

SESSION OF 2015

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2053

As Amended by Senate Committee of the Whole

Brief*

HB 2053, as amended, would amend statutes governing the calculation of criminal history to specify that any prior adult felony conviction, prior misdemeanor, or prior juvenile adjudication for offenses committed before July 1, 1993, shall be scored as a person or nonperson crime using a comparable offense under the Kansas Criminal Code that was in effect on the date the current crime of conviction was committed. The bill would state these amendments are procedural in nature and shall be construed and applied retroactively, and the bill would contain a severability provision.

The bill also would make technical amendments to statutory references.

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was introduced by the Special Committee on Judiciary, which was charged during the 2014 interim to consider and recommend possible responses to the Kansas Supreme Court's decision in *State v. Murdock*, 299 Kan. 312 (2014). (Further background information can be found in the *Report of the Special Committee on Judiciary to the 2015 Legislature*.) As introduced, the bill also would have amended the procedure governing correction of illegal sentences.

*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>.

In the House Committee on Corrections and Juvenile Justice, representatives of the Kansas Attorney General's Office and the Kansas County and District Attorneys Association (KCDAA) testified in support of the bill. The Leavenworth County Attorney and a citizen also testified as proponents. A representative of the Sedgwick County District Attorney submitted written testimony supporting the bill. A representative of the Kansas Association of Criminal Defense Lawyers testified in opposition to the proposed changes to the procedure governing correction of illegal sentences.

The House Committee amended the bill to add retroactivity and severability provisions and to remove the changes related to correction of illegal sentences.

The House Committee of the Whole adopted an amendment clarifying the relevant date is the date the offense was committed.

In the Senate Committee on Corrections and Juvenile Justice, representatives of the Kansas Attorney General's Office and the KCDAA testified in support of the bill. The Leavenworth County Attorney submitted written testimony supporting the bill. There was no other testimony.

The Senate Committee adopted an amendment suggested by the Attorney General's Office applying the bill's provisions to prior misdemeanors.

The Senate Committee of the Whole amended the bill to clarify the comparable offense to be used is one that was in effect on the date the current crime of conviction was committed.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration indicates the bill could have a fiscal effect on the Judicial Branch, but a specific effect is difficult to determine. The Kansas Sentencing Commission indicates the bill would have no effect on prison admissions, prison bed space, or the Commission's workload. Any fiscal effect is not reflected in *The FY 2016 Governor's Budget Report*.