

REVISED
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SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2049

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2049, as amended, would enact the Law Enforcement Protection Act. The bill would enhance the sentencing of felony crimes committed against law enforcement officers in the performance of their duties, or due to their status as a law enforcement officer.

The bill would create a special sentencing rule with enhanced penalties that would apply if a trier of fact finds beyond a reasonable doubt that an offender committed a nondrug felony offense (or the offender committed an attempt or conspiracy to commit such offense) against a law enforcement officer while the officer was performing the officer's duty or solely due to the officer's status as a law enforcement officer. The special sentencing rule would be applied as follows:

- Felonies levels 2 through 10:
 - Sentencing would be enhanced by 1 level;
- Level 1 felonies:
 - The minimum sentence would be life in prison;
 - The offender would not be eligible for a sentence modification or probation;

*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 offender could not be released on parole before serving 25 years of the sentence;
- The offender would not be eligible for good time credit; and
- No other sentence would be permitted.

If an offender would be subject to a longer minimum presumptive sentence due to criminal history, the minimum sentence of 25 years would not apply. Instead, the longer minimum sentence would apply.

The sentence imposed would not be considered a departure from the sentencing grid and could not be appealed. Further, the enhancements would not apply to crimes where the factual aspect concerning a law enforcement officer is a statutory element of the offense.

The bill would define “law enforcement officer” by reference to two of the three categories included in the definition provided of the term provided in the criminal code definitions section. This definition would include any person who by virtue of such person’s office or public employment is vested by law with the duty to maintain public order or to make arrests for crimes, and any university or campus police officer.

Finally, the bill would clarify the applicable standard of proof for the finding required to impose the existing special sentencing rule regarding the wearing or use of ballistic resistant material is “beyond a reasonable doubt.” [Note: this is the standard currently applied under applicable case law.]

Background

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of the Kansas Attorney General’s Office. In the House Committee hearing, the Attorney General, and representatives of the Fraternal Police Lodge Number 5, and the Kansas Association of Chiefs of Police, Kansas Sheriffs’ Association, and Kansas

Peace Officers Association testified in favor of the bill. The League of Kansas Municipalities provided written-only testimony in favor of the bill. The Kansas Association of Criminal Defense Lawyers provided written-only neutral testimony suggesting the Committee amend the bill to define “law enforcement officer.” No opponent testimony was provided.

The House Committee amended the bill to define “law enforcement officer” by reference to two categories included in the criminal code definitions section.

According to the fiscal note prepared by the Division of Budget on the bill, as introduced, the Office of Judicial Administration indicates the elevation of severity levels could increase appeals and could result in the collection of docket fees, but a precise fiscal effect could not be determined. The Kansas Sentencing Commission estimates enactment of the bill would result in an additional number of prison beds, but that number could not be determined. Any fiscal effect associated with the bill is not reflected in *The FY 2018 Governor’s Budget Report*.