

SESSION OF 2016

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2681

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2681, as amended, would modify statutes related to criminal diversions to allow a defendant to request a diversion agreement, if the defendant is not ineligible for diversion. The request would have to be made prior to conviction using a written application developed by the Kansas Sentencing Commission (Commission). If the district attorney denies the request, the district attorney would be required to provide to the defendant a copy of the application and a written statement of reasons, specific to the defendant, why the diversion is not in the interests of justice or to the benefit of the defendant and the community. The district attorney would be required to forward Commission a copy of all diversion agreement applications submitted, within 30 days after a decision has been made.

In judicial districts with rules providing for the administration of diversion procedures by the district court, the bill would require such procedures provide for a similar opportunity for defendants to request diversion and the same written statement of reasons if a diversion agreement is not offered.

The statute governing the Commission would be amended to direct it to develop the diversion application, which would include a space for a district or county attorney to provide a written statement of reasons if the application is denied. The bill would direct the Commission to provide an annual report to the Legislature on the number and outcomes

*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>

of requests for diversion, including information on the demographics of applicants, charged offenses, and application outcomes, including the stated reasons for denials.

The provisions of the bill would be effective from and after January 1, 2017, and publication in the statute book.

Background

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of Representative Rubin. In the hearing before the House Committee, representatives of the Kansas Association of Criminal Defense Lawyers and the American Civil Liberties Union of Kansas testified in support of the bill. The Leavenworth County Attorney testified in opposition to the bill. A representative of the Johnson County District Attorney provided written testimony opposing the bill.

The House Committee amended the bill to require district attorneys to forward diversion applications to the Commission and to postpone the effective date until January 1, 2017.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Commission indicates the bill would increase its journal entry workload and would require the implementation of a diversion reporting process at a cost of \$112,808 from the State General Fund in FY 2017 and \$99,888 each subsequent year for 2.0 FTE positions. The Office of Judicial Administration indicates any fiscal effect resulting from the passage of the bill would be negligible.

Any fiscal effect associated with the bill is not reflected in *The FY 2017 Governor's Budget Report*.