

SESSION OF 2019

SUPPLEMENTAL NOTE ON SENATE BILL NO. 18

As Amended by House Committee on Judiciary

Brief*

SB 18, as amended, would amend statutes regarding the crime of counterfeiting currency, access to presentence investigation reports, and authority to enter into diversion agreements.

Counterfeiting Currency

The bill would amend the crime of counterfeiting currency to:

- Add the term “currency” to the first (making, forging, or altering) and second (distributing or possessing with the intent to distribute) means of committing the crime;
- Add the term “note” to the second means;
- Add the term “computer” and replace the phrase “produce any counterfeit” with “make, forge, or alter any” in the third means (possessing certain items with the intent to counterfeit);
- Remove the “intent to defraud” element currently applicable to all three means of committing the crime, add this intent to the first means, and add knowledge of this intent to the second means; and

*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>

- Remove the term “seized” and add the terms “notes” and “currency” to the penalty provisions.

Access to Presentence Investigation Reports

The bill would amend the statute governing the presentence investigation report prepared in criminal cases to allow access to the report by community correctional services and any entity required to receive the information under the Interstate Compact for Adult Offender Supervision. The bill also would make technical changes to provide consistency in references to the report and consistency in statutory phrasing.

Attorney General’s Authority to Enter Into Diversion Agreements

The bill would amend statutes relating to diversion in criminal cases to include the Attorney General within the definition of “district attorney,” thereby specifically authorizing the Attorney General to enter into diversion agreements pursuant to these statutes; to add a provision specifying that any diversion costs or fees collected under a diversion agreement entered into by the Attorney General would be deposited in the Fraud and Abuse Criminal Prosecution Fund; and to add a provision allowing the Attorney General to enter into agreements with the appropriate county or district attorney, or other appropriate parties, regarding the supervision of conditions of the diversion agreement.

Background

SB 18, as amended by the House Committee on Judiciary, includes provisions of SB 18, as passed by the Senate, regarding the Attorney General’s authority to enter into diversion agreements; SB 19, as passed by the Senate, regarding access to the presentence investigation report; and

SB 134, as amended by the Senate Committee and passed by the Senate, regarding the crime of counterfeiting currency.

SB 18 (Attorney General's Authority to Enter into Diversion Agreements)

SB 18 was introduced by the Senate Judiciary Committee at the request of the Office of the Attorney General. In the Senate Committee hearing, the Attorney General testified in support of the bill, stating the bill would allow the Attorney General to consider and grant diversions in warranted circumstances in topic areas that have been added to the Attorney General's scope in recent years.

A representative of American Family Action of Kansas and Missouri testified as a neutral conferee, requesting an amendment prohibiting diversion agreements where there is a true bill of indictment by a citizen-initiated grand jury and requiring referral of an indictment by such grand jury to the Attorney General if the local prosecutor does not proceed with prosecution. No opponent testimony was provided.

The Senate Committee recommended the bill be placed on the Consent Calendar.

In the House Committee on Judiciary hearing, a representative of the Office of the Attorney General testified in support of the bill. No other testimony was provided.

According to the fiscal note prepared by the Division of the Budget on SB 18, as introduced, the Attorney General estimated there could be additional negligible revenue to the Fraud and Abuse Criminal Prosecution Fund. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.

SB 19 (Access to Presentence Investigation Reports)

SB 19 was introduced by the Senate Committee at the request of the Judicial Branch. In the Senate Committee Hearing, a representative of the Office of Judicial Administration (OJA) testified in support of the bill. Representatives of the Kansas Community Corrections Association, Kansas District Judges Association (KDJA), and Kansas Sentencing Commission (KSC) submitted written-only proponent testimony. No other testimony was provided.

In the House Committee hearing, a representative of OJA testified in support of the bill. Representatives of KDJA and KSC submitted written-only proponent testimony. No other testimony was provided.

According to the fiscal note prepared by the Division of the Budget on SB 19, OJA and KSC indicate enactment of the bill would have no fiscal effect.

SB 134 (Crime of Counterfeiting Currency)

SB 134 was introduced by the Senate Committee at the request of Senator Wilborn on behalf of Senator Berger. In the Senate Committee hearing, Senator Berger testified in support of the bill. The Reno County deputy district attorney and a representative of the League of Kansas Municipalities (LKM) submitted written-only proponent testimony. The proponents stated the bill would clarify the crime of counterfeiting, which was created by 2018 legislation.

The Senate Committee adopted an amendment to further clarify terms and the required intent and provide consistency.

In the House Committee hearing, a representative of the Reno County District Attorney testified in support of the bill. A representative of LKM submitted written-only proponent testimony. No other testimony was provided.

According to the fiscal note prepared by the Division of the Budget on SB 134, as introduced, OJA indicates enactment of the bill would have a negligible fiscal effect on Judicial Branch operations. KSC indicates enactment of the bill could affect prison admissions, but the Commission cannot estimate an effect. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.