

SESSION OF 2014

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2495

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2495 is a follow-up bill to 2013 HB 2170, which made numerous changes to sentencing, probation, and postrelease supervision statutes. HB 2495 would adjust or clarify several provisions created or amended by or otherwise related to HB 2170, as follows:

- Move the provision allowing a judge in most felony cases to impose up to 60 days in a county jail upon revocation of a probation sentence or community corrections placement from the authorized dispositions for sentencing statute to the statute governing probation, community corrections, suspended sentence, and nonprison sanction violations, and clarify that this provision is separate and distinct from other sanctions provided for violation of release conditions, shall not be imposed at the same time as the other sanctions, and shall be served concurrently if the offender is serving concurrent probation terms;
- Add a similar “up to 60 day” sanction provision for misdemeanor violators, and specify that such sanctions shall be served concurrently if the offender is serving concurrent probation terms;
- Clarify that the intermediate violation sanctions established in HB 2170 that may be imposed by a court services officer or community corrections

*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>

officer are applicable only if the original crime of conviction was a felony;

- Clarify that the 120-day and 180-day incarceration intermediate sanctions shall not be served by prior confinement credit;
- Specify that intermediate sanctions are to be imposed concurrently if the offender is serving multiple probation terms concurrently;
- Add a retroactivity provision to clarify that the violation sanctions shall apply to any violation occurring on or after July 1, 2013, regardless of the date the underlying crime was committed or the offender was sentenced for the underlying crime;
- Amend a provision implemented by HB 2170 allowing early discharge of low-risk offenders from supervision to change the standard for denial by the court of such discharge from “substantial and compelling reasons for denial” to “clear and convincing evidence that denial . . . will serve community safety interests”; and
- Make non-substantive amendments and add statutory references to provide clarity and ensure consistency.

The bill would be in effect upon publication in the *Kansas Register*.

Background

2013 HB 2170 represented the recommendation of the Justice Reinvestment Working Group, a statutorily created body charged with analyzing the Kansas criminal justice system and providing evidence-based policy options that would reduce recidivism and, thereby, the increasing prison population.

HB 2495 was introduced by the House Committee on Corrections and Juvenile Justice at the request of the Kansas Sentencing Commission. The House Committee held a joint hearing on HB 2495 and HB 2425, which was introduced by the Joint Committee on Corrections and Juvenile Justice Oversight and represented the Joint Committee's recommendations for follow-up to HB 2170. Specifically, the Joint Committee recommended provisions similar to those contained in HB 2495 clarifying retroactivity and the application of intermediate sanctions in felony cases only.

At the House Committee hearing, a representative of the Kansas Department of Corrections and the director of the Kansas Sentencing Commission testified in support of HB 2495. Representatives of the Kansas Association of Court Services Officers and the Office of Judicial Administration provided neutral testimony requesting an amendment to allow intermediate sanctions to be used in misdemeanor cases. A representative of the Kansas Association of Counties testified as an opponent. The Johnson County District Attorney also testified as an opponent, requesting an amendment removing various sex offenses and drug-related crimes from eligibility for early discharge from supervision. Written testimony supporting the Johnson County District Attorney's proposed amendment was received from the Kansas County and District Attorneys Association.

The House Committee adopted suggestions for clarifications from the Kansas Sentencing Commission and further amended the bill by changing the standard for denial of early discharge and by making the bill effective upon publication in the *Kansas Register*.

The fiscal note prepared by the Division of the Budget on the bill indicates the bill would have no fiscal effect on the Judicial Branch and no effect on prison admissions, prison bed space, or the workload of the Kansas Sentencing Commission.