

SESSION OF 2018

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 12**

As Amended by Senate Committee on Judiciary

**Brief\***

SB 12 would amend the Sexually Violent Predator Act to prohibit a person on transitional release from residing within 2,000 feet of a licensed child care facility, an established place of worship, any residence in which a child under 18 years of age resides, or the real property of any public or private school used for student instruction, attendance, or extracurricular activities of pupils in grades K-12. This restriction would replace the same 2,000-foot restriction currently applicable to the location of transitional release or conditional release facilities or buildings. The bill would allow the court to grant exceptions and reduce the restriction to a minimum of 500 feet from these structures, after considering the recommendation of treatment staff and the person and making written findings on the record. Additionally, the bill would specify that changes in ownership of or use of property within the restricted distance occurring after the person establishes a court-approved residence would not form the basis for a finding that the person has violated the terms of transitional release or conditional release. A residence would be considered "court approved" if a person does any of the following with court approval:

- Purchases a residence or enters into a specifically enforceable contract to purchase a residence;
- Enters into a written lease contract for a residence and for as long as the person is lawfully entitled to remain on the premises; or

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\*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>

- Resides with an immediate family member who established residence in accordance with these provisions.

“Immediate family member” would mean a child or sibling who is 18 years of age or older or a parent, grandparent, legal guardian, or spouse.

Finally, the bill would require conditional release plans to include provisions directing what the person must do to establish a temporary residence if the person loses their court-approved residence as a result of an emergency situation, including, but not limited to, eviction or an act of God that renders the residence uninhabitable.

## **Background**

The bill was introduced by the Senate Committee on Judiciary at the request of the Kansas Judicial Council. In the Senate Committee hearing in 2017, a representative of the Judicial Council appeared in support of the bill and explained it created an *ad hoc* committee to study the statute the bill would amend at the request of former Senator Jeff King. The conclusion of that study was that some residency restrictions are necessary, but those restrictions should not be so burdensome that they make it unreasonably difficult to find housing. The representative noted amendments proposed in the bill to clarify the extent of the statute and allow more individualized residency restrictions would make it less vulnerable to a constitutional challenge.

A member of the *ad hoc* committee appeared as an opponent of the bill on behalf of family, friends, and other concerned citizens of the Sexual Predator Treatment Program at Larned State Hospital. The *ad hoc* committee member supported the adoption of language from 2016 SB 481, which would have reduced residency restrictions to one-quarter mile and to 300 feet for residences in which a child under 18 years of age resides. He also suggested persons on

transitional or conditional release should be allowed to reside in a court-approved residence with an individual who is 21 years of age or older rather than with an immediate family member, as the bill would allow.

In 2018, the Senate Committee received a briefing on the bill from staff of the Office of Revisor of Statutes and adopted amendments to update the dates in the bill.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Department of Aging and Disability Services indicates enactment of the bill would have no fiscal effect on the Department or the state hospitals. Additionally, the effect would be negligible for the League of Kansas Municipalities.