

SESSION OF 2018

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2090

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2090, as amended, would amend the special sentencing rule imposing presumptive imprisonment for a third or subsequent felony offense of possession of a controlled substance. Specifically, the bill would remove some of the conditions that disqualify persons sentenced under the rule from applying for modification of sentence upon successful completion of an intensive substance abuse treatment program.

The following disqualifying conditions would be removed:

- A defendant who has previously completed a certified drug abuse treatment program or intensive substance abuse treatment program; and
- A defendant who has been discharged from a certified drug abuse treatment program or intensive substance abuse treatment program.

The remaining disqualifying condition would be refusal to participate in a certified drug abuse treatment program or an intensive substance abuse treatment program.

*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

The bill was introduced by the House Committee on Corrections and Juvenile Justice during the 2017 Legislative Session at the request of the Kansas Sentencing Commission (Commission). As introduced, the bill would have removed the special sentencing rule imposing presumptive imprisonment for a third or subsequent felony conviction of possession of a controlled substance.

In the 2017 House Committee hearing, a representative of the Commission testified in support of the bill. A representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs' Association testified in opposition to the bill. No neutral testimony was provided.

The 2018 House Committee amended the bill by restoring the special sentencing rule and removing some of the disqualifying conditions for modification of sentence under the rule.

According to the 2017 fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration indicates a fiscal effect on the Judicial Branch could not be determined, although any effect could most likely be accommodated with current resources.

The Commission estimates passage of the bill would result in a reduction of 27 prison beds in FY 2018 and 41 prison beds by FY 2027.

Additionally, the Commission states the bill could increase SB 123 programming costs by \$578,811 from the State General Fund in FY 2018. Based on the Commission's estimate, the Department of Corrections estimated expenditures could be reduced by \$185,274 in FY 2018. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2018 Governor's Budget Report*.

According to subsequent information received from the Commission in 2018, the bill as amended by the House Committee would have no bed impact because the special rule would remain and the prison intensive drug abuse treatment program currently is not funded for offenders by the Kansas Department of Corrections.