

SESSION OF 2014

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2526

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2526, as amended, would amend the criminal code to provide increased penalties for assault and battery offenses when committed against certain persons who are engaged in the performance of their duties. The persons would be included within categories created by the bill or the bill would identify additional persons to be included within an existing category (law enforcement officer) that carries increased penalties.

Assault against a health care provider, firefighter, or animal control officer would be a class A person misdemeanor. Assault against a sports official would be a class B person misdemeanor. (Under the applicable current law, assault is a class C person misdemeanor.)

Aggravated assault against a health care provider, firefighter, or animal control officer would be a severity level 6, person felony. (Under the applicable current law, aggravated assault is a severity level 7, person felony.)

Battery against a health care provider, firefighter, or animal control officer involving rude, insulting, or angry physical contact would be a class A person misdemeanor. Battery against a health care provider, firefighter, or animal control officer involving bodily harm would be a severity level 7, person felony. Battery against a health care provider would be further defined to include intentionally causing human bodily fluid to make contact with the provider, which would

*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>

constitute a severity level 7, person felony. Battery against a sports official would be a class A person misdemeanor. (Under the applicable current law, battery is a class B person misdemeanor.)

Aggravated battery against a health care provider, firefighter, or animal control officer where great bodily harm or disfigurement is knowingly caused would be a severity level 3, person felony. (Under the applicable current law, aggravated battery in these circumstances would be a severity level 4, person felony.) Aggravated battery against a health care provider, firefighter, or animal control officer where bodily harm or physical contact is knowingly caused with a deadly weapon or in a manner that could inflict great bodily harm, disfigurement, or death would be a severity level 4, person felony. (Under the applicable current law, aggravated battery in these circumstances would be a severity level 7, person felony.) An aggravated battery committed against a firefighter or animal control officer where bodily harm is knowingly caused by a motor vehicle would be a severity level 3, person felony. Aggravated battery against a health care provider would be further defined to include intentionally causing human bodily fluid to make contact with the provider with knowledge that the source of the fluid is infected with HIV, hepatitis B, or hepatitis C at the time the offense is committed, which would constitute a severity level 4, person felony.

The bill would provide definitions for “health care provider,” “human bodily fluid,” “animal control officer,” and “firefighter.”

The bill would increase the penalty for the crimes of unlawful interference with a firefighter and unlawful interference with an emergency medical services attendant from a class B person misdemeanor to a class A person misdemeanor.

The bill would create the crime of unlawful interference with a health care provider and define it as knowingly

interfering with a provider while the provider is engaged in the performance of the provider's duty. The crime would be a class A person misdemeanor.

Finally, the bill would make technical amendments to the assault and battery statutes with regard to offenses committed against law enforcement officers to streamline references to university or campus police officers and to remove a reference to a special sentencing statute that is inconsistent with the general statutory approach to such references.

Background

The bill was introduced by Representatives Concannon, Crum, Finch, Gandhi, Gonzalez, Hill, Hineman, Jennings, Phillips, Rothlisberg, Rubin, Tietze, Trimmer, and Waymaster. As introduced, the bill contained the provisions related to health care providers and interference with a firefighter or emergency medical services attendant.

In the House Committee, Representative Concannon, an emergency room physician, and representatives of the Kansas Emergency Medical Services Association, National Association of Social Workers (Kansas Chapter), and Kansas Emergency Nurses Association testified in support of the bill. Written testimony supporting the bill was submitted by representatives of the American College of Emergency Physicians (Kansas Chapter), Atchison County-Jackson County-Osage-County-Seneca EMS, Kansas Hospital Association, Kansas Medical Society, and Kansas State Board of Nursing and by a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association.

The House Committee amended the bill by adding the language of HB 2532 (regarding sports officials) and language from HB 2299 (bringing firefighters and animal control officers within the increased penalties applicable to

assault or battery of a law enforcement officer and making technical amendments suggested by the Office of Revisor of Statutes).

According to the fiscal note prepared by the Division of the Budget, the Office of Judicial Administration indicates the bill, as introduced, could result in additional motions and jury trials, which would increase the time required by district and appellate court judicial and non-judicial personnel. However, a precise fiscal effect cannot be determined.

The Kansas Sentencing Commission indicates the bill, as introduced, would add to the journal entry workload of the agency but would not require additional resources. The Sentencing Commission estimates the bill, as introduced, would require an additional 5 to 15 prison beds in FY 2015 and 11 to 33 additional beds by FY 2024.

For all crimes, the Kansas Sentencing Commission estimates the number of inmates will be below available capacity (9,636 as of January 13, 2014) by 103 beds in FY 2014 and by 196 beds in FY 2015. However, starting in FY 2017, it is expected that adult correctional facilities will again be over capacity. The bed space requirements of this bill could be handled within existing capacity in the near term, but the bill would add to capacity challenges in the near future. Continued population increases will require new construction providing 512 beds at a construction cost of approximately \$24.4 million and operating costs of approximately \$8.4 million (\$45 per inmate per day). If utilized, bond financing for construction would need to be authorized in FY 2016.

Any fiscal effect associated with the bill is not reflected in *The FY 2015 Governor's Budget Report*.

Background of HB 2532

HB 2532 was introduced by the House Committee on Corrections and Juvenile Justice at the request of

Representative Campbell. In the House Committee, Representative Campbell, a representative of Call the Game, and a citizen with sports officiating experience testified in support of the bill.

According to the fiscal note prepared by the Division of the Budget, the Office of Judicial Administration indicates HB 2532 could result in additional motions and jury trials, which would increase the time required by district and appellate court judicial and non-judicial personnel. However, a precise fiscal effect for the courts cannot be determined.

Local governments that adopt resolutions or ordinances prohibiting the crimes in the bill could incur preparation and adoption costs, as well as prosecution and jail costs. Convictions could produce increased revenue from fines. However, the precise fiscal effect on local governments is difficult to estimate.

Any fiscal effect associated with HB 2532 is not reflected in *The FY 2015 Governor's Budget Report*.

Background of HB 2299

HB 2299 was introduced by the 2013 House Committee on Corrections and Juvenile Justice at the request of Representative Meier. No action was taken on the bill.

According to the 2013 fiscal note prepared by the Division of the Budget on HB 2299, the Office of Judicial Administration indicated the expanded crimes would not be likely to increase court caseloads and thus would have no fiscal effect on the Judicial Branch.

The Kansas Sentencing Commission estimated passage of HB 2299 in 2013 would have required an additional 1 to 3 adult prison beds in FY 2013 and 5 to 15 additional beds by FY 2023.

Any fiscal effect associated with HB 2299 was not reflected in *The FY 2014 Governor's Budget Report*.