

SESSION OF 2017

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2092**

As Amended by Senate Committee of the Whole

**Brief\***

HB 2092, as amended, would amend law related to probation revocation and to public disclosure of probable cause affidavits, as follows.

***Probation Revocation***

The bill would allow 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 would amend 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 would prescribe 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. Existing law requires notification of the defendant upon the filing of the request for disclosure.

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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>

## **Background**

### ***HB 2092***

HB 2092 was introduced by the House Committee on Corrections and Juvenile Justice at the request of the Kansas Sentencing Commission. As introduced, passed by the House on final action on February 9, and heard by the Senate Committee on Judiciary, the bill contained provisions amending the severity level of various criminal penalties that are based on monetary value.

The Senate Committee amended the bill by adding the contents of HB 2260, regarding probation revocation, and HB 2320, as amended by House Committee, regarding disclosure of probable cause affidavits. Further background information regarding HB 2260 and HB 2320 is provided below.

The Senate Committee of the Whole amended the bill to remove the provisions of HB 2092, as introduced, regarding the severity level of various criminal penalties.

The fiscal note prepared by the Division of the Budget on HB 2092, as introduced, contains no information regarding the current provisions of HB 2092. Fiscal note information for HB 2260 and HB 2320 is provided below.

### ***HB 2260—Probation Revocation***

2013 HB 2170, known as the Justice Reinvestment Act, established a series of graduated, intermediate sanctions for persons violating conditions of probation, assignment to community corrections, suspension of sentence, or nonprison sanction, including two-day or three-day confinement in jail and 120-day or 180-day confinement in the custody of the Kansas Department of Corrections.

HB 2260 was introduced by the House Committee on Judiciary at the request of the Kansas County and District Attorneys Association (KCDAA). At the House and Senate Committees on Judiciary hearings, KCDAA presented testimony in support of the bill. No other testimony was presented.

According to the fiscal note prepared by the Division of the Budget on HB 2260, the Office of Judicial Administration indicates enactment of the bill could result in an increase of probation revocations but could not determine a precise fiscal effect. According to the prison bed impact assessment prepared by the Kansas Sentencing Commission on the bill, enactment of the bill would reduce adult prison admissions by 47 in FY 2018 and FY 2019 but would increase adult prison beds needed by 13 in FY 2018 and 16 in FY 2019. Based on a contract rate of \$40 per day, it may cost the Department of Corrections an additional \$89,206 in FY 2018 and \$109,792 in FY 2019 for contract jail beds in the case of an anticipated bedspace shortfall. The Department of Corrections indicates it would avoid costs of \$322,514 in FY 2018 and FY 2019 due to the estimated reduction in prison admissions.

Any fiscal effect associated with enactment of HB 2260 is not reflected in *The FY 2018 Governor's Budget Report*.

***HB 2320—Disclosure of Probable Cause Affidavits***

HB 2320 was introduced by the House Committee on Judiciary at the request of the Kansas District Judges Association. In the House Committee hearing, a district court judge from the Eleventh Judicial District testified in support of the bill, stating that the timing under existing law sometimes leads to the expiration of a defendant's time to respond to the request for disclosure before the court has had an opportunity to notify the defendant of the request. No neutral or opponent testimony was provided.

The House Committee adopted an amendment requested by the conferee to clarify the change in the law.

In the Senate Committee on Judiciary hearing, the same proponent testified as before the House Committee. No neutral or opponent testimony was provided.

According to the fiscal note prepared by the Division of the Budget on HB 2320, the Office of Judicial Administration indicates any fiscal effect would be negligible.