

SESSION OF 2014

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 354**

As Recommended by Senate Committee on  
Judiciary

**Brief\***

SB 354 would amend the crime of mistreatment of a dependent adult by:

- Renaming the crime “mistreatment of an elder person or dependent adult”;
- Including “elder person,” as defined in Kansas consumer protection statutes (60 years of age or older), within the definition of the acts that would constitute the crime;
- Rewriting the means of committing the crime that involves taking unfair advantage of a dependent adult’s resources so that the means would involve the wrongful taking of personal property or financial resources of an elder person or dependent adult for the benefit of the defendant or another person by taking control, title, use, or management of personal property or financial resources through various prohibited techniques or influences or without adequate consideration, through a violation of the Kansas Power of Attorney Act, or through a violation of the Kansas Uniform Trust Code;
- Establishing an affirmative defense to prosecution under the revised means described above that the personal property or financial resources were given as a gift consistent with a pattern of gift giving

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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>

before the victim became vulnerable, or that a court approved the transaction; and

- Defining “adequate consideration.”

## **Background**

The bill was introduced by the Senate Committee on Judiciary at the request of Senator O'Donnell. In the Senate Committee, Senator O'Donnell; the Kansas State Long-Term Care Ombudsman; representatives of the Attorney General's Office, the Kansas County and District Attorneys Association, Kansas Alzheimer's Association chapters, AARP Kansas, LeadingAge Kansas, and Kansas Neurological Institute Parent Guardian Group; and a recently retired adult care home director testified in support of the bill. Written testimony supporting the bill was received from Attorney General Schmidt and representatives of assisted living facilities, Kansas Advocates for Better Care, the Kansas Bankers Association, and the Kansas Department for Children and Families. There was no opponent testimony.

According to the fiscal note prepared by the Division of the Budget on the bill, the Office of Judicial Administration indicates the bill has the potential to increase the number of cases and appeals filed, increasing the time required of judicial and non-judicial personnel. The additional cases could also increase revenue from docket fees. However, the number of additional cases or appeals cannot be predicted, and thus a precise fiscal effect cannot be determined.

The Kansas Sentencing Commission (KSC) indicates the bill would add to the journal entry of the Commission, but additional resources would not be needed. The KSC estimates the bill would result in an increase of 1 to 3 adult prison beds needed in FY 2015 and an increase of 3 to 11 beds needed by FY 2014.

For all crimes, the Kansas Sentencing Commission estimates that 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. 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. Because it increases the number of beds needed, this bill could require earlier construction or additional funds for contract beds. Should passage of the bill require capacity beyond the scenario described above, additional costs for contract beds or facility expansion would be incurred.

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