

**REVISED**  
*SESSION OF 2014*

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 2387**

As Recommended by Senate Committee on  
Judiciary

**Brief\***

Senate Sub. for HB 2387 would establish that a life sentence with a mandatory minimum term of imprisonment of 50 years (the Hard 50 sentence) is to be the default sentence when a defendant is convicted of premeditated first degree murder committed on or after July 1, 2014. The sentencing judge would be permitted to impose a life sentence with a mandatory minimum term of imprisonment of 25 years (the Hard 25 sentence) if the judge reviews mitigating circumstances and finds substantial and compelling reasons to impose the lesser sentence. If the judge imposes the Hard 25 sentence, the judge would be required to state on the record the substantial and compelling reasons for imposing the sentence.

The bill also would impose a Hard 25 sentence for a conviction of first degree murder when classified as the killing of a human being committed in the commission of, attempt to commit, or flight from any inherently dangerous felony (felony murder).

For any of these sentencing provisions, if the defendant's criminal history classification would subject the defendant to presumptive imprisonment in a range exceeding 300 months (for a Hard 25 sentence) or 600 months (for a Hard 50 sentence), then the defendant would instead be

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\*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>

required to serve a mandatory minimum term equal to the sentence established under the sentencing guidelines.

## **Background**

As introduced by the 2013 House Committee on Federal and State Affairs and recommended by the 2013 House Committee on Corrections and Juvenile Justice, HB 2387 would have amended non-sentencing law concerning felony murder. The original provisions were incorporated into the conference committee report on HB 2093 and were enacted in 2013.

The 2014 Senate Committee on Judiciary recommended a substitute bill be passed, containing language modified from SB 250.

## ***Background of SB 250***

Under KSA 21-6620, as amended in the 2013 Special Session, the Hard 25 sentence will be imposed on a defendant convicted of premeditated first degree murder unless a jury determines beyond a reasonable doubt that one or more aggravating circumstances exist. If aggravating circumstances are found, then the Hard 50 sentence will be imposed, unless the sentencing judge reviews mitigating circumstances and finds substantial and compelling reasons to impose the Hard 25 sentence. Thus, under current law, the Hard 25 sentence is the default sentence in such cases, and the Hard 50 sentence will be imposed only where aggravating factors are found that outweigh any mitigating factors.

SB 250 was introduced by Senators Bruce, King, and Smith. In the Senate Judiciary Committee, Attorney General Derek Schmidt and a representative of the Kansas County and District Attorneys Association testified in support of the bill. Written proponent testimony was submitted by a representative of the Kansas Association of Chiefs of Police,

Kansas Peace Officers Association, and Kansas Sheriffs' Association. A representative of the Kansas Association of Criminal Defense Lawyers testified in opposition to the bill.

The Senate Committee modified the language of SB 250 to allow a presumptive guidelines sentence to be imposed where such sentence would be longer than the Hard 25 or Hard 50 and to impose a Hard 25 sentence for felony murder convictions. The Committee recommended this language be adopted as a substitute bill for HB 2387.

The fiscal note prepared by the Division of the Budget on SB 250, as introduced, indicates it would have no fiscal effect. The Kansas Sentencing Commission states the bill would have no effect on prison admission or bed needs.