

SESSION OF 2021

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2191**

As Recommended by House Committee on  
Corrections and Juvenile Justice

**Brief\***

HB 2191 would increase the criminal penalties for riot and incitement to riot when the crime occurs in a correctional facility. The bill would define “correctional facility” for this purpose as a jail, or a correctional institution as defined by continuing law.

The bill would also make a technical amendment to ensure consistency in statutory phrasing.

**Riot**

Continuing law defines “riot” to mean five or more persons acting together and without lawful authority engaging in any:

- Use of force or violence that produces a breach of the public peace; or
- Threat to use such force or violence against any person or property if accompanied by power, or apparent power, of immediate execution.

Current law classifies the crime of riot as a class A person misdemeanor. The bill would increase the penalty for riot, when it occurs in a correctional facility, to a severity level 8, person felony.

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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>

### ***Incitement to Riot***

Continuing law defines “incitement to riot” to mean, by words or conduct, knowingly urging others to engage in a riot, under circumstances that produce a clear and present danger of injury to persons or property or a breach of the public peace.

Current law classifies the crime of incitement to riot as a severity level 8, person felony. The bill would increase the penalty for incitement to riot, when it occurs in a correctional facility, to a severity level 6, person felony.

### **Background**

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of Representative Jennings on behalf of the Pawnee County Attorney.

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

In the House Committee hearing on February 11, 2021, **proponent** testimony was presented by representatives of the Johnson County Sheriff’s Office and the Kansas Sheriffs Association and by the Leavenworth County Attorney.

No other testimony was provided.

### **Fiscal Information**

According to the Prison Bed Impact Assessment prepared by the Kansas Sentencing Commission (KSC), the KSC indicates the bill would result in zero to two additional prison admissions each year during the forecasting period, and an increase of zero to two adult prison beds in FY 2022, and an increase of one to three adult prison beds in FY 2031. The KSC also estimates the bill would result in zero to three

additional journal entries each year for the workload of the KSC.

According to the fiscal note prepared by the Division of the Budget on the bill, the Kansas Department of Corrections (KDOC) indicates the increase in prison population would have a detrimental effect on its ability to provide for social distancing among its offender population. KDOC indicates the increase could contribute to the spread of the coronavirus among residents of the facility, staff working at the facility, and offenders released into the community. KDOC indicates the bill would have no fiscal effect.

The Office of Judicial Administration indicates enactment of the bill would have a negligible fiscal effect that could be absorbed within existing resources.

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

Riot; incitement to riot; sentences