

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2360

As Recommended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2360 would amend the definition of “criminal threat” in the Kansas Criminal Code.

In current law, “criminal threat” is defined by three separate elements and means any threat to:

- Commit violence communicated with intent to place another in fear, or to cause the evacuation, lock down or disruption in regular, ongoing activities of any building, place of assembly, or facility of transportation, or in reckless disregard of the risk of causing such fear or evacuation, lock down or disruption in regular, ongoing activities;
- Adulterate or contaminate any food, raw agricultural commodity, beverage, drug, animal feed, plant or public water supply; or
- Expose any animal in this state to any contagious or infectious disease.

The bill would remove the language from the first element concerning reckless disregard of the risk of causing such fear or evacuation, lock down, or disruption in regular, ongoing activities.

*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>

Background

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of a representative of the Kansas County and District Attorneys Association.

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on February 24, 2021, **proponent** testimony was provided by a representative of the Kansas Association of Criminal Defense Lawyers, who stated the bill was introduced to address the decision of *State v. Boettger*, 310 Kan. 800 (2019) in which the Kansas Supreme Court held that the “reckless” form of criminal threat unconstitutionally violated the First Amendment’s protections of free speech.

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) states enactment of the bill could decrease the number of cases filed in district court because the bill’s provisions would eliminate certain actions as constituting the crime of criminal threat, which could result in less time spent by court employees and judges processing and hearing cases. According to OJA, a fiscal effect cannot be estimated until the Judicial Branch has had an opportunity to operate under the bill’s provisions. OJA also indicates enactment could result in the collection of less docket fees and fines from such cases.

The Kansas Sentencing Commission states enactment of the bill could have an effect on prison admissions and beds; however, the Commission does not have enough information to estimate an effect. The Department of

Corrections states enactment would not have a fiscal effect on Department operations.

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

Criminal threat; Kansas Criminal Code