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MEMORANDUM

To: Chairman Brunk
Members of the House Committee on Federal and State Affairs

From: Jason B. Long, Senior Assistant Revisor

Date: February 6, 2015

Subject: HB 2074 – Questions concerning the bill

House Bill No. 2074 would restore the language of K.S.A. 2014 Supp. 75-7c04 to that version of the statute prior to the 2014 amendments contained in 2014 HB 2578. Under HB 2074 an individual would be disqualified from obtaining a concealed carry license if that individual was prohibited from possessing a firearm under federal or state law. This has raised the question of when state law prohibits an individual from possessing a firearm.

Attached to this memorandum is a copy of K.S.A. 21-6304, which makes it a criminal offense to possess a firearm if the individual has been convicted of certain felonies. The statute contains three types of bans on the possession of firearms. First, K.S.A. 21-6304(a)(1) imposes a permanent ban on the possession of a firearm if the individual was convicted of a person felony or a violation of a criminal drug statute (Article 57 of Chapter 21 of the Kansas Statutes Annotated) *and* such offense was committed while the individual was in possession of a firearm. Person felonies are generally serious crimes committed against another individual. Examples of person felonies include murder, manslaughter, rape and kidnapping.

Second, K.S.A. 21-6304(a)(3) imposes a 10-year ban on the possession of a firearm if the individual is convicted of certain felonies. Conviction of a felony for the following offenses results in a 10-year ban: murder in the first degree; murder in the second degree; voluntary manslaughter; involuntary manslaughter; kidnapping and aggravated kidnapping; aggravated assault and aggravated assault of a law enforcement officer; aggravated battery and aggravated battery of a law enforcement officer; criminal threat; aggravated robbery; rape; aggravated criminal sodomy; aggravated sexual battery; aggravated burglary; a violation of a criminal drug statute; or the attempt, conspiracy to commit, or criminal solicitation of any of the above

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offenses. Additionally, there is a 10-year ban imposed for nonperson felony convictions if the individual was in possession of a firearm at the time the offense was committed.

Third, K.S.A. 21-6304(a)(2) imposes a 5-year ban on the possession of a firearm if the individual is convicted of a felony that does *not* result in a 10-year ban and the individual was *not* in possession of a firearm at the time the offense was committed.

Finally, each of the bans contained in K.S.A. 21-6304 include adjudications as a juvenile offender for the same offense. This means an individual who is adjudicated as a juvenile offender is also subject to the ban that corresponds to the felony committed by the juvenile. Furthermore, K.S.A. 2014 Supp. 75-7c04 disqualifies an individual from obtaining a concealed carry license if they are prohibited from possessing a firearm under K.S.A. 21-6304, and this disqualification includes juvenile adjudications.