

SESSION OF 2021

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2121**

As Agreed to April 8, 2021

Brief*

HB 2121 would amend the penalties for the crime of mistreatment of a dependent adult or elder person, define the term “absconds from supervision,” amend law regarding sureties and delivery of a person arrested, amend law concerning proof of identity documents accepted for the issuance of a replacement driver’s license, and require the Secretary of Corrections to develop guidance for parole officers to use while supervising offenders on parole and postrelease supervision.

Mistreatment of a Dependent Adult or Elder Person

The bill would amend the crime of mistreatment of a dependent adult or elder person to raise the penalty:

- From a severity level 5 person felony to a severity level 2 person felony when the crime involves infliction of physical injury, unreasonable confinement, or unreasonable punishment, and the victim is a dependent adult who is a resident of an adult care home during the commission of the offense; and
- From a severity level 8 person felony to a severity level 5 person felony, when the crime involves

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omission or deprivation of treatment, goods, or services that are necessary to maintain physical or mental health of the victim, and the victim is a dependent adult who is a resident of an adult care home during the commission of the offense.

Absconding from Supervision

The bill would add a definition of “absconds from supervision” to the Kansas Code of Criminal Procedure (Code). The bill would define the term to mean knowingly avoiding supervision or knowingly making the defendant’s whereabouts unknown to the defendant’s supervising court services officer or community correctional services officer.

The bill would also add a definition of “absconded from supervision” in a statute relating to parole. The bill would define the term to mean knowingly avoiding supervision or knowingly making the defendant’s whereabouts unknown to the defendant’s supervising parole officer, court services officer, or community correctional services officer.

The bill would make technical amendments to ensure consistency in statutory phrasing.

Sureties; Delivery of a Person Arrested

The bill would amend law related to sureties in the Code to state any person who is released on an appearance bond may be arrested and delivered to a custodial officer of the court by a surety or surety’s designee in the county where the complaint subject to the bond was filed. Under current law, sureties seeking discharge of an appearance bond may do so in any county in the state in which the person is charged.

The bill would define “custodial officer of the court” as the sheriff or keeper of the jail in the county.

Certification of Identification

The bill would expand the list of proof of identity documents accepted by the Division of Vehicles, Kansas Department of Revenue (KDOR), for the issuance of a replacement driver's license to include a certification of identification issued by a court services officer. The bill would specify such certification could be issued by a supervising agency to offenders under probation supervision of such agency.

Parole and Postrelease Supervision Guidance

The bill would require the Secretary of Corrections to develop guidance for parole officers to use while supervising offenders on parole and postrelease supervision. The bill would require the guidance to include intervention responses to behavior that would constitute a violation of parole or postrelease supervision and incentive responses to compliant behavior and pro-social achievements.

Technical Amendments

The bill would make technical amendments to ensure consistency in statutory phrasing.

Conference Committee Action

The Conference Committee agreed to the provisions of HB 2121, as amended by the Senate Committee on Judiciary. The Conference Committee further agreed to add the contents of:

- HB 2192, as passed by the House, regarding certification of identification for offenders on probation; and

- HB 2275, as passed by the House, regarding parole and postrelease supervision guidance.

Background

HB 2121, as amended by the Senate Committee on Judiciary, contained the provisions of HB 2153 and HB 2076. The Conference Committee agreed to add the contents of HB 2192 and HB 2275.

HB 2121 (Mistreatment of a Dependent Adult or Elder Person; Absconding from Supervision; Sureties; and Delivery of a Person Arrested)

HB 2121 was introduced by the House Committee on Corrections and Juvenile Justice at the request of the Kansas Sentencing Commission (Commission). As introduced and passed by the House, HB 2121 contained the provisions regarding absconding from supervision.

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on February 1, 2021, **proponent** testimony was presented by a representative of the Commission, who stated the bill would codify the holding in *State v. Dooley*, 308 Kan. 641, 423 P.3d 469 (2018) and would result in a more consistent application of the term “absconds from supervision” statewide.

Written-only **proponent** testimony was provided by the Kansas County and District Attorneys Association. No other testimony was provided.

On February 4, 2021, the House Committee amended the bill to replace all references to the term “intentionally” with “knowingly” in both definitions that would be created by the bill.

Senate Committee on Judiciary

In the Senate Committee hearing on March 25, 2021, a representative of the Commission and representatives of the Council of State Governments Justice Center testified as **proponents**. A representative of Riley County Community Corrections provided written-only **proponent** testimony.

On March 25, 2021, the Senate Committee amended the bill to add the contents of HB 2153 (regarding mistreatment of a dependent adult or elder person) and HB 2076 (regarding sureties and delivery of a person arrested). [Note: The Conference Committee retained these amendments.]

HB 2153 (Mistreatment of a Dependent Adult or Elder Person)

HB 2153 was introduced by the House Committee on Judiciary at the request of the Office of the Attorney General (OAG).

House Committee on Judiciary. In the House Committee hearing on February 8, 2021, a representative of the OAG testified as a **proponent** of the bill. A representative of Kansas Advocates for Better Care provided written-only **proponent** testimony. Representatives of the Kansas Association of Criminal Defense Lawyers and LeadingAge Kansas testified as neutral conferees.

Senate Committee on Judiciary. In the Senate Committee hearing on March 25, 2021, a representative of the OAG testified as a **proponent** of the bill. A representative of AARP Kansas provided written-only **proponent** testimony.

HB 2076 (Sureties; Delivery of a Person Arrested)

HB 2076 was introduced by the House Committee on Judiciary at the request of Representative Patton on behalf of the Kansas Sheriffs Association.

House Committee on Judiciary. In the House Committee hearing on January 27, 2021, representatives of the Kansas Bail Agents Association and Kansas Sheriffs Association testified as **proponents** of the bill, stating the change would address the problem of some sureties failing to transport offenders between counties when rearrested and leaving sheriffs responsible for transport to the appropriate county. The Kansas Association of Counties provided written-only **proponent** testimony.

No neutral or **opponent** testimony was provided.

On February 11, 2021, the House Committee amended the bill to define “custodial officer of the court.”

Senate Committee on Judiciary. In the Senate Committee hearing on March 22, 2021, representatives of the Kansas Bail Agents Association and Kansas Sheriffs Association testified as **proponents** of the bill.

HB 2192 (Certification of Identification)

HB 2192 was introduced by the House Committee on Corrections and Juvenile Justice at the request of Representative Jennings.

[*Note:* HB 2192 contains provisions similar to those of 2020 HB 2496, as recommended by the House Committee on Corrections and Juvenile Justice.]

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on February 8, 2021, **proponent** testimony was presented by the Douglas County Sheriff and representatives of the American Civil Liberties Union of Kansas and the Bert Nash Community Mental Health Center. Proponents stated the issuance of certifications of identification would help probationers access employment, treatment, housing, and other benefits, which would lower the rate of recidivism.

Written-only proponent testimony was provided by representatives of the Douglas County Administrator, Douglas County Criminal Justice Services, the Greater Kansas City Chamber of Commerce, the Kansas Association of Court Services Officers, the Kansas Department of Corrections (KDOC), the Office of Judicial Administration (OJA), and United Way of Douglas County.

No other testimony was provided.

HB 2275 (Parole and Postrelease Supervision Guidance)

HB 2275 was introduced by the House Committee on Corrections and Juvenile Justice at the request of a representative of the Kansas Sentencing Commission, who stated the bill was being brought on behalf of the Kansas Criminal Justice Reform Commission.

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on February 18, 2021, a representative of the Council of State Governments Justice Center testified as a **proponent** of the bill, indicating best practices for recidivism mitigation include graduated sanctions and incentives. No other testimony was provided.

The House Committee recommended the bill be placed on the Consent Calendar.

Fiscal Information

HB 2121 (Absconding from Supervision)

According to the fiscal note prepared by the Division of the Budget on HB 2121 as introduced, the Department of Corrections indicates enactment of the bill would have no fiscal effect. The Office of Judicial Administration states enactment of the bill would have a negligible fiscal effect that could be absorbed within existing resources.

According to the prison bed impact statement prepared by the Commission on the bill as introduced, enactment of the bill may have an impact on prison admissions and bed space, but the effect could not be determined. The current estimated available bed capacity is 9,420 for males and 948 for females. Based upon the Commission's most recent ten-year projection contained in its *FY 2020 Adult Inmate Prison Population Projections* report, it is estimated the year-end population for available male capacity will be under capacity by 1,287 inmates in FY 2021 and 1,241 inmates in FY 2022.

Any fiscal effect associated with HB 2121 is not reflected in *The FY 2022 Governor's Budget Report*.

HB 2153 (Mistreatment of a Dependent Adult or Elder Person)

According to the fiscal note prepared by the Division of the Budget, the Office of Judicial Administration (OJA) states enactment of the bill could result in less supervision of offenders required to be performed by court services officers, but a fiscal effect cannot be estimated. OJA estimates enactment of the bill could result in a decrease of supervision fee revenue.

The Kansas Sentencing Commission estimates enactment of the bill would result in one to two additional prison admissions each year, one to two additional prison beds needed in FY 2022, and one to three additional prison beds needed in FY 2031. The Department of Corrections states enactment of the bill could be handled within existing resources.

Any fiscal effect associated with enactment of HB 2153 is not reflected in *The FY 2022 Governor's Budget Report*.

HB 2076 (Sureties; Delivery of a Person Arrested)

According to the fiscal note prepared by the Division of the Budget on HB 2076, as introduced, the Office of Judicial Administration and Kansas Association of Counties indicate enactment of the bill would have a negligible fiscal effect.

HB 2192 (Certification of Identification)

According to the fiscal note prepared by the Division of the Budget on HB 2192, OJA indicates enactment of the bill would require court services officers to complete a form for their probationers, which would require additional staff time; however, the fiscal effect would be negligible. KDOC and KDOR indicate enactment of the bill would have no fiscal effect.

Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

HB 2275 (Parole and Postrelease Supervision Guidance)

According to the fiscal note prepared by the Division of the Budget on HB 2275, the Department of Corrections indicates enactment of the bill would have no fiscal effect on the agency.

Crimes; criminal procedure; mistreatment of a dependent adult or elder person; resident of adult care home; penalties; abscond from supervision; community corrections; court services; parole; parole officer; postrelease supervision; sureties; appearance bond; arrest and delivery; county where delivered; driver's license; identification certificate

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