

SESSION OF 2014

## **SUPPLEMENTAL NOTE ON SENATE BILL NO. 415**

As Amended by Senate Committee on Judiciary

### **Brief\***

SB 415, as amended, would raise the penalty for burglary of a dwelling from a severity level 7 to a severity level 6, person felony. The bill would adjust the penalty provisions for burglary of a dwelling with intent to commit the theft of a firearm to make it a person felony, rather than a nonperson felony.

The bill also would amend the definition and penalties for aggravated burglary to make aggravated burglary committed by entering into or remaining in a dwelling in which there is a human being, with the required intent, a severity level 4, person felony. The bill would clarify that entering into a non-dwelling building or structure in which there is a human being, with the required intent, would remain a severity level 5, person felony.

### **Background**

The bill was introduced by the Senate Committee on Ways and Means. In the Senate Committee on Judiciary, the Leavenworth County Attorney and a representative of his office testified in support of the bill. A representative of the Kansas Association of Criminal Defense Lawyers and a criminal defense attorney testified as neutral conferees.

The Senate Committee adopted an amendment suggested by the Office of Revisor of Statutes to make burglary of a dwelling with intent to commit the theft of a

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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>

firearm a person felony to provide consistency with the crime of burglary of a dwelling.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration indicates the elevated penalties could increase the number of appeals filed, which could increase the time required of court personnel and result in the collection of added revenue from docket fees. However, a precise fiscal effect cannot be determined.

The Kansas Sentencing Commission estimates the bill would require 64, 71, or 77 additional prison beds in FY 2015 and an additional 235, 262, or 289 prison beds by FY 2024 based on three different scenarios.

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. While the bed space requirements of the bill could be handled within existing capacity in the short term, the bill will add to capacity challenges occurring 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 2015 Governor's Budget Report*.