

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2077

As Amended by Senate Committee of the Whole

Brief*

HB 2077, as amended, would amend law related to the Kansas Criminal Justice Reform Commission and the Kansas Closed Case Task Force.

Kansas Criminal Justice Reform Commission

Study Topics

Current law requires the Kansas Criminal Justice Reform Commission (Commission) to address certain listed topics. The bill would amend some listed topics and would create new topics.

Diversion Programs. The bill would amend the requirement related to analysis of diversion programs to require the Commission to analyze diversion programs utilized throughout the state and make recommendations for legislation that:

- Requires pre-filing and post-filing diversion be an option in all counties;
- Establishes minimum statewide standards for diversion; and
- Provides a method for sealing or otherwise removing diversion records from criminal records.

*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>

Supervision. The bill would also amend the requirement related to review of supervision levels and programming for offenders on community supervision for felony offenses by requiring the Commission to:

- Review the supervision practices for offenders who serve sentences for felony offenses on supervision, to include:
 - Supervision by court services;
 - Community corrections; and
 - Parole; and
- Discuss and develop detailed recommendations for legislation that establishes research-based standards and practices for all community supervision programs that:
 - Provide for incentives for compliant offenders to earn early discharge from supervision;
 - Create standardized terms and conditions for community supervision and provide for a method that courts may utilize to use special terms as indicated through the introduction of compelling evidence;
 - Create standardized effective responses to behavior through a system of incentives and graduated sanctions; and
 - Provide for a means to consolidate concurrent supervision into one supervision agency.

Monitor Implementation of Recommendations. The bill would require the Commission to monitor the implementation of previously endorsed Commission recommendations, including those developed through justice reinvestment, and receive updates, review data, and identify opportunities for coordination, collaboration, or legislation as needed.

Removed Study Topics. The bill would remove statutory requirements relating to specialty courts, evidence-based programming, specialty correctional facilities, and information management data systems. The bill would also remove the requirement that the Commission study other matters it determines to be necessary.

Commission Membership

The bill would add a public defender member to the Commission, to be appointed by the Executive Director of the Board of Indigents' Defense Services.

Final Report

Current law requires the Commission to submit its final report and recommendations by December 1, 2020. The bill would require the final report and recommendations to be submitted by December 1, 2021.

Technical Amendments

The bill would make technical amendments to remove outdated language requiring members be appointed before August 1, 2019, and language related to calling the first meeting of the Commission during August 2019.

Kansas Closed Case Task Force

The bill would modify law concerning the Kansas Closed Case Task Force (Task Force) by renaming it the Alvin Sykes Cold Case DNA Task Force. The bill would extend the deadline, from October 1, 2020, to October 1, 2021, for completion of the protocol implementation plan relating to closed cases. Similarly, the bill would extend the deadline, from December 1, 2020, to December 1, 2021, for the Task Force's report containing a plan for uniform implementation of the protocol. The bill would extend the sunset date for the

Task Force from December 30, 2020, to December 30, 2021. The bill would also authorize the Office of the Revisor of Statutes, the Kansas Legislative Research Department, and the Division of Legislative Administrative Services to aid the Task Force.

The bill would amend the membership of the Task Force to allow a designee to serve in place of the state combined DNA index system (CODIS) administrator, but would otherwise continue the Task Force as it existed on December 29, 2020, with all other members appointed prior to that date continuing as members of the Task Force.

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

Background

The Commission was created with enactment of 2019 HB 2290. The bill designated the membership of the Commission and directed the Commission to study various topics related to criminal justice reform. The Commission was directed to submit a preliminary report, which was submitted to the 2020 Legislature on December 1, 2019; and the Commission was also directed to submit a final report, which was submitted to the 2021 Legislature on December 1, 2020.

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of Representative Jennings. As introduced and passed by the House, the bill contained provisions regarding the Commission.

House Committee on Corrections and Juvenile Justice

In the House Committee hearing, **proponent** testimony was presented by a representative of the Kansas Criminal Justice Reform Commission and a private citizen. Written-

only **proponent** testimony was submitted by the Kansas Association of Criminal Defense Lawyers and the Department of Corrections. No other testimony was submitted.

House Committee of the Whole

The House Committee of the Whole amended the bill to make the bill effective upon publication in the *Kansas Register* and add a requirement that the Commission monitor the implementation of previously endorsed recommendations.

Senate Committee on Judiciary

In the Senate Committee hearing, representatives of the Council of State Governments Justice Center and Kansas Department of Corrections testified as **proponents**. A private citizen testified as a neutral conferee. No **opponent** testimony was submitted.

Senate Committee of the Whole

The Senate Committee of the Whole amended the bill to add provisions similar to those in HB 2369, regarding the Kansas Closed Case Task Force.

HB 2369 (Kansas Closed Case Task Force)

HB 2369 was introduced by the House Committee on Judiciary at the request of Representative Patton.

House Committee on Judiciary

In the House Committee hearing, no testimony was provided. In the hearing, Representative Patton (a co-chairperson of the Task Force) stated the Task Force was close to completing its work in 2020, but needed additional time to do so, and also needed assistance from legislative staff.

On February 23, 2021, the House Committee amended the bill to allow a designee to serve in the place of the CODIS administrator.

On March 5, 2021, HB 2369 was stricken from the House Calendar pursuant to Rule 1507.

Fiscal Information

HB 2077 (Kansas Criminal Justice Reform Commission)

According to the fiscal note prepared by the Division of Budget on HB 2077 as introduced, the Kansas Sentencing Commission indicates enactment of the bill may have an impact on prison admissions and bed space, but that this effect cannot be estimated. The current estimated available bed capacity is 9,420 for males and 948 for females. Based upon the Commission's most recent ten-year projection contained in its FY 2020 Adult Inmate Prison Population Projections report, it is estimated that the year-end population for available male capacity will be under capacity by 1,287 inmates in FY 2021 and 1,241 inmates in FY 2022.

The Office of Judicial Administration and the Department of Corrections indicate enactment of the bill would have no fiscal effect.

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

HB 2369 (Kansas Closed Case Task Force)

According to the fiscal note prepared by the Division of the Budget on HB 2369 as introduced, enactment of the bill would cost additional expenditures of \$10,879, all from the State General Fund, in FY 2022. This estimate is based upon the Task Force meeting four times between July 1, 2021, and December 30, 2021, for the cost of four legislators on the Task Force, including \$9,436 for salary, fringe benefits, subsistence, and mileage expenditures, and \$1,443 for a committee assistant. Existing staff time from the Revisor of Statutes, the Kansas Legislative Research Department, and Legislative Administrative Services would require no additional expenditures. The agencies serving on the Task Force (Kansas Bureau of Investigation, Office of Attorney General, Board of Indigents' Defense Services, and Department of Corrections) would require additional staff time. In addition, members appointed by the Kansas Sheriffs Association, Kansas Association of Chiefs of Police, Kansas County and District Attorneys Association, and Kansas Bar Association would be required to serve an additional calendar year on the Task Force; however, any fiscal effect would be negligible. Any fiscal effect associated with this bill is not reflected in *The FY 2022 Governor's Budget Report*.

Kansas Criminal Justice Reform Commission; public defender; Kansas Closed Case Task Force; membership; deadlines; legislative staff