

SESSION OF 2011

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2118

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2118 would amend KSA 22-2802 by allowing magistrates to require that a person charged with a felony submit to an alcohol abuse examination and evaluation, and undergo treatment, if necessary, as a condition of release. Magistrates already have this authority with respect to drug abuse. Courts also would be allowed to impose, as a condition of sentencing, the full amount of costs in addition to the \$15 per week already allowed, including costs for evaluation and treatment.

The bill also would amend 2010 Session Laws ch. 136, sec. 244, by giving courts the authority to impose the full amount of unpaid costs associated with the conditions of release of an appearance bond when a person has been found guilty of a crime. (2010 Session Laws ch.136 recodifies the Kansas Criminal Code, and will go into effect July 1, 2011.)

Background

HB 2118 was proposed in response to the Kansas Court of Appeals' opinion in *State v. Gardner*. In *Gardner*, the district court required the defendant to wear an alcohol monitor as a condition of release on bond and, after he pled guilty, ordered that he pay the costs of the device, \$121, as a condition of sentencing. The Court of Appeals considered two statutory provisions to determine the validity of these

*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>

orders. The first, KSA 22-2802, gives the district court authority to impose conditions of release that will reasonably assure the appearance of a person charged with a crime for preliminary examination or trial. Next, the Court considered KSA 22-2802(15), which provides: "The magistrate may order the [person charged with a crime] to pay for any costs associated with the supervision of the conditions of release of the appearance bond in an amount not to exceed \$15 per week." Applying rules of statutory construction, the Court of Appeals held that the more specific of the two, KSA 22-2802(15), would control, such that the district court was only permitted to impose costs up to \$15 per week, or \$60 in this case.

The changes proposed in HB 2118 would allow courts to assess the full cost of evaluation and treatment for drug and alcohol abuse as a condition of sentencing.

In the House Committee on Corrections and Juvenile Justice, a representative of the Johnson County District Attorney appeared in support of HB 2118. Judge Stephen R. Tatum of the Tenth Judicial District offered written testimony in support of the bill. No opponents presented testimony. The Committee amended the bill by clarifying that as a condition of sentencing, courts may impose the full amount of costs in addition to, rather than in excess of, the \$15 per week already allowed by statute

No fiscal note was available for HB 2118 at the time this supplemental note was drafted.