

SESSION OF 2022

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2657

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2657, as amended, would create a special sentencing rule stating that, notwithstanding statutory provisions regarding lesser included crimes or any other provision of law to the contrary, the sentence for a violation of criminal possession of a weapon by a convicted felon shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed, if the trier of fact finds beyond a reasonable doubt that:

- The weapon the offender possessed during such violation was a firearm; and
- Such firearm was possessed by the offender during the commission of any violent felony, as defined by the bill.

The bill would define “violent felony” to mean the following crimes defined in statute:

- Capital murder or first or second degree murder;
- Voluntary manslaughter;
- Aggravated assault or aggravated assault of a law enforcement officer;
- Aggravated battery or aggravated battery against a law enforcement officer;

*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>

- Kidnapping or aggravated kidnapping;
- Robbery or aggravated robbery;
- Rape;
- Aggravated criminal sodomy;
- Abuse of a child;
- Burglary or aggravated burglary;
- Arson or aggravated arson;
- Treason;
- Any felony offense under statutes prohibiting the unlawful manufacturing, cultivation, distribution, or possession of controlled substances;
- Certain violations of criminal discharge of a firearm;
- Certain violations of fleeing or attempting to elude a police officer;
- Certain violations of aggravated endangering a child;
- Mistreatment of a dependent adult or mistreatment of an elder person;
- Any felony that includes the domestic violence designation, as determined by the trier of fact under the relevant statutory procedure; or
- Any attempt, conspiracy, or criminal solicitation of any felony offense described above.

The bill would provide that a sentence imposed under its provisions would not be considered a departure sentence and

would not be subject to appeal, and no other sentence would be permitted.

A whereas clause would provide the amendments made by the bill would be known as the “Reduce Armed Violence Act.”

Background

The bill was introduced the House Committee on Corrections and Juvenile Justice at the request of the Office of the Attorney General.

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on February 15, 2022, Attorney General Derek Schmidt, the Shawnee County District Attorney, and representatives of the Kansas Gang Investigators Association and Kansas City Kansas Police Department testified as **proponents** of the bill, stating the bill would address a rise in violent crime being committed by convicted felons while using firearms. Written-only proponent testimony was provided by the Johnson County District Attorney, Shawnee County Sheriff, and Topeka Chief of Police; by representatives of the Johnson County Sheriff’s Office, Kansas State Lodge Fraternal Order of Police, and Wichita Police Department; and by a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association.

A representative of the Kansas Association of Criminal Defense Lawyers (KACDL) and a private citizen testified as **opponents** of the bill. The KACDL representative stated concerns with reducing judicial discretion, making qualifying sentences presumptive probation, and including drug crimes within the qualifying crimes. The private citizen stated concerns with including offenses involving cannabis within the qualifying crimes.

On February 16, 2022, the House Committee made a technical amendment to the bill to clarify the violations of criminal discharge of a firearm that would be included in the definition of “violent felony.”

Fiscal Information

According to the corrected fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Sentencing Commission estimates enactment of the bill would result in an increase of 43 adult prison beds needed by the end of FY 2023 and an increase of 215 adult prison beds needed by the end of FY 2032. The current estimated available bed capacity is 9,428 for males and 936 for females. Based upon the most recent ten-year projections, it is estimated the year-end population will total 7,782 male and 756 female inmates in FY 2022 and 7,736 male and 730 female inmates in FY 2023.

The Department of Corrections indicates that enactment of the bill would increase expenditures by \$6.63 a day for each additional prison bed, for a total annual increased cost of \$104,058 from the State General Fund in FY 2023. The additional inmates would not increase staffing expenditures but would put additional pressure on staffing that is currently below necessary levels.

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 enactment of the bill is not reflected in *The FY 2023 Governor’s Budget Report*.

Crimes; reduce armed violence act; criminal possession of a weapon