

SESSION OF 2020

SUPPLEMENTAL NOTE ON SENATE BILL NO. 420

As Amended by Senate Committee on Judiciary

Brief*

SB 420, as amended, would amend the definition of “sex offender” in the Kansas Offender Registration Act (KORA) to include any person who is convicted of breach of privacy by the following means:

- Installing or using a concealed camcorder, motion picture camera or photographic camera of any type to secretly videotape, film, photograph or record, by electronic or other means, another identifiable person under or through the clothing being worn by that other person or another identifiable person who is nude or in a state of undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to invade the privacy of that other person, under circumstances in which that other person has a reasonable expectation of privacy;
- Disseminating or permitting the dissemination of any videotape, photograph, film or image obtained in violation of the above provision; or
- Disseminating any videotape, photograph, film or image of another identifiable person 18 years of age or older who is nude or engaged in sexual activity and under circumstances in which such identifiable person had a reasonable expectation of privacy, with the intent to harass, threaten or

*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>

intimidate such identifiable person, and such identifiable person did not consent to such dissemination.

The bill would add convictions of breach of privacy under the above provisions to those crimes for which an offender must register under KORA for 15 years.

Background

The bill was introduced by the Senate Committee on Judiciary at the request of Senator Lynn. In the Senate Committee hearing, a representative of the Johnson County District Attorney's Office and four private citizens testified in support of the bill, stating such incidents are increasing and the bill would simplify the process for requiring registration for such offenders. No neutral or opponent testimony was provided.

The Senate Committee amended the bill to add dissemination of any videotape, photograph, film or image of another identifiable person 18 years of age or older who is nude or engaged in sexual activity as one of the variants of breach of privacy requiring registration.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Kansas Bureau of Investigation states there were four breach of privacy arrests entered into the database it maintains in FY 2019. The agency indicates enactment of the bill would have a negligible fiscal effect that could be absorbed within existing resources.

The Kansas Sentencing Commission (Commission) estimates enactment of the bill could have an effect on prison admissions, prison beds, and the workload of the Commission, but a fiscal effect cannot be determined. Based upon the Commission's most recent ten-year projection, it is estimated that the year-end population for available prison capacity will be over capacity by 258 inmates in FY 2020 and

524 inmates in FY 2021. The Department of Corrections would house any additional inmates over the capacity limit in county jails or out-of-state contract beds at a rate ranging from \$40.00 to \$74.76 per day.

The Office of Judicial Administration indicates enactment of the bill would have a negligible fiscal effect that could be absorbed within existing resources. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.