

DNA Samples, Gambling Crimes, and Firearms Sentencing Rule; HB 2120

HB 2120 amends the criminal code concerning the collection of DNA samples by the Kansas Bureau of Investigation (KBI), gambling crimes, and a special sentencing rule related to firearms.

To align the law concerning the KBI's collection of DNA samples with current practices, the bill removes references to drawing blood and requires specified persons to submit biological samples to the KBI when a person is fingerprinted as part of the booking procedure. The KBI will provide the necessary kits and supplies for collection, and samples will not be accepted for admission or comparison unless obtained in substantial compliance with the provisions of the bill by an accredited forensic laboratory meeting the national DNA index guidelines established by the Federal Bureau of Investigation. If the person's DNA sample is not properly obtained, the person must provide another sample. Additionally, a sample collected by a law enforcement agency or juvenile justice agency in substantial compliance with the provisions of the bill, or any evidence based upon or derived from such sample, cannot be excluded as evidence in any criminal proceeding on the basis that the sample was not validly obtained.

The bill also amends provisions outlining who must submit such a sample. The bill clarifies that a person must submit a sample when convicted of lewd and lascivious behavior only if the crime was committed in the presence of a person 16 or more years of age. Further, the bill specifies that persons who were incarcerated on May 2, 1991, for a crime committed prior to that date must submit a sample prior to final discharge or conditional release. Finally, the bill strikes outdated provisions, makes other technical amendments, and defines key terms.

In the area of gambling crimes, the bill amends the definition of "bet" to provide that a bet does not include a "raffle," which is defined in the bill as a fundraising event in which:

- Participants donate or agree to donate something of value for an opportunity to win something of value;
- Winning opportunities are represented by tickets differentiated by sequential enumeration;
- Winners are picked by a random drawing of tickets or some other similar method of determining a winner or by a race utilizing inanimate objects floated along a river, stream, canal, or other body of water; and
- The raffle is conducted for the benefit of a nonprofit organization, a state or federal agency, or a political subdivision.

Finally, the bill amends a special sentencing rule related to firearms. Previously, the rule applied when an offender *carried* a firearm to commit a drug felony or *possessed* a firearm in furtherance of a drug felony. The bill changes this language to apply the rule when an offender *possesses* a firearm and such firearm was readily accessible during the commission of, or in furtherance of, a felony involving controlled substances, or any attempt to commit such a crime.