

Probation Revocation; Disclosure of Probable Cause Affidavits; Sentencing— Capital Crimes; Mandatory Minimums; Intellectual Disability; Juvenile Adjudications—Decay; Grand Juries—Petitions; Appeal; HB 2092

HB 2092 amends law related to probation revocation, public disclosure of probable cause affidavits, mandatory minimum sentences, sentencing for capital crimes for intellectually disabled persons, decay of juvenile adjudications, and appeal of petitions for grand juries, as follows.

Probation Revocation

The bill allows a court to revoke probation, assignment to a community corrections program, suspension of a sentence, or nonprison sanction of an offender without having previously imposed an intermediate sanction if such probation, assignment, suspension, or sanction was originally granted as a result of a dispositional departure.

Disclosure of Probable Cause Affidavits

The bill amends law regarding the disclosure to the public of affidavits or sworn testimony underlying an arrest warrant to clarify the timing of notification to the defendant of a request for disclosure. Specifically, the bill prescribes that such notice shall be provided upon entry of appearance by an attorney on behalf of the defendant or upon indication by the defendant to the court that the defendant will represent the defendant's self. Previous law required notification of the defendant upon the filing of the request for disclosure.

Mandatory Minimum Sentences

The bill amends law concerning mandatory minimum terms of imprisonment (mandatory minimum sentences) for persons who receive life sentences. In the statutes imposing the mandatory minimum sentence, the bill specifies those provisions shall not apply if, based on the defendant's criminal history classification, the defendant would be subject to presumptive imprisonment and the sentencing range for a severity level 1 crime is greater than the mandatory minimum sentence. The bill clarifies further that, in such case, the defendant shall be required to serve a mandatory minimum sentence equal to the sentence established for a severity level 1 crime. Additionally, in such case, the bill states the defendant shall not be eligible for parole prior to serving such mandatory minimum sentence and prohibits such mandatory minimum sentence from being reduced by the application of good time credits. No other sentence shall be permitted.

Sentencing for Persons with Intellectual Disability

The bill amends the statute governing sentencing for a person with an intellectual disability who is convicted of the crime of capital murder or first degree premeditated murder. Specifically, the bill clarifies that the continuing prohibition in this statute against sentencing such person to a "mandatory term of imprisonment" means imposing a sentence under the

“Hard 50” statute and the accompanying statutes setting forth the aggravating and mitigating factors used in imposing this sentence.

Juvenile Adjudication Decay

The bill amends statutes governing the determination of criminal history by adding that no juvenile adjudication for an offense that would be a non-drug severity level 5 through level 10 felony, drug felony, nongrid felony, or misdemeanor if committed by an adult will be considered and scored if the current crime was committed at least five years after the date of the prior adjudication and the offender has no new adjudications or convictions during that period.

Appeal of Grand Jury Petitions

The bill amends the law concerning grand juries summoned by petition. The bill provides that, if a grand jury is not summoned because of a finding the petition, which is substantially in the form required by law on its face, is not in proper form, the person who filed the petition and whose name, address, and phone number appear on the face of each petition shall have the right to appeal the decision to not summon a grand jury as a final judgment to the Kansas Court of Appeals. The bill also amends the statute governing sufficiency of petitions for elections to provide it does not apply to grand jury petitions.