

SESSION OF 2022

SUPPLEMENTAL NOTE ON SENATE BILL NO. 534

As Recommended by Senate Committee on
Judiciary

Brief*

SB 534 would create a special sentencing rule stating that, notwithstanding statutory provisions regarding lesser included crimes or any other provision of law to the contrary, the sentence for a violation of criminal possession of a weapon by a convicted felon shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed, if the trier of fact finds beyond a reasonable doubt that:

- The weapon the offender possessed during such violation was a firearm; and
- Such firearm was possessed by the offender during the commission of any violent felony, as defined by the bill.

The bill would define “violent felony” to mean the following crimes defined in statute:

- Capital murder or first or second degree murder;
- Voluntary manslaughter;
- Aggravated assault or aggravated assault of a law enforcement officer;
- Aggravated battery or aggravated battery against a law enforcement officer;

*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>

- Kidnapping or aggravated kidnapping;
- Robbery or aggravated robbery;
- Rape;
- Aggravated criminal sodomy;
- Abuse of a child;
- Burglary or aggravated burglary;
- Arson or aggravated arson;
- Treason;
- Any felony offense under statutes prohibiting the unlawful manufacturing, cultivation, distribution, or possession of controlled substances;
- Certain violations of criminal discharge of a firearm;
- Certain violations of fleeing or attempting to elude a police officer;
- Certain violations of aggravated endangering a child;
- Mistreatment of a dependent adult or mistreatment of an elder person;
- Any felony that includes the domestic violence designation, as determined by the trier of fact under the relevant statutory procedure; or
- Any attempt, conspiracy, or criminal solicitation of any felony offense described above.

The bill would provide that a sentence imposed under its provisions would not be considered a departure sentence and

would not be subject to appeal, and no other sentence would be permitted.

A whereas clause would provide the amendments made by the bill would be known as the “Reduce Armed Violence Act.”

Background

The bill was introduced by the Senate Committee on Federal and State Affairs at the request of the Office of the Attorney General.

[*Note:* The House Committee on Corrections and Juvenile Justice recommended HB 2657, as amended, a bill containing substantially similar provisions, on February 17, 2022.]

Senate Committee on Judiciary

In the Senate Committee hearing on March 8, 2022, a representative of the Office of the Attorney General, a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association, and two representatives of the Kansas Gang Investigators Association testified as **proponents** of the bill, stating the bill would address a rise in violent crime being committed by convicted felons while using firearms. Written-only proponent testimony was provided by the Johnson County District Attorney, the Shawnee County District Attorney, and Topeka Chief of Police and by representatives of the Johnson County Sheriff’s Office and the Kansas State Lodge Fraternal Order of Police.

A private citizen testified as an **opponent** of the bill, stating concerns with including offenses involving cannabis within the qualifying crimes.

No other testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, the Kansas Sentencing Commission estimates enactment of the bill would result in an increase of 43 adult prison beds needed by the end of FY 2023 and an increase of 215 adult prison beds needed by the end of FY 2032. The current estimated available bed capacity is 9,428 for males and 936 for females. Based upon the most recent ten-year projections, it is estimated the year-end population will total 7,782 male and 756 female inmates in FY 2022 and 7,736 male and 730 female inmates in FY 2023.

The Department of Corrections indicates that enactment of the bill would increase expenditures by \$6.63 a day for each additional prison bed, for a total annual increased cost of \$104,058 from the State General Fund in FY 2023. The additional inmates would not increase staffing expenditures but would put additional pressure on staffing that is currently below necessary levels.

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 2023 Governor's Budget Report*.

Crimes; Reduce Armed Violence Act; criminal possession of a weapon