

SESSION OF 2015

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2055

As Amended by Senate Committee on
Corrections and Juvenile Justice

Brief*

HB 2055, as amended, would amend one of the statutes governing the determination of an offender's criminal history to establish a procedure for classifying out-of-state misdemeanor convictions. The comparable Kansas offense would be used to classify the out-of-state conviction as a class A, B, or C misdemeanor. If the comparable Kansas offense is a felony, the conviction would be classified as a class A misdemeanor. If there is no comparable Kansas offense, the conviction would not be included in the criminal history.

The bill also would amend this statute with provisions known as Mija Stockman's Law, which would create a special rule for determining criminal history for a conviction of aggravated battery when a person is driving under the influence (DUI) and great bodily harm to another person or disfigurement of another person results from such act. The rule would provide that for the purposes of determining an offender's criminal history, the first prior adult conviction, diversion in lieu of criminal prosecution, or juvenile adjudication of DUI, commercial DUI, or DUI test refusal would count as one nonperson felony. Each second or subsequent prior adult conviction, diversion in lieu of criminal prosecution, or juvenile adjudication of these offenses would count as one person felony.

The bill would add commercial DUI and DUI test refusal to prior convictions, diversions, or juvenile adjudications that

*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>

shall count as person felonies in determining the criminal history for a conviction of involuntary manslaughter while DUI.

Finally, the bill makes technical amendments to statutory references.

Background

HB 2055 was introduced by the House Committee on Corrections and Juvenile Justice at the request of the Kansas Sentencing Commission. As introduced, the bill contained the provisions related to out-of-state misdemeanor convictions. In the House Committee, the Executive Director of the Sentencing Commission testified in support of the bill. There was no neutral or opponent testimony.

The House Committee of the Whole amended the bill to replace a provision counting an out-of-state misdemeanor without a comparable Kansas offense as a class C misdemeanor with a provision excluding such offenses from the criminal history calculation.

In the Senate Committee on Corrections and Juvenile Justice, the Executive Director of the Sentencing Commission testified in support of the bill. There was no neutral or opponent testimony.

The Senate Committee amended the bill by adding provisions modified from Sub. for HB 2115, Mija Stockman's Law. Further background for Sub. for HB 2115 is provided below.

The fiscal note prepared by the Division of the Budget on HB 2055, as introduced, indicates it would have no fiscal effect on the Judicial Branch and no effect on prison bed space.

Background of Sub. for HB 2115

HB 2115 was introduced by the House Judiciary Committee at the request of Representative Mason.

In the House Judiciary Committee, Representatives Mason and Johnson, Senator Wilborn, friends and family of Mija Stockman, and the McPherson County Attorney offered testimony in support of the bill. There was no neutral or opponent testimony.

The House Committee adopted a substitute bill, which would create a special sentencing rule for the crime of aggravated battery when a person is DUI and great bodily harm to another person or disfigurement of another person results from such act. The bill, as introduced, would have amended the definition of aggravated battery to include driving under the influence of alcohol or drugs when permanent disability of another person results from such act, which would have been a severity level 4, person felony.

In the Senate Judiciary Committee, Representative Mason, the McPherson County Attorney, and Mija Stockman's mother testified in support of the bill. Senator Wilborn and Representatives Couture-Lovelady and Johnson submitted written testimony supporting the bill. There was no neutral or opponent testimony.

The fiscal note prepared by the Division of the Budget indicates HB 2115, as introduced, would have an effect on adult prison admissions and prison beds, but the precise effect cannot be determined because victim information to define "permanent disability" is not available from which an estimate can be made. The Office of Judicial Administration indicates the bill, as introduced, could increase the number of cases and appeals filed, which could require additional judicial and non-judicial personnel time and also could increase docket fee revenue. A precise effect cannot be determined, however.