

REVISED
SESSION OF 2019

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2018**

As Amended by House Committee of the Whole

Brief*

Sub. for HB 2018, as amended, would create the Kansas Criminal Justice Reform Commission (Commission).

Commission Members

The Commission would be composed of the following voting members:

- One member of the Kansas Senate, appointed by the President of the Senate;
- One member of the Kansas Senate, appointed by the Minority Leader of the Senate;
- One member of the Kansas House of Representatives, appointed by the Speaker of the House of Representatives;
- One member of the Kansas House of Representatives, appointed by the Minority Leader of the Kansas House of Representatives;
- One member of the Judicial Branch Court Services, appointed by the Chief Justice of the Supreme Court;

*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>

- One criminal defense attorney or public defender, appointed by the Governor;
- One county or district attorney from an urban area and one county attorney from a rural area, appointed by the Kansas County and District Attorneys Association;
- One sheriff and one chief of police, appointed by the Attorney General;
- One professor of law from the University of Kansas School of Law and one professor of law from Washburn University School of Law, appointed by the deans of such schools;
- One drug and alcohol addiction treatment provider who provides services pursuant to the certified drug abuse treatment program, appointed by the Kansas Sentencing Commission;
- One district judge, appointed by the Kansas District Judges Association;
- One district magistrate judge, appointed by the Kansas District Magistrate Judges Association;
- One member representative of the faith-based community, appointed by the Governor;
- One member of a criminal justice reform advocacy organization, appointed by the Legislative Coordinating Council (LCC);
- One mental health professional, appointed by the Kansas Community Mental Health Association; and
- One member representative of community corrections, appointed by the Secretary of Corrections.

The Commission would also include the following non-voting members:

- The Attorney General, or the Attorney General's designee;
- The Secretary of Corrections, or the Secretary's designee; and
- The Executive Director of the Kansas Sentencing Commission, or the Director's designee.

Appointment of members of the Commission would be required to be completed by August 1, 2019. The appointing authorities would be required to provide notice of such appointments to the Office of Revisor of Statutes and the Legislative Research Department. The members of the Commission would be required to elect officers from among its members as necessary to discharge its duties.

Commission Duties

The bill would require the Commission to:

- Analyze the sentencing guideline grids for drug and nondrug crimes and make recommendations for legislation that would ensure sentences are appropriate;
- Review the sentences imposed for criminal conduct to determine whether the sentences are proportionate to other sentences imposed for criminal offenses;
- Analyze diversion programs utilized throughout the state and make recommendations with respect to expanding diversion options and implementation of statewide diversion standards;

- Review the supervision levels and programming available for offenders who serve sentences for felony offenses on community supervision;
- Study specialty courts and make recommendations for the use of specialty courts throughout the state;
- Survey the availability of evidence-based programming for offenders provided both in correctional facilities and in the community, and make recommendations for changes in available programming;
- Study the policies of the Department of Corrections for placement of offenders within the correctional facility system and make recommendations with respect to specialty facilities, including, but not limited to, geriatric, healthcare, and substance abuse facilities;
- Evaluate existing information management data systems and make recommendations for improvements to data systems that will enhance the ability of criminal justice agencies to evaluate and monitor the efficacy of the criminal justice system at all points in the criminal justice process; and
- Study other matters as the Commission determines are appropriate and necessary to complete a thorough review of the criminal justice system.

The bill would authorize the Commission to organize and appoint task forces or subcommittees as necessary to discharge its duties, and the Commission could appoint ex officio, nonvoting members to such task forces or subcommittees.

Sentencing Proportionality

The bill would direct the Commission to work with the Kansas Judicial Council, the Department of Corrections, and the Kansas Sentencing Commission to review studies and findings of the Sentencing Commission concerning proportionality of sentencing.

Testimony and Meetings

The bill would direct the Commission to receive testimony from interested parties at public hearings to be held in various geographic areas of the state.

Reports to the Legislature

The bill would require the Commission to prepare and submit its interim report to the Legislature on or before December 1, 2019. A final report and recommendations would be required to be submitted to the Legislature on or before December 1, 2020.

Support Services and Compensation

The bill would require the Governor to appoint a facilitator to provide administrative assistance to develop a project plan and to assist the Commission in carrying out the duties of the Commission. The facilitator would work in collaboration with the Commission chairperson and staff of the Office of Revisor of Statutes and the Legislative Research Department. The facilitator would not be a member of the Commission.

Staff of the Office of Revisor of Statutes and the Legislative Research Department would be required to provide assistance as requested by the Commission, subject to approval by the LCC.

The facilitator, in coordination with the Office of Revisor of Statutes and the Legislative Research Department, would be required to call the first meeting of the Commission to take place during August 2019.

If approved by the LCC, legislative members of the Commission attending meetings authorized by the Commission would be paid amounts for expenses, mileage, and subsistence pursuant to KSA 75-3223(e).

Background

The bill was introduced by Representative Carmichael. As introduced, and as heard by the House Committee on Corrections and Juvenile Justice, the bill would have removed the prosecutorial power of the Secretary of State for certain elections crimes. On January 30, 2019, the House Committee on Corrections and Juvenile Justice recommended HB 2042, with similar subject matter, be passed favorably as amended.

The House Committee on Corrections and Juvenile Justice subsequently recommended a substitute bill for HB 2018 be passed containing the provisions creating the Kansas Criminal Justice Reform Commission, based upon similar language distributed at a previous House Committee hearing by the chairperson.

The bill was referred to the House Committee on Appropriations on February 27, 2019. The bill was then rereferred to the House Committee on Corrections and Juvenile Justice on March 12, 2019. On March 14, 2019, the House Committee on Corrections and Juvenile Justice amended the substitute bill to adjust the defense attorney, drug and alcohol addiction treatment provider, and criminal justice reform advocacy organization appointees, and adjust the compensation provisions.

The House Committee of the Whole, on March 25, 2019, amended the bill to specify the drug and alcohol addiction

treatment provider member be appointed by the Kansas Sentencing Commission; add a requirement members be appointed by August 1, 2019; add a notice requirement for appointments; and add a requirement the first meeting take place during August 2019.

At the time of House Committee action on the substitute bill, there was no fiscal note available for the substitute bill.