

SESSION OF 2011

**SUPPLEMENTAL NOTE ON HOUSE
SUBSTITUTE FOR SENATE BILL NO. 23**

As Recommended by House Committee on
Corrections and Juvenile Justice

Brief*

House Sub. for SB 23 would establish a statutory right to jury trial for juvenile offenders and provide a jury trial procedure within the revised Kansas Juvenile Justice Code. The procedural provisions would be borrowed from the statutes governing adult jury trials, with some modifications. The principal differences from the adult jury trial provisions would be:

- A juvenile would have to request a jury trial in every case, within 30 days from the entry of a plea of not guilty. In adult felony cases, trial by jury is automatic unless waived.
- A juvenile would not have the right to personally participate in *voir dire*. Adult defendants have this right.

The bill also would add language to the revised Kansas Code for Care of Children and the revised Kansas Juvenile Justice Code providing that a high school diploma shall be awarded to a person by the unified school district in which such person is enrolled or resides if the person was in the custody of the Department of Social and Rehabilitation Services (SRS) or Juvenile Justice Authority (JJA) on or after the person's 17th birthday, and the person has met the minimum high school graduation requirements set by the state Department of Education.

*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>

Background

The Kansas Judicial Council requested the Senate Committee on Judiciary introduce SB 23 to respond to the Kansas Supreme Court's decision in *In re L.M.*, 286 Kan. 460, 186 P. 3d 164 (2008), holding that juveniles have a right to jury trials. As introduced, the bill contained the juvenile jury trial provisions.

In the Senate Committee on Judiciary, a representative of the Kansas Judicial Council appeared in support of the bill, explaining that the bill largely borrows jury trial procedural provisions from the Criminal Code. The conferee stated that due to some historical differences in the structure and goals of the juvenile justice system, the Judicial Council juvenile offender advisory committee recommended that juveniles be required to request a jury trial, even in felony cases. The advisory committee also recommended that juveniles not be permitted to personally participate in *voir dire*. No opponents provided testimony. The Senate Committee recommended the bill be passed.

In the House Committee on Corrections and Juvenile Justice, the same conferee appeared in support of the bill. At the request of the Commissioner of the Juvenile Justice Authority, the House Committee amended the bill by adding provisions regarding the awarding of a high school diploma to persons in the custody of SRS or the Juvenile Justice Authority. The House Committee recommended a substitute bill incorporating the amended language.

The fiscal note on the bill, as introduced, states the bill has the potential to increase litigation in the courts and therefore have a fiscal effect on the court system, although a precise fiscal effect cannot be determined. It is unlikely the fiscal effect would require additional resources. The Juvenile Justice Authority indicates there would be no fiscal effect on its agency operations. Any fiscal effect is not reflected in *The FY 2012 Governor's Budget Report*. There is no fiscal note available for the substitute bill.