

SESSION OF 2022

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2361**

As Recommended by Senate Committee on
Judiciary

Brief*

Senate Sub. for HB 2361 would create law requiring the Kansas Supreme Court (Court) to adopt rules for establishment and operation of specialty court programs within the State. The bill would allow the chief judge of a judicial district to establish a specialty court program in accordance with the rules adopted by the Court.

Definition

The bill would define “specialty court” to mean a district court program that uses therapeutic or problem-solving procedures to address underlying factors that may be contributing to a person’s involvement in the judicial system, including, but not limited to, mental illness or drug, alcohol, or other addictions. Procedures may include treatment, mandatory periodic testing for prohibited drugs or other substances, community supervision, and appropriate sanctions and incentives.

Specialty Court Funding Advisory Committee

The bill would establish the Specialty Court Funding Advisory Committee (Committee) within the judicial branch.

*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 bill would require the Committee to:

- Evaluate resources available for assessment and treatment of people assigned to specialty courts or for the operation of specialty courts;
- Secure grants, funds, and other property and services necessary or advantageous to facilitate the operation of specialty courts;
- Recommend to the Judicial Administrator the allocation of resources among the various specialty courts operating within the state; and
- Recommend legislation and rules to aid in development of specialty courts.

Advisory Committee Membership

The bill would provide that the Committee would consist of the following members:

- The Chairperson of the House Committee on Judiciary or designee;
- The Chairperson of the Senate Committee on Judiciary or designee;
- The Chairperson of the Legislative Budget Committee or designee;
- One member of the Legislature from the minority party appointed jointly by the Minority Leader of the House of Representatives and the Minority Leader of the Senate;
- Five members appointed by the Chief Justice of the Court (Chief Justice), including one prosecutor and one criminal defense attorney; and

- The following ex officio, nonvoting members:
 - One member appointed by the Secretary of Corrections;
 - One member appointed by the Secretary for Aging and Disability Services; and
 - One drug and alcohol addiction treatment provider appointed by the Kansas Sentencing Commission.

Membership Terms

The bill would specify the following membership terms:

- Three members appointed by the Chief Justice would be appointed for a term of three years;
- Two members appointed by the Chief Justice would be appointed for a term of two years; and
- The ex officio, nonvoting members would be appointed for a term of two years.

Vacancies and Appointment Date

The bill would further specify that members would serve until a qualified successor is appointed and vacancies would be filled in the same manner as provided by the bill. The bill would require members to be appointed prior to August 1, 2021.

Committee Chairperson, Technical Assistance

The bill would require the Chief Justice to designate the chairperson of the Committee and would specify that the Office of Judicial Administration (OJA) may provide technical assistance to the Committee.

Committee Member Compensation

The bill would specify that all members of the Committee who are not judicial members shall receive compensation, travel expenses, and subsistence expenses or allowances as provided in continuing law. Judicial members would receive reimbursement for travel expenses and subsistence expenses or allowances as provided in continuing law.

Specialty Court Funding

The bill would provide that any judicial district, local government, or the Judicial Branch is not prohibited from directly applying for, receiving, and retaining funding to facilitate the operation of specialty courts. The bill would not require funds received by a judicial district or local government to be remitted to the State Treasurer.

Specialty Court Resources Fund

The bill would create the Specialty Court Resources Fund (Fund) in the State Treasury, to be administered by the Judicial Administrator. The bill would direct all expenditures from the Fund to be for the purpose of operating specialty court programs established pursuant to the bill, including administrative costs related to such programs. The bill would specify that all expenditures from the Fund shall be made in accordance with appropriation acts upon warrants of the Director of Accounts and Reports issued pursuant to vouchers approved by the Judicial Administrator or designee.

The bill would further specify the funds acquired through appropriations, grants, gifts, contributions, and other public or private sources that are designated for specialty court operations shall be remitted to the State Treasurer in accordance with continuing law, and upon receipt of each remittance, the State Treasurer would deposit the entire amount into the State Treasury to the credit of the Fund.

Completion of a Specialty Courts Program

The bill would provide a sentence may be reduced or modified for a person sentenced to participate in a specialty courts program who successfully completes the program. The bill would further clarify that the bill shall not be construed to authorize a judge to impose, modify, or reduce a sentence below the minimum sentence required by law.

The bill would make a corresponding change to a sentencing statute to allow a judge to order a person who has been found guilty of a crime to participate in the specialty court program, as provided for in the bill.

Expungement

The bill would provide that, subject to certain exceptions in continuing law, any person who has completed the requirements of a specialty court program established pursuant to the bill may petition the district court for expungement of the conviction and related arrest records. The bill would allow the court to waive all or part of the docket fee imposed for filing such a petition.

The bill would amend law that directs a court to order a petitioner's arrest record, conviction, or diversion expunged and to expunge such records if no felony proceeding is presently pending or being instituted against the petitioner. Continuing law also requires that the circumstances and behavior of the petitioner warrant expungement and the expungement is consistent with the public welfare.

Technical and Conforming Amendments

The bill would make a technical amendment to specify certain restitution provisions of continuing law are procedural in nature and are to be applied retroactively.

The bill would make further technical and conforming amendments to ensure consistency in statutory phrasing.

Background

The bill was introduced by the 2021 House Committee on Corrections and Juvenile Justice at the request of Representative Jennings, who stated the request was on behalf of the Kansas Criminal Justice Reform Commission (KCJRC).

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on February 23, 2021, **proponent** testimony was provided by the Chief Judge of the 23rd Judicial District who stated he was chairperson of the KCJRC subcommittee on specialty courts. He described the drug court in his judicial district and stated other judicial districts have shown an interest in establishing a similar program.

Written-only proponent testimony was provided by a representative of the OJA. No other testimony was provided.

Senate Committee on Judiciary

In the Senate Committee hearing on March 25, 2021, representatives of the Kansas District Judges Association and OJA testified as **proponents** of the bill. The Chief Judge of the 23rd Judicial District and a representative of the Kansas County and District Attorneys Association provided written-only proponent testimony. No other testimony was provided.

On February 8, 2022, the Senate Committee recommended a substitute bill with the same substantive provisions but with the underlying statutes updated to reflect amendments made by other legislation in the 2021 Session.

Fiscal Information

According to the fiscal note dated February 23, 2021, prepared by the Division of the Budget on the bill, as introduced, OJA states enactment of the bill would have a negligible fiscal effect on the Judicial Branch. The Kansas Sentencing Commission (Commission) states enactment could have an effect on prison admissions and beds; however, the fiscal effect could not be estimated. The bill would not have an effect on the workload of the Commission.

Legislative Administrative Services (LAS) estimates enactment of the bill would result in additional costs to the Legislature for FY 2022 of approximately \$8,587 from the State General Fund. These costs would be for 4 legislators attending 4 meetings, with \$1,419 for salaries and wages, \$2,416 for subsistence, \$2,240 for mileage, \$96 for tolls, and \$2,416 for en route days. LAS notes if any Committee meetings are held during the Legislative Session, on days legislators are already being paid, those members would not receive any reimbursement, pursuant to the bill.

The Department of Corrections states there would be no fiscal effect on its operations if the bill is enacted. The Kansas Department for Aging and Disability Services estimates any fiscal effect resulting from enactment of the bill would have a negligible fiscal effect on agency operations.

The Kansas Association of Counties states enactment of the bill could have a fiscal effect on any Kansas counties that establish a specialty court and there could be costs associated; however, the Fund could offset some of those costs.

Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Drug court; mental health court; specialty courts; veterans court