

**REVISED**  
**SESSION OF 2012**

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 394**

As Amended by House Committee of the Whole

**Brief\***

SB 394, as amended, would establish a Justice Reinvestment Working Group, amend provisions relating to discharge of offenders by the Secretary of Corrections, establish law related to home building programs established or maintained by the Secretary of Corrections, and amend the Personal and Family Protection Act.

***Justice Reinvestment Working Group***

The bill would require the Secretary of Corrections to establish a Justice Reinvestment Working Group, which would consist of 17 members appointed by various officials in each branch of Kansas government and by law enforcement associations. The Working Group would be charged to study the data-driven, fiscally responsible policies and practices that can increase public safety and reduce recidivism and spending on corrections in Kansas. The Working Group would be required to submit a report of its activities and recommendations to the Secretary of the Senate and the Chief Clerk of the House of Representatives on or before January 1, 2013.

***Discharge of Offenders with Minimal Time to be Served***

The bill would amend the statutory provision allowing the Secretary of Corrections to order an offender discharged from the prison portion of a sentence if a minimal amount of time remains to be served at the time the Secretary receives

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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>

notice of the transfer of the prisoner to the custody of the Secretary. Specifically, the permissible time remaining on the sentence would be increased from 10 days to 20 days.

***Home Building Program in the Department of Corrections***

The bill would prohibit the Secretary of the Department of Corrections from establishing or maintaining a home building program that would compete with manufactured or modular homes which are constructed privately. The bill would allow for the continuation of the Vocational Building Program, whereby the Department of Corrections provides individual, freestanding buildings to state agencies for use by such agencies. The size of the buildings would be limited to no more than 1,000 square feet.

The terms “manufactured home,” “manufactured home dealer,” “manufactured home manufacturer,” and “modular home” would have the same definitions as found in KSA 58-4202.

***Personal and Family Protection Act Amendments***

The bill would exempt state corrections officers and state parole officers from the required completion of a handgun safety and training course if the officer has been certified by firearms training from an appropriate entity not more than one year prior to submission of an application for concealed carry. Also included in the exception would be corrections officers employed by the Federal Bureau of Prisons who have been issued a certificate of firearms training.

The bill would require the initial license fee of \$132.50 for concealed carry applications to be paid by all applicants for an original license, including retired law enforcement officers, state corrections and parole officers, and federal corrections officers.

The bill would change the term "weapons" to "handgun" which is the term used in the concealed carry statutes.

The bill also would revise the act with regard to concealed carry in state or municipal buildings. The term "municipality" does not include school districts in this act.

Individuals who are licensed to carry concealed handguns would be allowed to carry concealed while in a state or municipal building, unless the building has adequate security measures, as defined in the bill, and is properly posted to prevent weapons in such buildings. The same would apply to state and municipal employees and their work places in such buildings that have adequate security measures at public entrances and are properly posted.

It would not be a crime for a person to carry a concealed handgun into such buildings if the person is licensed and has the authority to enter through a restricted access entrance in such buildings with adequate security measures at public access entrances that are properly posted. Any state or municipal building which contains both public and restricted access entrances would be required to provide adequate security measures at public entrances.

The bill would not prohibit a state agency or municipality from having employee policies restricting concealed carry in such buildings where adequate security measures are used and signs are properly posted to prohibit weapons.

The bill would not limit a correctional facility, jail, or law enforcement agency from prohibiting the carrying of a concealed weapon by any person on such premises, as long as adequate security at the public access entrances is provided to prohibit the carrying of concealed handguns into public places.

A postsecondary educational institution, defined as any public university, municipal university, community college,

technical college or vocational education school, and any entity resulting from the consolidation or affiliation of any two or more such postsecondary educational institutions, would be allowed to exempt itself from the provisions of this act for four years by stating its reason and filing notice with the Attorney General.

A state- or municipal-owned medical care facility would be allowed to exempt itself from the provisions of this act for four years by stating its reason and filing notice with the Attorney General.

A state- or municipal-owned adult care home would be allowed to exempt itself from the provisions of this act for four years by stating its reason and filing notice with the Attorney General.

The bill would provide that state agencies, municipalities, and private entities shall not be liable for any wrongful act or omission relating to actions of a person licensed to carry a concealed handgun, concerning acts or omissions regarding such handguns, in the following circumstances:

- A state agency or municipality provides adequate security in a public building and properly posts a sign prohibiting concealed carry on the premises pursuant to the act;
- A state agency or municipality does not provide adequate security in a public building but allows concealed carry pursuant to the act;
- A private entity provides adequate security in a private building or facility and properly posts a sign prohibiting concealed carry on the premises pursuant to the act; or

- A private entity does not provide adequate security in a private building or facility but allows concealed carry pursuant to the act.

## **Background**

SB 394 was introduced by the Senate Judiciary Committee at the request of the Kansas Department of Corrections (KDOC). As introduced, the bill contained the provision increasing the permissible time to be discharged. In the Senate Judiciary Committee, a representative of KDOC spoke in support of the bill. The Committee recommended the bill be passed.

In the House Committee on Corrections and Juvenile Justice, the same conferee spoke in support of the bill. The House Committee amended the bill to add a new section establishing the Justice Reinvestment Working Group. The Committee recommended the bill be passed as amended.

The House Committee of the Whole amended the bill to adjust the leadership structure of the Justice Reinvestment Working Group. The Committee of the Whole further amended the bill by adding the text of HB 2422, as passed by the House, exempting corrections and parole officers from the concealed carry training course requirement; adding text modified from HB 2510 regarding the Department of Corrections and home building programs; and adding text modified from HB 2353, as passed by the House, regarding concealed carry in state, municipal, or private buildings.

The bed impact statement prepared by the Kansas Sentencing Commission for SB 394, as introduced, indicates the bill would reduce prison admissions by 117 in FY 2013 and by 140 in FY 2022. The bill would save four prison beds in FY 2013 and five beds in FY 2022.

The fiscal note on SB 394, as introduced, states the number of male inmates currently exceeds the available bed capacity, and the Kansas Sentencing Commission estimates

the shortage will be 335 beds by the end of FY 2012 and 453 beds by the end of FY 2013. To address capacity issues, the Governor's budget includes \$3,896,150 to renovate and operate existing facilities in Labette County and an additional \$1.5 million to contract for prison beds. Further, the Department of Corrections has identified a capacity-expansion project at El Dorado Correctional Facility that would provide 512 beds with a construction cost of \$22,320,329 and operating costs of \$8,184,231 (\$43.79 per inmate per day).

Any capacity needed beyond these options would require additional contract or construction costs. Actual construction costs would depend upon the security level of the beds to be constructed and when construction is actually undertaken, while the actual operating costs would depend upon the base salary amounts, fringe benefit rates, per meal costs, *per capita* health care costs, and other cost factors applicable at the time the additional capacity is occupied. Any prison commitments resulting in additional parolees could require additional staff and resources so that the additional parolees can be effectively supervised. Any fiscal effect associated with the bill is not reflected in *The FY 2013 Governor's Budget Report*.

The fiscal note for HB 2422 indicated a loss of up to \$92,000 of revenue to the Attorney General's Fee Fund by reducing the application fee from \$132.50 to \$75.00 for state corrections officers as proposed in the bill as introduced. No revised fiscal note was available for the bill as amended.

The fiscal note for HB 2510, as introduced, indicated the bill would have no fiscal impact.

The fiscal note for HB 2353, as introduced, indicated the Attorney General believes the fiscal effect associated with the passage of the bill would be negligible and could be absorbed within the agency's existing budget.

According to the fiscal note from the Division of the Budget, the League of Kansas Municipalities indicated

passage of HB 2353 could cost local units of government between \$1.5 million and \$3.0 million statewide. This estimate is based on an average walk-through electronic scanner costing between \$2,500 to \$5,000, plus freight and installation, if 627 cities chose to purchase only one unit each. It is not known if all 627 cities would choose this option, choose to install more than one device, or choose a hand-held wand detector. Some cities might already have either or both of these devices, or would choose not to use detectors for controlling concealed carry in public buildings. In addition, there would be ongoing annual expenditures to staff the detectors and to maintain the equipment. There was nothing reported about the counties or postsecondary educational institutions in the original fiscal note.