

SESSION OF 2014

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2433**

As Agreed to April 3, 2014

Brief*

HB 2433 would amend the criminal penalties for an intentional violation of the Kansas Uniform Securities Act so that a violation committed against an elder person, as defined in Kansas consumer protection statutes (60 years of age or older), would be increased by one severity level. It would not be a defense that the offender did not know the age of the victim or believed the victim was not an elder person.

The bill also would amend the investor education provisions in the Act to rename the Investor Education Fund the "Investor Education and Protection Fund" and allow resources from the fund to be used for protection initiatives, including enforcement and prosecution of securities fraud.

Finally, the bill would remove language requiring a report regarding investor education to reflect that this report has already been completed.

Conference Committee Action

The House agreed to the Senate Committee's amendment to restore the defense prohibition removed by the House Committee of the Whole. Additionally, conferees amended the defense prohibition, changing "individual convicted" to "defendant."

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

Background

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of the Securities Commissioner. In the House Committee, the Commissioner and another member of his office testified in support of the bill. The Johnson County Sheriff also testified as a proponent. A representative of the Kansas Association of Chiefs of Police, the Kansas Peace Officers Association, the Kansas Sheriffs' Association, and representatives of the Kansas Association of Area Agencies on Aging and Disabilities and the Kansas County and District Attorneys Association submitted written testimony supporting the bill.

The House Committee of the Whole amended the bill to remove a provision stating it would not be a defense to the increased violation that a person did not know the age of the victim or believed the victim was not an elder person.

In the Senate Committee on Judiciary, the Commissioner testified in support of the bill. Another representative of his office, the Johnson County Sheriff, a representative of the Kansas County and District Attorneys Association, and a representative of the Kansas Association of Chiefs of Police, the Kansas Peace Officers Association, and the Kansas Sheriffs' Association submitted written testimony supporting the bill.

The Senate Committee amended the bill to restore the defense prohibition removed by the House Committee of the Whole.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Securities Commissioner's Office indicates the bill would allow it to reimburse local governments for the enforcement and prosecution of securities fraud cases, although a precise estimate cannot be made. The Securities Commissioner's Office indicates the bill would require no more than one additional prison bed per year, although the Kansas

Sentencing Commission indicates it cannot estimate the number of additional prison beds that would be needed under the bill. The Board of Indigents' Defense Services does not anticipate it would be required to represent any additional defendants as a result of the bill.

The Office of Judicial Administration states the bill could increase litigation and cause a fiscal effect on court operations, but a precise fiscal effect cannot be determined, and would most likely be accommodated within the existing schedule of court cases and not require additional resources.

Any fiscal effect associated with the bill is not reflected in *The FY 2015 Governor's Budget Report*.

Kansas Uniform Securities Act; criminal penalties; elder persons; investor education and protection; fraud

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