

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2081

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2081, as amended, would make amendments to special sentencing rules governing crimes committed while on release for a felony, unlawful manufacturing of a controlled substance, and felony possession of a controlled substance.

Specifically, the bill would amend a special sentencing rule governing persons who are convicted and sentenced for a crime while on release for a felony to allow a court to direct whether the sentences should be served either concurrently or consecutively. Current law directs that such sentences be served consecutively.

The bill would also amend a special sentencing rule governing unlawful manufacture of a controlled substance to specify that when a person has one or more prior felony convictions of the offense, or a substantially similar offense from another jurisdiction, and any of the prior convictions was for manufacture of methamphetamine or any analog substance defined in law, a subsequent conviction of the offense would result in the sentence being presumptive imprisonment of two times the maximum length.

[*Note:* Under continuing law, Kansas' sentencing guidelines for drug crimes utilize a grid containing the crime severity level (1 to 5, 1 being the highest severity level) and the offender's criminal history score (A to I, A being the highest criminal history score) to determine the presumptive sentence for an offense.]

*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>

Further, the bill would amend a special sentencing rule governing unlawful possession of a controlled substance to specify that when a person has two or more prior felony convictions for the offense, a subsequent conviction would result in the sentence being presumptive imprisonment. Current law imposes a presumptive imprisonment sentence for a third or subsequent conviction of the offense.

The bill would also make technical amendments to ensure consistency in statutory phrasing.

Background

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of the Kansas Sentencing Commission (Commission).

House Committee on Corrections and Juvenile Justice

The House Committee on Corrections and Juvenile Justice held a hearing on the bill on January 28, 2021. At the hearing, **proponent** testimony in support of the bill was presented by a representative of the Commission who stated the bill is necessary to clarify that courts have discretion in imposing either consecutive or concurrent sentences, depending on the case, and would clarify when certain other special sentencing rules would apply.

Written-only **proponent** testimony was provided by the McPherson County Attorney. No other testimony was provided.

The House Committee amended the bill by making a technical adjustment to specify that for the special rule pertaining to manufacturing of a controlled substance, a person must have at least one prior conviction of the offense.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Office of Judicial Administration estimates enactment of the bill would have a negligible fiscal impact on the operations of the Judicial Branch.

According to the prison bed impact statement prepared by the Commission, enactment of the bill would have an effect on prison admissions and beds; however, an estimate of the effect cannot be provided.

Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Special sentencing rule; manufacture of a controlled substance; possession of a controlled substance; methamphetamine