

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2277

As Amended by House Committee of the Whole

Brief*

HB 2277, as amended, would amend the definition of “possession” and “drug paraphernalia” in the Kansas Criminal Code.

Possession

The bill would amend the definition of “possession” to mean “knowingly having joint or exclusive control over an item, or knowingly keeping some item in a place where the person has some measure of access and right of control.”

Under current law, “possession” is defined as “having joint or exclusive control over an item with knowledge of or intent to have such control or knowingly keeping some item in a place where the person has some measure of access and right of control.”

The bill would remove the definition of “possession” in a Kansas Criminal Code definitions section pertaining specifically to drug crimes.

Drug Paraphernalia

The bill would amend the definition of “drug paraphernalia” to specifically exclude fentanyl testing strips.

*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>

Technical Amendments

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

Background

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of a representative of the Kansas County and District Attorneys Association.

[*Note:* The bill, as introduced, contained provisions similar to those of 2020 HB 2456, as passed by the House.]

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on February 18, 2021, **proponent** testimony was provided by a representative of the Kansas County and District Attorneys Association, who stated the bill would clarify the culpable mental state required to prove possession because current law contains two types of culpable mental states that could be applied.

Written-only proponent testimony was provided by a representative of the League of Kansas Municipalities. No other testimony was provided.

The House Committee amended the bill to remove the definition of “possession” in a Kansas Criminal Code definitions section pertaining specifically to drug crimes.

House Committee of the Whole

The House Committee of the Whole amended the bill to exclude fentanyl testing strips from the definition of “drug paraphernalia”.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration states enactment of the bill would have a negligible fiscal effect on the operations of the Judicial Branch. The Kansas Association of Counties states enactment of the bill could affect charging decisions and may have an effect on individuals held on possession charges.

According to the prison bed impact assessment prepared by the Kansas Sentencing Commission on the bill, as introduced, enactment of the bill would have no impact on prison admissions or the journal entries workload of the Commission.

Drug paraphernalia; Fentanyl testing strips; Kansas Criminal Code; possession