

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2346

As Recommended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2346 would allow defendants to be released to a pretrial supervision entity or program and fees derived from the program to be deposited in the Nonjudicial Salary Adjustment Fund.

[Note: The bill uses “defendant” interchangeably with “person charged with a crime.” This supplemental note will use “defendant” for consistency.]

Pretrial Supervision Entity

Current law allows a magistrate to impose release conditions to reasonably assure the appearance of a defendant for preliminary examination or trial. The bill would allow a defendant to be placed under a pretrial supervision entity or program responsible for monitoring the person’s compliance with release conditions and would require the entity to closely supervise the defendant. The bill would allow a defendant’s supervision by the entity to be terminated by a court order revoking the release order or by final disposition of the charges, pursuant to continuing law.

The bill would require a pretrial supervision entity to administer release on recognizance programs and supervised release programs; prepare and submit recommendations to the court for supervision conditions of the defendants under their supervision; and, if the court orders release of the

*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>

defendant, to prepare and require a defendant to sign a written agreement regarding such release, as provided in continuing law.

Supervision Fee and Costs Transfer to Judicial Fund

Under continuing law, a magistrate judge may order the defendant to pay for any costs associated with the supervision of the conditions of release of the appearance bond in an amount not to exceed \$15 per week of such supervision.

The bill would allow a chief judge to direct the remittance of such funds to the State Treasury, pursuant to continuing law. The bill would require the State Treasurer to deposit the entire amount in the State Treasury to the credit of the Nonjudicial Salary Adjustment Fund upon receipt of each such remittance. The bill would further specify such moneys shall not be considered supplemental compensation, as defined in continuing law.

Fee Waiver

The bill would allow the defendant to petition the court to waive payment of costs imposed by the court, such as supervision fees and costs including, but not limited to, costs for treatment and evaluation. With a finding of good cause shown, the court would have authority to waive the costs in whole or in part.

Technical and Conforming Amendments

The bill would make technical and conforming amendments to ensure consistency in statutory phrasing.

Background

The bill was introduced by the House Committee on Corrections and Juvenile Justice on behalf of the Special Counsel to the Chief Justice of the Kansas Supreme Court.

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on February 23, 2021, the Special Counsel to the Chief Justice testified as a **proponent** of the bill, indicating some of the recommendations for the bill came from the Kansas Supreme Court's Pretrial Justice Task Force, which studied pretrial detention practices in Kansas district courts. Written-only proponent testimony was submitted by the Chief Judge of the 10th Judicial District.

Opponent testimony was provided by a representative of the Kansas Bail Agents Association. No other testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget, the Office of Judicial Administration (OJA) indicates enactment of the bill could result in pretrial supervision fees to be directed to the Judicial Branch to pay for additional court services officers. OJA indicates a fiscal effect cannot be estimated, since it is unknown how much of the fees would be directed to the Judicial Branch.

The Kansas Association of Counties states enactment of the bill would have a negligible fiscal effect on counties.

According to the prison bed impact assessment prepared by the Kansas Sentencing Commission, enactment of the bill would have no impact on prison admissions, prison

beds, or the workload of the Commission, since it does not affect or alter specific criminal penalties.

Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Pretrial supervision; pretrial release; Nonjudicial Salary Adjustment Fund