

SESSION OF 2021

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2028**

As Recommended by House Committee on  
Corrections and Juvenile Justice

**Brief\***

HB 2028 would amend the penalty provisions of various crimes in which the penalty level depends on monetary value to increase the ceiling for a misdemeanor from less than \$1,000 to less than \$1,500. The corresponding floors for the lowest felony penalties and floors or ceilings for applicable exceptions would be changed to \$1,500. The crimes that would be affected by the bill are:

- Theft of property lost, mislaid, or delivered by mistake;
- Criminal damage to property;
- Giving a worthless check;
- Counterfeiting;
- Criminal use of a financial card;
- Impairing a security interest;
- Medicaid fraud;
- Official misconduct;
- Presenting or permitting a false claim;

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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>

- Misuse of public funds; and
- Criminal desecration.

## **Background**

The bill was prefiled for introduction on December 31, 2020, at the request of the Joint Committee on Corrections and Juvenile Justice Oversight.

[*Note:* 2021 HB 2028 contains provisions similar to 2020 HB 2485, as recommended by the House Committee on Corrections and Juvenile Justice.]

## ***House Committee on Corrections and Juvenile Justice***

The House Committee held a hearing on HB 2028 on January 19, 2021. In the hearing, **proponent** testimony was provided by a representative of the Kansas Sentencing Commission (Commission), who indicated the bill would align certain loss limits of property crimes with that of theft.

Written-only **proponent** testimony was provided by representatives of the Kansas Association of Criminal Defense Lawyers and the Kansas County and District Attorneys Association.

No other testimony was provided.

## **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill, the Office of Judicial Administration (OJA) indicates enactment of the bill would increase cases supervised by court services officers, but OJA does not anticipate the need to hire additional personnel. OJA also indicates enactment of the bill would result in decreased

revenues to the Correctional Supervision Fund and the State General Fund. OJA also indicates the higher monetary thresholds in the bill could increase the number of misdemeanor cases in the courts, which have lower probation and correctional supervision fees compared to felonies, with current felony fees being \$120 and current misdemeanor fees being \$60. OJA stated the fiscal effect is unknown because the additional number and type of cases cannot be estimated.

The Commission estimates enactment of the bill would result in a decrease of 2 adult prison beds in use each year over a 10-year forecasting period, with the current estimated bed capacity at 9,420 beds for male inmates and 948 beds for female inmates. Based upon the Commission's most recent 10-year projection, it is estimated that the year-end population for available male capacity will be under capacity by 1,287 inmates in fiscal year (FY) 2021 and 1,241 inmates in FY 2022. The Department of Corrections (KDOC) indicates the reduction in prison population would not be sufficient to reduce current prison expenditures. The KDOC notes the reduction would be beneficial towards avoiding future prison costs and would improve the ability to socially distance inmates to help mitigate the spread of the coronavirus in the facility and among staff working at the facility and inmates released into the community.

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

Crimes; theft of property lost, mislaid, or delivered by mistake; criminal damage to property; giving a worthless check; counterfeiting; criminal use of a financial card; impairing a security interest; Medicaid fraud; official misconduct; presenting or permitting a false claim; misuse of public funds; criminal desecration