

SESSION OF 2015

SUPPLEMENTAL NOTE ON SENATE BILL NO. 20

As Amended by Senate Committee on
Corrections and Juvenile Justice

Brief*

SB 20, as amended, would raise the penalty for burglary of a dwelling from a severity level 7 to a severity level 6, person felony. The bill would adjust the penalty provisions for burglary of a dwelling with intent to commit the theft of a firearm to make it a person felony, rather than a nonperson felony.

The bill also would amend the definition and penalties for aggravated burglary to make aggravated burglary committed by entering into or remaining in a dwelling in which there is a human being, with the required intent, a severity level 4, person felony. The bill would clarify that entering into a non-dwelling building or structure in which there is a human being, with the required intent, would remain a severity level 5, person felony.

Finally, the bill would establish that the crimes of battery and aggravated battery would not apply to any premises that, at the time, are open to the public.

Background

The bill was introduced by the Senate Committee on Corrections and Juvenile Justice at the request of the Kansas County and District Attorneys Association (KCDA). In the Senate Committee, representatives of the KCDA and citizens testified in support of the bill.

*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>

The Senate Committee adopted an amendment proposed by a citizen based on a Model Penal Code provision excluding premises that are open to the public from the burglary statute. The citizen stated this amendment would remove repeat shoplifter cases from the definition of burglary.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration indicates the elevated penalties could increase the number of appeals filed, which could increase the time required of court personnel and result in the collection of added revenue from docket fees. However, a precise fiscal effect cannot be determined.

The Board of Indigents' Defense Services indicates the new severity levels could increase defense costs, but a precise fiscal effect is unknown.

The Kansas Sentencing Commission estimates the bill would require 89, 97, or 105 additional prison beds in FY 2016 and an additional 231, 265, or 299 prison beds by FY 2025 based on three different scenarios.

As of January 12, 2015, available prison bed capacity is 9,636. Based upon the Sentencing Commission's most recent ten-year projection, the year-end population will exceed available male capacity by 85 inmates in FY 2015, 109 inmates in FY 2016, and 162 inmates in FY 2017. It may cost the Department of Corrections an additional \$1,299,400 to \$1,533,000 in FY 2016 and \$2,686,400 to \$3,153,600 in FY 2017 to house the additional inmates created by this bill in contract beds until additional capacity could be constructed. Construction costs would depend on severity level and timing of construction. Additional prison commitments could require additional staff and resources to supervise parolees.

Any fiscal effect associated with the bill is not reflected in *The FY 2016 Governor's Budget Report*.