

SESSION OF 2018

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2458

As Amended by House Committee on Judiciary

Brief*

HB 2458, as amended, would amend law related to the crimes of mistreatment of a dependent adult and mistreatment of an elder person, as follows.

The bill would merge the two crimes into a single crime of mistreatment of a dependent adult or an elder person. Under current law, the two crimes include the same list of acts against their victims, with the exception of the act of committing mistreatment of a dependent adult by infliction of physical injury, unreasonable confinement, or unreasonable punishment of the adult. Thus, under the bill, this act would also become a crime when committed against an elder person. The bill would also add an additional act applicable to all victims: taking the personal property or financial resources of a victim for the benefit of the defendant or another person by taking control, title, use, or management of the personal property or financial resources of a victim through a violation of the Act for Obtaining a Guardian or Conservator.

The bill would also amend the penalty provisions of the crime where the penalty level depends on the monetary value of the personal property or financial resources to increase the ceiling for a misdemeanor from less than \$1,000 to less than \$1,500. The corresponding floor for the lowest felony penalty (severity level 7) and ceiling for an exception for multiple previous offenses would be changed to \$1,500.

*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>

The definition of “elder person” for purposes of the crime would be changed from 70 years of age or older to 60 years of age or older.

In the first degree murder statute, the bill would add the crime to the list of inherently dangerous felonies for purposes of the felony murder rule. (Under the felony murder rule, first degree murder includes the killing of a human being committed in the commission of, attempt to commit, or flight from any inherently dangerous felony.)

Background

The bill was introduced by the House Committee on Judiciary at the request of the Office of the Attorney General.

In the House Committee hearing, representatives of the Office of the Attorney General, AARP Kansas, and Kansas County and District Attorneys Association, as well as the Johnson County district attorney, testified in support of the bill. A representative of the Kansas Health Care Association and Kansas Center for Assisted Living submitted written-only testimony supporting the bill. No neutral or opponent testimony was provided.

The House Committee amended the bill to merge the crimes, because the bill, as introduced, would have made the means of committing each crime identical.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, enactment of the bill could increase litigation in the courts because of the new violations created by the bill. If it does, the Office of Judicial Administration indicates there would be a fiscal effect on court system operations. However, a fiscal effect cannot be determined, and any fiscal effect would likely be accommodated within the existing schedule of cases and would not require additional resources.

The Kansas Sentencing Commission (Commission) estimates enactment of the bill would result in an increase of one to two adult prison beds needed in FY 2019 and one to three beds needed by FY 2028. Based on the most recent projections by the Commission, the Kansas Department of Corrections could absorb the additional prison beds within existing capacity in FY 2019, but could require additional expenditures if an increase in prison beds exceeds the capacity limit in future fiscal years. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2019 Governor's Budget Report*.