

SESSION OF 2012

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2464

As Amended by House Committee on Judiciary

Brief*

HB 2464 would amend current law concerning the obligation of a prosecutor to permit the defendant to inspect, copy, and photograph certain materials. It would provide any property or material that constitutes a visual depiction, as defined in the crime of sexual exploitation of a child, remain in the care, custody, and control of either the prosecution, law enforcement, or the court. Further, if the state makes the visual depiction reasonably available to the defendant, the court would deny the defendant's request to copy, photograph, duplicate, or otherwise reproduce it. The bill also would state that the visual depiction would be deemed "reasonably available to the defendant" if the prosecution provides ample and liberal opportunity for inspection, viewing, and examination of the visual depiction at a law enforcement facility, whether in state or out of state, by the defendant, the defendant's attorney, and any individual the defendant seeks to qualify to furnish expert testimony at trial.

Background

In the House Committee on Judiciary, representatives of the Kansas Attorney General, the Kansas Bureau of Investigation, the Kansas County and District Attorneys Association, the Kansas Association of Chiefs of Police, Kansas Sheriffs' Association, and Kansas Peace Officers Association offered testimony in support of the bill. A representative of the Kansas Association of Criminal Defense Lawyers appeared as an opponent. The Committee amended

*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 bill to clarify that "reasonably available" requires liberal opportunity for inspection, viewing, and examination, and the law enforcement facility where this occurs may be located inside or outside of Kansas.

The fiscal note for HB 2464, as introduced, indicates its passage would have no fiscal effect on the Judicial Branch.