

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2215

As Amended by House Committee on Judiciary

Brief*

HB 2215, as amended, would amend the Kansas Criminal Code to create a new crime of utilizing a drug-masking product.

Definitions

The bill would add definitions to continuing law governing crimes involving controlled substances.

“Drug-masking product” would mean:

- Synthetic urine or a substance designed to be added to human urine, hair, or oral fluid that was designed for use and is used to defraud an alcohol or drug screen testing; or
- Human urine of another person that is used for the purpose of defrauding an alcohol or drug screening test.

“Synthetic urine” would mean a substance that is designed to simulate the composition, chemical properties, physical appearance, or physical properties of human urine.

*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>

Utilizing a Drug-Masking Product

The bill would create the crime of utilizing a drug-masking product which would mean possessing, distributing, delivering, or selling a drug-masking product. The offense would be a class A nonperson misdemeanor.

[*Note:* Under continuing law, a class A misdemeanor is punishable by up to 1 year in jail and/or a fine of up to \$2,500.]

Technical Changes

The bill would make technical changes to ensure consistency in statutory phrasing. The bill would also make a technical amendment to reconcile amendments made by the 2022 Legislature.

Background

The bill was introduced by the House Committee on Judiciary at the request of a representative of Quest Diagnostics.

House Committee on Judiciary

In the House Committee hearing, **proponent** testimony was provided by two representatives of Quest Diagnostics who stated the laboratory company has seen an uptick in fraudulent samples, some of which may be accomplished by drug-masking products. The proponents further stated that invalid test samples may allow a longer amount of time for drugs to leave the system of those being tested and that additional testing results in increased costs for employers.

Opponent testimony was provided by a private citizen who stated their belief that the new crime should be classified differently depending on the circumstances of the crime.

Written-only opponent testimony was provided by a representative of the State Board of Indigents' Defense Services, stating concerns with the impact on graduated sanctions, potential unintended consequences, and an increase in state prison populations and costs.

No other testimony was provided.

The House Committee amended the definition of "drug-masking product" to clarify that human urine is not designed to defraud an alcohol or drug screening test.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration (OJA) indicates enactment of the bill could increase the number of cases filed in district courts because it creates a new crime. OJA stated the bill would increase time spent by district court staff in processing, researching, and hearing cases. Since the crime carries a misdemeanor penalty, there could also be more supervision of offenders required to be performed by court services officers. The bill could also result in the collection of supervision fees, docket fees, and fines, which would be deposited in the State General Fund. However, a fiscal effect cannot be estimated because the number of cases is unknown.

The Sentencing Commission and the Department of Corrections indicate enactment of the bill would not have a fiscal effect. Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Drug test; drug-masking product; synthetic urine; alcohol screening test; drug screening test