

Journal of the House

THIRTY-FOURTH DAY

HALL OF THE HOUSE OF REPRESENTATIVES,
TOPEKA, KS, Friday, February 26, 2021, 8:30 a.m.

The House met session pro forma pursuant to adjournment with Speaker pro tem Finch in the chair.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to committees as indicated:

Federal and State Affairs: **HB 2422**, **HB 2424**.

Taxation: **HB 2423**.

MESSAGES FROM THE GOVERNOR

February 23, 2021

Message to the Kansas House of Representatives:

Enclosed herewith is Executive Order No. 21-05 for your information.

EXECUTIVE ORDER NO. 21-05

Extending time for Kansas rural water districts to hold annual meetings
during the COVID-19 pandemic

LAURA KELLY
Governor

February 23, 2021

Message to the Kansas House of Representatives:

Enclosed herewith is Executive Order No. 21-06 for your information.

EXECUTIVE ORDER NO. 21-06

Temporary authorization for additional vaccinators
during state of disaster emergency

LAURA KELLY
Governor

MESSAGE FROM THE SENATE

The Senate nonconcurrs in House amendments to **SB 29**, requests a conference and has appointed Senators Longbine, Peck and Holscher as conferees on the part of the Senate.

The Senate nonconcurrs in House amendments to **SB 39**, requests a conference and has appointed Senators Kerschen, Straub and Ware as conferees on the part of the Senate.

The Senate nonconcurrs in House amendments to **SB 40**, requests a conference and has appointed Senators Kerschen, Straub and Ware as conferees on the part of the Senate.

REPORTS OF STANDING COMMITTEES

Committee on **Corrections and Juvenile Justice** recommends **HB 2346**, **HB 2360**, **HB 2361** be passed.

Committee on **Corrections and Juvenile Justice** recommends **HB 2349** be amended on page 1, in line 29, by striking all before the period and inserting "one year";

On page 19, in line 29, before "has" by inserting "on or after July 1, 2002, is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime, unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim;

(3)";

On page 21, in line 13, before "for" by inserting "or adjudication"; in line 15, before "for" by inserting "or adjudication"; in line 17, by striking all after "(18)"; by striking all in line 18; in line 19, by striking "(19)";

On page 23, in line 13, before "that" by inserting "or adjudications"; in line 16, before the period by inserting "or adjudication"; also in line 16, before "set" by inserting "or adjudication"; in line 17, before "for" by inserting "or adjudication"; in line 18, before "from" by inserting "or adjudication"; in line 19, before "for" by inserting "or adjudication";

On page 24, in line 34, by striking all after "offender"; in line 35, by striking all before "for"; in line 36, before the period by inserting "defined in subsection (t)(1)(A)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 25, in line 7, after "is" by inserting ":

(1) A";

Also on page 25, in line 15, by striking "that:"; by striking all in lines 16 and 17; in line 18, by striking all before the period and inserting "that continues for more than 180 consecutive days. Any aggravated violation of the Kansas offender registration act that continues for more than 180 consecutive days shall, upon the 181st consecutive day, constitute a new and separate offense, and shall continue to constitute a new and separate violation of the Kansas offender registration act every 30 days thereafter, or a new and separate aggravated violation of the Kansas offender registration act every 180 days thereafter, for as long as the violation continues;

(2) providing a false address or an address where the offender does not reside or providing false information about the offender's employer; or

(3) failure to register if, within the immediately preceding 120 days, the offender has not registered and is not residing at the residence listed in the last registration or is not employed at the place of employment listed in the last registration";

Also on page 25, in line 21, after "(A)" by inserting "If the crime for which the offender is required to be registered under the Kansas offender registration act is a

felony:

(i)";

Also on page 25, in line 21, by striking "B" and inserting "A"; in line 22, by striking "and"; in line 23, by striking "(B)" and inserting "(ii)"; also in line 23, by striking "class A"; in line 24 by striking all before the period and inserting "severity level 8, nonperson felony; and

(iii) upon a third or subsequent conviction, a severity level 5, nonperson felony; and

(B) if the crime for which the offender is required to be registered under the Kansas offender registration act is a misdemeanor:

(i) Upon a first or second conviction, a class A nonperson misdemeanor; and

(ii) upon a third or subsequent conviction, a severity level 8, nonperson felony";

Also on page 25, in line 33, by striking "severity"; in line 34, by striking all before the period and inserting ":

(A) Severity level 7, nonperson felony, except as provided in subparagraph (B); and

(B) severity level 5, nonperson felony if the person being sentenced has a prior conviction for a violation of subsection (b)(2) or (b)(3)";

On page 26, in line 25, before "occurred" by inserting "or adjudication";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 26, in line 29, before "for" by inserting "or adjudication"; in line 36, before the comma by inserting "or adjudication"; in line 37, before the first comma by inserting "or adjudication"; in line 38, before the first comma by inserting "or adjudication";

On page 27, in line 2, before "and" by inserting "or adjudication"; in line 14, before the period by inserting "or adjudication";

On page 30, in line 11, before "data" by inserting "or adjudication";

On page 40, following line 23, by inserting:

"(h) Notwithstanding any other provisions of this section, for an offender less than 14 years of age who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional

release, the court may require such offender to register pursuant to paragraph (1).

(i) Notwithstanding any other provisions of this section, for an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and such crime is not an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2020 Supp. 21-6804, and amendments thereto, the court shall:

(1) Require registration until such offender reaches 18 years of age, at the expiration of five years from the date of adjudication or, if confined, from release from confinement, whichever date occurs later. Any period of time during which the offender is incarcerated in any jail, juvenile facility or correctional facility or during which the offender does not comply with any and all requirements of the Kansas offender registration act shall not count toward the duration of registration;

(2) not require registration if the court, on the record, finds substantial and compelling reasons therefor; or

(3) require registration, but such registration information shall not be open to inspection by the public or posted on any internet website, as provided in K.S.A. 22-4909, and amendments thereto. If the court requires registration but such registration is not open to the public, such offender shall provide a copy of such court order to the registering law enforcement agency at the time of registration. The registering law enforcement agency shall forward a copy of such court order to the Kansas bureau of investigation.

If such offender violates a condition of release during the term of the conditional release, the court may require such offender to register pursuant to paragraph (1).

(j) Notwithstanding any other provisions of this section, an offender 14 years of age or more who is adjudicated as a juvenile offender for an act which if committed by an adult would constitute a sexually violent crime set forth in K.S.A. 22-4902(c), and amendments thereto, and such crime is an off-grid felony or a felony ranked in severity level 1 of the nondrug grid as provided in K.S.A. 21-4704, prior to its repeal, or K.S.A. 2020 Supp. 21-6804, and amendments thereto, shall be required to register for such offender's lifetime.";

Also on page 40, in line 34, before "offender" by inserting "or adjudicated"; in line 37, before "in" by inserting "or adjudicated"; in line 41, before "prior" by inserting "or adjudications"; in line 43, before "on" by inserting "or adjudications";

On page 41, by striking all in lines 2 through 5; in line 7, before "by" by inserting "or adjudicated"; in line 10, before the comma by inserting "or adjudication";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 41, in line 32, before "and" by inserting "or adjudication"; in line 33, before the semicolon by inserting "or adjudication"; in line 34, before the semicolon by inserting "or adjudication";

On page 43, in line 23, after "conviction" by inserting "or adjudication"; in line 27, after "conviction" by inserting "or adjudication"; in line 31, after "conviction" by inserting "or adjudication"; in line 37, after "conviction" by inserting "or adjudication"; in line 38, after "convicted" by inserting "or adjudicated"; in line 39, after "conviction" by inserting "or adjudication";

On page 44, in line 6, after "conviction" by inserting "or adjudication"; in line 9, after

"conviction" by inserting "or adjudication"; in line 11, after "conviction" by inserting "or adjudication"; in line 24, after "convicted" by inserting "or adjudicated"; in line 25, after "convicted" by inserting "or adjudicated"; in line 31, after "conviction" by inserting "or adjudication"; in line 36, after "conviction" by inserting "or adjudication"; in line 38, after "convicted" by inserting "or adjudicated"; in line 40, after "convicted" by inserting ", adjudicated";

On page 45, in line 29, after "convicted" by inserting "or adjudicated";

On page 46, in line 15, by striking "(m)" and inserting "(h), (i) and (o)"; in line 43, before the semicolon by inserting "or adjudicated";

On page 47, in line 20, before "that" by inserting "or adjudication"; in line 22, before "does" by inserting "or adjudication"; in line 25, before "that" by inserting "or adjudication"; in line 27, before "that" by inserting "or adjudication"; in line 30, before "shall" by inserting "or adjudication";

On page 1, in the title, in line 5, by striking all after the semicolon; in line 6, by striking "offenders;"; and the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2280** be amended on page 3, in line 29, by striking all after "(7)"; by striking all in lines 30 and 31; in line 32, by striking "(8)"; by striking all in lines 34 and 35;

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

On page 8, in line 36, after "practitioner" by inserting ", including, but not limited to, delivering prescription medication to a patient by mail, common carrier, personal delivery or third-party delivery to any location requested by the patient";

On page 25, in line 39, by striking all after "licensure"; in line 40, by striking all before the period and inserting ". The board shall only accept a passing score on an examination required for licensure from an applicant's first five attempts taking such examination";

On page 29, in line 11, after "prescription" by inserting "or when communicating a prescription by oral order"; and the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2281** be amended on page 6, in line 3, by striking "and"; in line 18, after "hotline" by inserting ";

(3) provide mobile crisis response services for persons with intellectual or developmental disability; and

(4) provide mobile crisis response services for behavioral health needs";

Also on page 6, following line 22, by inserting:

"(f) Moneys in the 988 suicide prevention and mental health crisis hotline fund shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the legislature that the fund shall remain intact and inviolate for the purposes set forth in this section, and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.

Sec. 6. (a) There is hereby imposed a prepaid wireless 988 fee of \$0.50 per retail transaction for prepaid wireless service.

(b) The prepaid wireless 988 fee shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless 988 fee shall be separately stated on an invoice, receipt or other similar document that is provided to the consumer by the seller or otherwise disclosed to the

consumer.

(c) For purposes of subsection (b):

(1) A retail transaction that is conducted in person by a consumer in a business location of the seller shall be treated as occurring in this state if that business location is in this state; and

(2) any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for the purposes of K.S.A. 79-3673(c)(3), and amendments thereto.

(d) The prepaid wireless 988 fee is the liability of the consumer and not of the seller or any provider. The seller shall be liable to remit all prepaid wireless 988 fees that the seller collects from consumers pursuant to this section, including all such fees that the seller is deemed to collect where the amount of the charge has not been separately stated in an invoice, receipt or other similar document provided to the consumer by the seller.

(e) (1) If the amount of the prepaid wireless 988 fee that is collected by a seller from a consumer is separately stated on an invoice, receipt or other similar document provided to the consumer by the seller, the amount of such fee that is collected shall not be included in the base for measuring any tax, fee, surcharge or other charge that is imposed by this state, any political subdivision of this state or any intergovernmental agency.

(2) When prepaid wireless service is sold with one or more other products or services for a single, non-itemized price, the fee specified in subsection (a) shall apply to each prepaid wireless service sold in the single price, if the seller can identify the fee that is attributable to the prepaid wireless service by reasonable and verifiable standards from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes.

(f) Prepaid wireless 988 fees collected by sellers shall be remitted to the department of revenue by electronic filing that is consistent with the provisions of article 36 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. The department of revenue shall establish registration and payment procedures for the collection of the prepaid wireless 988 fee.

(g) To minimize additional costs to the department of revenue, the department of revenue may conduct audits of sellers in conjunction with sales and use tax audits. The department of revenue may initiate collection or audit procedures on individual sellers if necessary.

(h) The department of revenue shall establish procedures for a seller to document that a sale is not a retail sale. Such procedures shall substantially coincide with procedures for documenting sale for resale transactions contained in article 36 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto.

(i) The department of revenue shall remit all moneys collected from payment of the prepaid wireless 988 fee to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount into the state treasury to the credit of the certified community

behavioral health clinics fund established by section 7, and amendments thereto.

(j) As used in this section, "consumer," "prepaid wireless service," "retail transaction" and "seller" mean the same as defined in K.S.A. 2020 Supp. 12-5363, and amendments thereto.

Sec. 7. (a) There is hereby established in the state treasury the certified community behavioral health clinics fund, and such fund shall be administered by the secretary for aging and disability services. Moneys in the fund shall be used for funding certified community behavioral health clinics. All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary for aging and disability services or the secretary's designee.

(b) The certified community behavioral health clinic fund shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the legislature that the fund shall remain intact and inviolate for the purposes set forth in this section, and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.";

And by renumbering sections accordingly; and the bill be passed as amended.

Committee on **Health and Human Services** recommends **HB 2373** be amended on page 2, in line 24, after "(c)" by inserting "The Kansas department for aging and disability services shall employ one full-time equivalent position in the unclassified service to monitor the implementation of the mobile crisis services program.

(d) The provision of mobile crisis services shall be funded by expenditures from the 988 suicide prevention and mental health crisis hotline fund established by 2021 House Bill No. 2281 or any other special revenue fund established by similar legislation passed by the legislature and enacted into law during the 2021 regular session of the legislature for the remittance of fees charged for the establishment of a 988 suicide prevention and mental health crisis hotline. Any costs related to administration of the program, including the full-time equivalent position described in subsection (c), shall not be funded by expenditures from such fund. If no such legislation is passed, then the provision of mobile crisis services shall be funded by expenditures from an appropriate state general fund account or special revenue fund of the Kansas department for aging and disability services designated by the secretary for aging and disability services.

(e)";

Also on page 2, in line 27, by striking "(d)" and inserting "(f)"; and the bill be passed as amended.

Committee on **Judiciary** recommends **HB 2365, HB 2389** be passed.

Committee on **Judiciary** recommends **HB 2011** be amended on page 1, in line 12, after "appropriate" by inserting "county or"; also in line 12, by striking "or county attorney"; in line 15, before the period by inserting "at the request of a county or district attorney"; in line 22, by striking all after the first "the"; in line 24, by striking all before the second "the"; also in line 24, after the comma by inserting "or the attorney general if the county or district attorney has requested assistance from the attorney general,"; and the bill be passed as amended.

Committee on **Social Services Budget** recommends **HB 2248** be passed.

COMMITTEE ASSIGNMENT CHANGES

Speaker pro tem Finch announced the appointment of Rep. Blake Carpenter to replace Rep. Croft on Committee on Commerce, Labor and Economic Development on February 26, 2021.

Also, the appointment of Rep. Ousley to replace Rep. Curtis on Committee on Commerce, Labor and Economic Development on February 26, 2021.

REPORT ON ENGROSSED BILLS

HB 2101, HB 2244, HB 2277 reported correctly engrossed February 25, 2021.

On motion of Rep. Hawkins, the House adjourned until 11:00 a.m., Monday, March 1, 2021.

JENNY HAUGH, JULIA WERNER, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

