

SESSION OF 2014

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2493

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2493 would amend law related to surety and bail.

The bill would amend the crime of unlawful sexual relations to add a provision prohibiting a surety or an employee of a surety from engaging in sexual relations with a person at least 16 years of age who is the subject of a surety or bail bond agreement with such surety when the offender knows the person is the subject of such surety or bail bond agreement. This provision would be a severity level 5, person felony.

The bill would amend bail provisions for certain drug offenses that require at least \$50,000 cash or surety to allow any person arrested and charged for these offenses to be released upon the person's own recognizance if the court determines, on the record, that the defendant is not likely to reoffend, the court imposes pretrial supervision, or the defendant agrees to participate in a licensed or certified drug treatment program. The bill would amend similar bail provisions in criminal street gang and Racketeer Influenced and Corrupt Organizations (RICO) statutes to allow release upon the person's own recognizance if the court determines, on the record, that the defendant is not likely to reoffend, an appropriate intensive pretrial supervision program is available, and the defendant agrees to comply with the mandate of such pretrial supervision.

*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>

The bill would prohibit a person convicted of any felony in the person's lifetime from acting as a surety or as an agent of a surety. Under current law, only persons convicted of a person felony within the past ten years fall under this prohibition.

The bill would require an out-of-state surety or agent of a surety to contract with a Kansas surety or agent of a surety before attempting to apprehend a person in Kansas and be accompanied by the Kansas surety or agent during the apprehension.

Finally, the bill would update agency references to reflect current agency authority and responsibilities.

Background

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of the Kansas Bail Agents Association. In the House Committee, representatives of the Kansas Bail Agents Association and the Capitol Lobby Group testified in support of the bill. The Chief Judge of the Johnson County District Court, another chief district judge representing the Kansas District Judges Association, and representatives of the Kansas Association of Counties and the Sedgwick County Department of Corrections testified as opponents to a provision in the bill, as introduced, that would have prohibited the use of own recognizance bonds for certain offenses.

The House Committee adopted amendments including an own recognizance bond provision agreed to by the proponents and opponents and a few technical changes.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration indicates the bill would have no fiscal effect on the Judicial Branch and the Board of Indigents' Defense Services indicates the bill would not increase its caseload.

The Kansas Sentencing Commission states the bill would add to its journal entry workload, but additional resources would not be needed.

The Sentencing Commission estimates the bill, as introduced, would require one to two additional adult prison beds in FY 2015 and two to five additional beds by FY 2024.

For all crimes, the Kansas Sentencing Commission estimates the number of inmates will be below available capacity (9,636 as of January 13, 2014) by 103 beds in FY 2014 and by 196 beds in FY 2015. However, starting in FY 2017, it is expected that adult correctional facilities will again be over capacity. The bed space requirements of the bill could be handled within existing capacity in the short term, but will add to capacity challenges in the near future. Continued population increases will require new construction providing 512 beds at a construction cost of approximately \$24.4 million and operating costs of approximately \$8.4 million (\$45 per inmate per day). If utilized, bond financing for construction would need to be authorized in FY 2016.

Any fiscal effect associated with the bill is not reflected in *The FY 2014 Governor's Budget Report*.