

SESSION OF 2023

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 193**

As Recommended by Senate Committee on  
Judiciary

**Brief\***

SB 193 would create a special sentencing rule stating that, notwithstanding statutory provisions regarding lesser and included crimes or any other provisions of law to the contrary, the sentence for a violation of criminal possession of a weapon by a convicted felon shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed, if the trier of fact finds beyond a reasonable doubt that:

- The weapon the offender possessed during such violation was a firearm; and
- Such firearm was possessed by the offender during the commission of any violent felony, as defined by the bill.

The bill would define “violent felony” to mean the following crimes defined in statute:

- Capital murder or first- or second-degree murder;
- Voluntary manslaughter;
- Kidnapping or aggravated kidnapping;
- Aggravated assault or aggravated assault of a law enforcement officer;

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\*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 battery or aggravated battery against a law enforcement officer;
- Mistreatment of a dependent adult or mistreatment of an elder person;
- Robbery or aggravated robbery;
- Rape;
- Aggravated criminal sodomy;
- Aggravated endangering a child;
- Abuse of a child;
- Any felony offense under statutes prohibiting the unlawful manufacturing, cultivation, or distribution, or possession of controlled substances;
- Burglary or aggravated burglary;
- Arson or aggravated arson;
- Treason;
- Criminal discharge of a firearm;
- Fleeing or attempting to elude a police officer;
- Any felony that includes the domestic violence designation, as determined by the trier of fact under the relevant statutory procedure; or
- Any attempt, conspiracy, or criminal solicitation of any felony offense described above.

The bill would provide that a sentence imposed under its provisions would not be considered a departure sentence and would not be subject to appeal, and no other sentence would be permitted.

A whereas clause would provide amendments made by the bill would be known as the “Reduce Armed Violence Act.”

## **Background**

The bill was introduced by the Senate Committee on Judiciary at the request of Senator Warren.

[*Note:* A companion bill, HB 2031, was introduced by the House Committee on Corrections and Juvenile Justice on January 13, 2023. The bill was recommended favorably, as amended, by the House Committee on February 6, 2023.]

## ***Senate Committee on Judiciary***

In the Senate Committee hearing on February 15, 2023, **proponent** testimony was provided by a representative of Johnson County Sheriff’s Office and a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association, who indicated the intent of the bill was to address a rise in violent crime being committed by convicted felons while using firearms.

**Opponent** testimony was provided by a private citizen, who in general was in support of the bill, except for the one section that referenced crimes involving possession of controlled substances.

No other testimony was provided.

## ***Fiscal Information***

According to the fiscal note prepared by the Division of the Budget, the Kansas Sentencing Commission estimates that enactment of the bill would result in an increase of 29 adult prison beds needed by the end of FY 2024. By the end of FY 2033, 232 additional beds would be needed. The

current estimated available bed capacity is 9,428 for males and 936 for females. Based upon the Commission's most recent ten-year projection contained in its FY 2023 Adult Inmate Prison Population Projections report, it is estimated that the year-end population will total 7,933 male and 764 female inmates in FY 2023 and 8,043 male and 740 female inmates in FY 2024.

The Department of Corrections indicates enactment of the bill would increase marginal costs for the operation of the correctional facilities for food, clothing, and other supplies. The annual cost would total \$100,769 based on the FY 2022 marginal cost of \$9.52 per day per occupied bed ( $\$9.52 \times 365 \text{ days} \times 29 \text{ beds}$ ).

The Office of Judicial Administration indicates enactment of the bill would require findings of certain facts to sentence an offender, which could result in extending the length of trials in certain cases. However, a fiscal effect cannot be estimated. Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Felon; firearm; sentencing enhancement