

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2070

As Recommended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2070 would amend law to expand eligibility for certain offenders for the nonprison sanction of placement in a certified drug abuse treatment (SB 123) program.

The bill would amend law to allow a defendant convicted of a nonperson severity level 7, 8, 9, or 10 felony with a criminal history score of C through I to participate in a certified drug abuse treatment program if the defendant has no prior convictions for manufacturing a controlled substance, cultivating or distributing a controlled substance, or unlawful acts involving proceeds from drug crimes.

The bill would amend law to allow a defendant convicted of a nonperson severity level 7, 8, 9, or 10 felony with a criminal history score of A or B to be able to participate in a certified drug abuse treatment program if the defendant has no prior convictions for manufacturing a controlled substance, cultivating or distributing a controlled substance, or unlawful acts involving proceeds from drug crimes, and

- The person felonies in the defendant's history were nondrug severity level 8 or lower, and
- The court finds that the safety of the members of the public will not be jeopardized by the placement of the defendant in a certified drug abuse treatment program.

*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

SB 123 (2003) created a nonprison sanction of certified drug abuse treatment for certain drug offenders. Commonly referred to as the “Senate Bill 123 Program,” this program is administered by the Kansas Sentencing Commission.

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of the Kansas Sentencing Commission (Commission).

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on January 24, 2023, a representative of the Commission testified as a **proponent** of the bill, stating individuals convicted of these nondrug crimes sometimes committed these crimes because of their addiction, 85 percent of felons require appointed council because they are indigent, and felony offenders are not likely to have health insurance to seek their own substance abuse treatment.

Written-only proponent testimony was submitted by representatives of the Board of Indigents’ Defense Services Legislative Committee, Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association. The written testimony indicated treating an individual’s drug addiction treats the underlying cause of the crime and could prevent future criminal acts.

No other testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of Budget on the bill, the Commission estimates enactment of the bill may have an impact on prison admissions and bed space, but the effect cannot be determined at this time. The

Commission indicates the bill would increase SB 123 program cost by \$592,322, \$1,184,644, or \$1,776,966 in FY 2024, depending on which scenario occurs. The Commission reports an average cost of \$4,057 per SB 123 treatment offender in FY 2022.

The Department of Corrections indicates the bill would not have a significant fiscal effect on the agency.

The Kansas Judicial Branch indicates the bill would require courts to hold hearings and provide rulings, and could require court services officers to provide supervision to defendants who participate in a certified drug treatment program instead of going to prison. This would require additional work by district court judges, clerks, and court services officers. OJA is unable to estimate the fiscal effect on its budget.

The Kansas Association of Counties (Association) indicates the fiscal effect on local governments would depend on how many qualified defendants participate in the certified drug abuse programs. The Association is unable to estimate the fiscal effect.

Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Certified drug abuse treatment program; SB 123 program; Department of Corrections; Office of Judicial Administration; Kansas Association of Counties; sentencing grid