

SESSION OF 2022

SUPPLEMENTAL NOTE ON SENATE BILL NO. 385

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

SB 385, 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

*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>

identifiable person had a reasonable expectation of privacy, with the intent to harass, threaten, or intimidate such identifiable person, and such identifiable person did not consent to such dissemination.

The bill would specify the definition of “offender” in KORA (to require registration) would not include a person adjudicated as a juvenile offender for the above acts.

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.

The bill would amend the definition of “sexually violent crime” in KORA to include the crimes of internet trading in child pornography and aggravated internet trading in child pornography.

The bill would require an offender to register under KORA for a period of 25 years if convicted of internet trading in child pornography or aggravated internet trading in child pornography if the victim is more than 14 but less than 18 years of age. The bill would require an offender to register under KORA for such offender’s lifetime if convicted of aggravated internet trading in child pornography if the victim is less than 14 years of age.

Background

As introduced, the bill contained the provisions requiring registration for certain convictions of breach of privacy. The House Committee on Judiciary amended the bill to add the contents of SB 368, requiring registration for convictions of internet trading in child pornography.

SB 385 (Offender Registration for Breach of Privacy)

SB 385 was introduced by Senators Warren, Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hilderbrand, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, Olson, O'Shea, Peck, Petersen, Pettey, Ryckman, Steffen, Straub, Suellentrop, Sykes, Thompson, Ware, and Wilborn.

[*Note:* The bill's provisions, as introduced, are similar to those of 2020 SB 420, as amended by the Senate Committee on Judiciary.]

Senate Committee on Judiciary

In the Senate Committee hearing on February 8, 2022, three private citizens provided **proponent** testimony. No other testimony was provided.

On February 11, 2022, the Senate Committee amended the bill to exempt juvenile offenders from the breach of privacy registration requirements.

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on March 8, 2022, Senator Warren and seven private citizens provided **proponent** testimony. A private citizen submitted written-only proponent testimony. No other testimony was provided.

On March 9, 2022, the House Committee amended the bill to add the contents of SB 368, requiring registration for convictions of internet trading in child pornography or aggravated internet trading in child pornography.

***SB 368 (Offender Registration for Internet Trading in
Child Pornography)***

SB 368 was introduced by the Senate Committee on Judiciary at the request of the Office of the Attorney General (OAG).

Senate Committee on Judiciary

In the Senate Committee hearing on February 7, 2022, a representative of the OAG provided **proponent** testimony, stating the bill is necessary to require registration under KORA for the crimes specified in the bill. Written-only proponent testimony was provided by a representative of the Johnson County Sheriff's Office. No other testimony was provided.

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on March 8, 2022, the same **proponent** conferee appeared and written-only proponent testimony was provided as in the Senate Committee hearing. No other testimony was provided.

Fiscal Information

SB 385

According to the fiscal note prepared by the Division of the Budget on SB 385, as introduced, the Office of Judicial Administration states enactment of the bill would have a negligible fiscal effect on Judicial Branch operations. The Kansas Bureau of Investigation, Department of Corrections, and the OAG indicate the enactment of the bill would not have a fiscal effect on the operations of each agency.

The Kansas Sentencing Commission estimates that enactment of SB 385 would result in an increase of two adult prison beds needed by the end of FY 2023 and six by the end of FY 2032. Any fiscal effect associated with enactment of SB 385 is not reflected in *The FY 2023 Governor's Budget Report*.

SB 368

According to the fiscal note prepared by the Division of the Budget on SB 368, the Office of Judicial Administration indicates enactment of the bill would have a negligible fiscal effect on Judicial Branch operations.

The Kansas Sentencing Commission indicates enactment of SB 368 could have an effect on prison admission and beds; however, the Commission does not have enough information to estimate what that effect would be. Any fiscal effect associated with enactment of SB 368 is not reflected in *The FY 2023 Governor's Budget Report*.

Kansas Offender Registration Act; judiciary; breach of privacy; internet trading in child pornography