SESSION OF 2011

SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR HOUSE BILL NO. 2008

As Recommended by Senate Committee on Judiciary

Brief*

Senate Sub. for HB 2008 would add subsection (u) to 2010 Session Laws ch. 136, sec. 285, providing that the penalty for identity theft, identity fraud, and attempt or conspiracy to commit those crimes would be presumptive imprisonment when the person being sentenced has a prior conviction of identity theft, identity fraud, or attempt or conspiracy to commit those crimes. 2010 Session Laws ch. 136 recodifies the Kansas Criminal Code and will go into effect July 1, 2011.

Background

HB 2008, as introduced, would have made identity theft and identity fraud person felonies, rather than nonperson felonies. It also would have amended the severity levels for identity fraud and identity theft where the monetary loss to the victim is less than $100,000, changing them from a level 8 to a level 9.

In the House Committee on Corrections and Juvenile Justice, Stephen Howe, Johnson County District Attorney, appeared in support of HB 2008. The Committee also received written testimony from AARP in support of the bill. No opponents presented testimony. The House Committee on Corrections and Juvenile Justice amended the bill by

*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
changing the severity levels for identity fraud and identity theft
where the monetary loss to the victim is less than $100,000, from a level 8 to a level 9.

The Senate Committee on Judiciary amended the bill by
adopting a substitute bill that would make the sentence for
identity theft, identity fraud, and attempt or conspiracy to
commit those crimes presumptive imprisonment when the
person being sentenced has a prior conviction of identity
theft, identity fraud, or attempt or conspiracy to commit those
crimes.

The Kansas Sentencing Commission originally esti-
mated an increase in 2012 of nine convictions pursuant to HB
2008, as introduced. During the Committee hearing,
questions arose about whether the impact of the bill would be
seen in 2012. After additional consideration, the Sentencing
Commission estimates a nine bed increase in FY 2013 and
an additional 12 by 2021. As the number of male inmates
already exceeds capacity, the bed impact of this bill in
addition to the impact of other possible legislation is likely to
require additional expenditures. The FY 2012 Governor’s
Budget Report includes $2.5 million for contract prison beds
and if construction is necessary, the Department of
Corrections has identified two expansion projects: two high
medium housing units at El Dorado Correctional Facility with
512 beds, a cost of $22.7 million for construction, and $9.3
million for operation; and 1 minimum security housing unit at
Ellsworth Correctional Facility with 100 beds, a cost of $5.9
million for construction, and $1.8 million for operation. The
fiscal note indicates actual costs may vary and prison
commitments that result in additional parolees could require
additional staff and resources for effective supervision.