be formatted as amendments in this bill because the recodification of the Criminal Code, also authorized by the 2010 Legislature, will not go into effect until July 1, 2011.

Background

The Kansas County and District Attorneys Association (KCDAA) requested the Senate Judiciary Committee

*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>

introduce SB 63. A similar “belief” provision is contained in the current electronic solicitation law.

In the Senate Judiciary Committee, a representative of the KCDAA appeared in support of SB 63, explaining that this change would allow a suspect to be charged under the statute even when the victim is actually an undercover law enforcement officer. A criminal defense attorney testified in opposition to the bill. The Committee made no changes to the bill and recommended it be passed.

The fiscal note on the bill states the bill would have no fiscal effect. The Kansas Sentencing Commission indicates the bill would have no impact on prison beds. Some members of the Senate Judiciary Committee stated they believed the bill might have a prison bed impact. In response, the Kansas Sentencing Commission stated the bill could potentially increase the number of prison beds needed, due to sting operations, but such impact cannot be estimated due to lack of information regarding possible sting operations under this bill.