

SESSION OF 2014

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 19**

As Recommended by House Committee on
Corrections and Juvenile Justice

Brief*

House Sub. for SB 19 would amend the crime of aggravated battery to include knowingly impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck of another person or by blocking the nose or mouth of another person, when done in a rude, insulting, or angry manner. The penalty for this offense would be a severity level 6, person felony. The provisions would not apply to legitimate medical procedures performed by physicians or licensed medical professionals, or to accepted restraint practices performed by law enforcement officers.

The bill also would amend the statute governing the determination of an offender's criminal history to establish a procedure for classifying out-of-state misdemeanor convictions. The comparable Kansas offense would be used to classify the out-of-state conviction as a class A, B, or C misdemeanor. If the comparable Kansas offense is a felony, the conviction would be classified as a class A misdemeanor. If there is no comparable Kansas offense, the conviction would be classified as a class C misdemeanor.

Background

As introduced by the 2013 Senate Committee on Judiciary and passed by the 2013 Senate, SB 19 would have amended the crime of mistreatment of a dependent adult.

*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 2014 House Committee on Corrections and Juvenile Justice recommended a substitute bill be passed containing the contents of HB 2477 and HB 2703, which were stricken from the House Calendar pursuant to Rule 1507.

Background of 2477

HB 2477 was introduced by the Committee on Corrections and Juvenile Justice at the request of the Attorney General's Office. In the House Committee, representatives of the Attorney General's Office and the Kansas Coalition Against Sexual and Domestic Violence testified in favor of the bill, stating it would specifically address strangulation or suffocation within the aggravated battery statute. Written testimony supporting the bill was received from a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association, who requested an amendment to the bill to clarify that the crime would not apply to restraint by a law enforcement officer in accordance with acceptable law enforcement practices. There was no opponent testimony.

The House Committee adopted an amendment suggested by the Attorney General's Office simplifying the descriptions of strangulation and suffocation, and incorporated the restraint amendment requested by the law enforcement organizations.

According to the fiscal note provided by the Division of the Budget on the bill, the Office of Judicial Administration (OJA) could not determine a precise fiscal effect but noted possible increases in costs associated with court actions and court service officer workloads. Additional court actions could result in added revenue from docket fees. The Board of Indigents' Defense Services noted the bill would not increase its caseload. The Kansas Sentencing Commission stated the bill would add to the agency's workload, but additional resources would not be needed. The agency also stated the

bill would increase the amount of prison beds needed by 1, 2 or 3 in FY 2015, and by 3 to 11 by FY 2024.

For all crimes, the Kansas Sentencing Commission estimates the number of inmates will be below available capacity (9,636 as of January 13, 2014) by 103 beds in FY 2014 and by 196 beds in FY 2015. However, starting in FY 2017, it is expected that adult correctional facilities will again be over capacity. Continued population increases will require new construction providing 512 beds at a construction cost of approximately \$24.4 million and operating costs of approximately \$8.4 million (\$45 per inmate per day). If utilized, bond financing for construction would need to be authorized in FY 2016. Because it increases the number of beds needed, this bill could require earlier construction or additional funds for contract beds. Should passage of the bill require capacity beyond the scenario described above, additional costs for contract beds or facility expansion would be incurred.

Any fiscal effect associated with the bill is not reflected in *The FY 2014 Governor's Budget Report*.

Background of HB 2703

HB 2703 was introduced by the House Committee on Corrections and Juvenile Justice at the request of the Kansas Sentencing Commission (KSC). In the House Committee, the Executive Director of the KSC testified in support of the bill. There was no neutral or opponent testimony. The House Committee recommended the bill favorably for passage.

The fiscal note prepared by the Division of the Budget indicates the bill would have no fiscal effect and no effect on prison bed space.