

SESSION OF 2011

**SUPPLEMENTAL NOTE ON HOUSE
SUBSTITUTE FOR SENATE BILL NO. 60**

As Recommended by House Committee on
Corrections and Juvenile Justice

Brief*

House Sub. for SB 60 would amend current law regarding certain direct appeals to the Kansas Supreme Court; community corrections; and the convening of a grand jury.

Grand Juries

The bill would amend KSA 22-3001, concerning grand juries, by allowing the Attorney General in any judicial district or the district or county attorney in such attorney's county to petition the chief judge of the district court to order a grand jury to be summoned to investigate alleged violations of an off grid felony, a severity level 1, 2, 3, 4, or 5 felony, or a drug severity level 1 or 2 felony. The bill would require the chief judge to consider the petition and, if found to be in proper form, order a grand jury to be summoned.

Direct Appeals for Certain Off-Grid Offenses

The bill would amend KSA 22-3601 to remove cases involving certain off-grid offenses from the list of appeals that are to be taken directly to the Kansas Supreme Court, rather than to the Court of Appeals. The offenses are:

*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 human trafficking, when the offender is 18 years of age or older and the victim is less than 14 years of age;
- Rape, when the offender is 18 years of age or older and the victim is under 14 years of age;
- Aggravated criminal sodomy, when the offender is 18 years of age or older and the victim is under 14 years of age;
- Aggravated indecent liberties with a child, when the offender is 18 years of age or older and the victim is under 14 years of age;
- Sexual exploitation of a child, when the offender is 18 years of age or older and the child is under 14 years of age;
- Promoting prostitution, when the offender is 18 years of age or older and the prostitute is less than 14 years of age; and
- An attempt, conspiracy, or criminal solicitation of any of the above offenses.

Community Corrections

The bill would amend current law concerning community corrections. Specifically, the bill would amend KSA 75-5291(a)(3), which requires adult offenders sentenced to community supervision in Johnson County for certain felonies to be placed under court services or community corrections supervision, by extending the expiration of that provision from January 1, 2011, to July 1, 2013.

Further, the bill would amend KSA 75-52,112, which governs a community corrections grant program overseen by the Secretary of Corrections. Effective July 1, 2011, the program's current goal of "reducing each community

corrections program's revocation rate by at least 20 percent” would be replaced with the goal of “achieving and maintaining a supervision success rate of at least 75 percent or improving such rate by at least 3 percent from the previous year.” “Supervision success rate” would be defined in this section as the percentage of those persons under supervision in a community corrections program whose supervision is not revoked and remanded to the custody of the Department of Corrections for imprisonment.

Consistent with these changes, the bill would modify current provisions concerning priority of awards, giving preference to counties in which the supervision success rate for offenders on community supervision is significantly lower than the statewide average; which target a higher supervision success rate than required (75 percent or 3 percent annual supervision success rate improvement); or which target the successful reentry of offenders who are considered medium or high risk for revocation. Similarly, it would amend the subsection concerning grant applications by requiring in an applicant's proposal a plan to achieve and maintain a supervision success rate of at least 75 percent; improve such rate by at least 3 percent from the previous year; or target the successful reentry of offenders who are considered medium or high risk for revocation.

Background

The Kansas Supreme Court requested the Senate Committee on Judiciary introduce SB 60. As introduced, SB 60 contained the provisions regarding direct appeals to the Kansas Supreme Court. The offenses referred to in the bill were made off-grid crimes by 2006 HB 2576 as part of what is commonly referred to as “Jessica's Law.”

In the Senate Committee on Judiciary, a representative of the Kansas Supreme Court appeared in support of SB 60, stating the Supreme Court has heard more than 30 cases involving Jessica's Law. The conferee stated the large

number of Jessica's Law cases is now delaying other important cases before the Supreme Court, even though most of the novel legal issues have been settled in previous cases. The Supreme Court therefore wants the Court of Appeals to be able to hear cases involving Jessica's Law. No opponents provided testimony. The Committee made no changes to the bill and recommended it be passed.

In the House Committee on Corrections and Juvenile Justice, the same conferee appeared in support of the bill as before the Senate Committee. The House Committee amended the bill by adding the language of HB 2031, regarding grand juries, and HB 2371, regarding community corrections. (Background information regarding HB 2031 and HB 2371 is included below.) The House Committee recommended a substitute bill for SB 60 incorporating the amended language be passed.

The fiscal note on SB 60, as introduced, states the bill would have no fiscal effect on the Judicial Branch. There is no fiscal note available for the substitute bill.

Background of HB 2031

In the House Committee on Judiciary, Representative Greg Smith, his wife, Missey Smith, and a representative of the National Coalition for the Protection of Children and Families appeared in support of HB 2031. No opponents offered testimony. The Committee made a technical amendment to the bill. HB 2031, as amended, passed the House on final action by a vote of 116-5. It has been referred to the Senate Committee on Judiciary.

The fiscal note for HB 2031 indicates that passage would result in an increased use in grand juries, but not knowing how often a grand jury would be summoned, no precise fiscal effect to the Judicial Branch was given.

Background of HB 2371

In the House Committee on Corrections and Juvenile Justice, representatives of the Kansas Department of Corrections, Johnson County Department of Corrections, and the Kansas Community Corrections Association appeared in support of HB 2371.

The House Committee on Corrections and Juvenile Justice amended the bill by replacing January with July in the section requiring adult offenders sentenced to community supervision in Johnson County to be placed under court services or community corrections supervision. HB 2371, as amended, passed the House on final action by a vote of 116-7. It has been referred to the Senate Committee on Judiciary.

The fiscal note for HB 2371, as introduced, indicates that the precise fiscal effect to counties is unknown. The Division of the Budget has not yet received information from the Department of Corrections about the potential fiscal impact of this bill.