

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2073

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2073, as amended, would amend law regarding the crime of sodomy, criminal appeals, and taxing of costs against a convicted criminal defendant, as follows.

The bill would amend the crime of sodomy to remove the means of committing the crime between persons who are 16 or more years of age and members of the same sex. The bill also would specify that the means of committing the crime by causing a child 14 or 15 years of age to engage in sodomy with any person and the means of committing the crime of aggravated sodomy by causing a child under 14 years of age to engage in sodomy with any person must involve a person other than the offender.

The bill would amend a provision listing certain claims arising from criminal cases that may be reviewed in “any appeal” to specify that these claims may be reviewed in “any direct appeal.” The claims, which would not be amended by the bill, are:

- A departure sentence resulted from partiality, prejudice, oppression, or corrupt motive;
- The sentencing court erred in including or excluding recognition of a prior conviction or juvenile adjudication for criminal history scoring purposes; or

*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>

- The sentencing court erred in ranking the crime severity level of the current crime or in determining the appropriate classification of a prior conviction or juvenile adjudication for criminal history purposes.

Finally, the bill would amend a statute in the Indigent Defense Services Act requiring the court to tax against a convicted criminal defendant the lesser of all expenditures made by the State Board of Indigents' Defense Services (BIDS) to provide counsel and other defense services to the defendant or the amount provided in reimbursement tables. The bill would amend this statute by removing provisions requiring the court to take account of the financial resources of the defendant and the nature of the burden that payment of the above amount will impose, allowing a defendant to petition the court to waive payment under certain circumstances, and allowing such waiver if it appears to the court that payment would impose manifest hardship on the defendant or the defendant's immediate family.

The bill would make technical amendments to statutory references.

Background

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of the Office of the Attorney General (Office). As introduced, the bill contained the provisions adding "other than the offender" to the sodomy statute, limiting consideration of certain claims to direct criminal appeals, and removing the language in the Indigent Defense Services Act.

In the House Committee hearing, a representative of the Office testified in support of the bill. A criminal defense attorney testified in opposition to the provisions regarding direct criminal appeals and the Indigent Defense Services Act.

The House Committee amended the bill to remove the means of committing sodomy between persons who are 16 or more years of age and members of the same sex.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Judicial Branch indicates enactment of the bill would have no fiscal effect on the courts. BIDS indicates enactment of the bill could have a fiscal effect, but it cannot estimate the effect. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.