

SESSION OF 2021

SUPPLEMENTAL NOTE ON SENATE BILL NO. 60

As Amended by House Committee of the Whole

Brief*

SB 60, as amended, would amend law governing jurisdictional application, aggravated criminal sodomy, and aggravated sexual battery in the Kansas Criminal Code, as follows.

Jurisdictional Application

The statute governing jurisdictional application would be amended to define “proximate result” to mean any logical effect or consequence of an act regardless of whether the statute governing the charged offense considers the specific effect or consequence of such act. [*Note:* Under continuing law, a crime is considered to have been committed partly within the state if the proximate result of the person’s act occurs within the state.]

Aggravated Criminal Sodomy

The bill would amend the elements of the crime of aggravated criminal sodomy to add sodomy with a victim when the victim’s consent was obtained through a knowing misrepresentation made by the offender that the sodomy was a medically or therapeutically necessary procedure or a legally required procedure within the scope of the offender’s authority.

*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>

Aggravated Sexual Battery

The bill would amend the elements of the crime of aggravated sexual battery to add the touching of a victim who is 16 or more years of age with the intent to arouse or satisfy the sexual desires of the offender when the victim's consent was obtained through a knowing misrepresentation made by the offender that the touching was a medically or therapeutically necessary procedure or a legally required procedure within the scope of the offender's authority.

The bill would be effective upon publication in the *Kansas Register*.

Background

The bill was introduced by the Senate Committee on Insurance at the request of the Office of Attorney General. As introduced, the bill contained the provisions regarding jurisdictional application.

Senate Committee on Judiciary

In the Senate Committee hearing on February 3, 2021, the Deputy Solicitor General testified as a **proponent** of the bill, stating the bill is a response to a recent ruling of the Kansas Court of Appeals stating that when determining proximate result jurisdiction, Kansas courts may consider the negative consequences of a person's out-of-state criminal acts within Kansas only if the statutory language of that person's charged crime considered such negative consequences.

A representative of the Kansas Association of Criminal Defense Lawyers (KACDL) provided written-only **opponent** testimony, stating the bill is premature because the litigation related to this issue is still pending.

No other testimony was provided.

House Committee on Judiciary

In the House Committee hearing on March 15, 2021, the Deputy Solicitor General testified as a **proponent** of the bill.

Written-only **opponent** testimony was submitted by a representative of KACDL.

No other testimony was provided.

On March 24, 2021, the House Committee amended the bill to change the effective date to upon publication in the *Kansas Register*.

House Committee of the Whole

On March 29, 2021, the House Committee of the Whole adopted an amendment to add provisions related to the crimes of aggravated criminal sodomy and aggravated sexual battery.

Fiscal Information

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

Criminal procedure; jurisdiction; proximate result; crimes; punishment", "criminal sodomy; aggravated sexual battery