

SESSION OF 2014

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2426**

As Amended by House Committee on  
Corrections and Juvenile Justice

**Brief\***

HB 2426 would amend the criminal code concerning the Kansas Bureau of Investigation's (KBI's) collection of DNA samples.

The bill would remove references to drawing blood and require the specified persons to submit biological samples to the KBI when a person is fingerprinted as part of the booking procedure, or as soon as practicable. The KBI would provide the necessary kits and supplies for collection, and no profile records would be accepted for admission or comparison unless obtained in substantial compliance with the provisions of the bill by an accredited forensic laboratory meeting the national DNA index guidelines established by the Federal Bureau of Investigation. If the person's DNA sample was not properly obtained, the person would be required to provide another sample. Additionally, a sample collected by a law enforcement agency or juvenile justice agency in substantial compliance with the provisions of the bill, or any evidence based upon or derived from such sample, could not be excluded as evidence in any criminal proceeding on the basis that the sample was not validly obtained.

The bill also would amend provisions outlining who is required to submit such a sample. Any person required to register as an offender pursuant to the Kansas Offender Registration Act would be required to submit a sample. The bill would clarify that a person would be required to submit a sample when arrested for or charged with lewd and lascivious

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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>

behavior only if the crime was committed in the presence of a person 16 or more years of age. A person arrested for or charged with buying sexual relations would be required to submit a sample only if such person is less than 18 years of age. Further, the bill would specify that persons who were incarcerated on May 2, 1991, for a crime committed prior to that date would be required to submit a sample prior to final discharge or conditional release.

The bill would make it a class A nonperson misdemeanor for a person who has possession of or access to samples or profile records maintained by the KBI due to such person's employment or official position to disseminate such samples or records except in strict accordance with applicable laws, or for a criminal justice agency to request profile records without a legitimate need for such records. A conviction under these provisions would constitute good cause for termination or licensure revocation or suspension.

Finally, the bill would strike provisions that are outdated, make other technical amendments, and define key terms.

## **Background**

The bill was introduced by the Joint Committee on Corrections and Juvenile Justice Oversight and contained provisions similar to those passed by the Legislature but vetoed in 2013 HB 2120. In his veto message, the Governor specified other, non-DNA-related provisions of the bill as the reason for the veto.

In the House Committee on Corrections and Juvenile Justice, Representative Todd and a representative of the KBI spoke in support of the bill. It was stated the bill would align the law concerning the KBI's collection of DNA samples with current practices and strengthen protections against unauthorized disclosure of DNA information. There was no opponent testimony.

The House Committee adopted an amendment suggested by the KBI clarifying when expungement may occur and defining additional terms.

According to the fiscal note prepared by the Division of the Budget on the original bill, the Office of Judicial Administration indicates the bill could result in the collection of additional docket fees, but a precise fiscal effect cannot be provided until the courts have operated under the provisions of the bill. The bill would have no fiscal effect on the KBI. The League of Kansas Municipalities indicates the bill could require additional police and administrative time related to sample collection, but it cannot estimate a fiscal effect without knowing how frequently samples would need to be collected.

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