

SESSION OF 2005

**SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR HOUSE BILL NO. 2087**

As Amended by Senate Committee on
Judiciary

Brief*

Substitute for HB 2087 would amend the Criminal Code to do establish two new crimes: vital records identity fraud and identity fraud. The bill also expands the scope of the crime of identity theft to delete the current requirement that the crime be committed an "economic" purpose and makes other changes.

The bill would do the following:

- ! Establish the crime of vital records identity fraud related to birth, death, marriage, and divorce certificates as a severity level 8 non-person felony. Elements of this crime would include:
 - " willfully and knowingly supplying false information intending that the information be used to obtain a certified copy of a vital record;
 - " making, counterfeiting, altering, amending, or mutilating any certified copy of a vital record without lawful authority and with the intent to deceive; or
 - " willfully and knowingly obtaining, possessing, using, selling, or furnishing or attempting to obtain, possess, or furnish to another for any purpose of deception a certified copy of a vital record.

Provisions of the crime do not apply to:

*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>

- " a person under 21 years of age who uses an identification document of another to obtain certain alcoholic beverages;
- " a person under 18 years of age who uses identifications of another to obtain
 - cigarettes or tobacco products;
 - a periodical or videotape or other communication medium that contains or depicts nudity;
 - admittance to a performance, live or film, that prohibits the attendance of a person based on age; or
 - an item prohibited by law for use or consumption by such person.
- ! Establish the crime of identity fraud as a severity level 8 non-person felony. Elements of this crime would include:
 - " willfully and knowingly supplying false information intending that the information be used to obtain an identification document;
 - " making, counterfeiting, altering, amending, or mutilating any identification document without lawful authority; and with the intent to deceive; or
 - " willfully and knowingly obtaining, possessing, using, selling, or furnishing or attempting to obtain, possess, or furnish to another for any purpose of deception an identification document.
- ! Expand the crime of identity theft to delete the requirement that there be an intent to defraud for "economic" benefit and provide instead that the intent to defraud be for "any" benefit and to reduce the penalty from a level 7 person felony to a level 8 nonperson felony.
- ! Change the penalty for the crime of dealing in false identification documents from a level 10 to a level 8 nonperson felony and expand the definition of "identification document" to include banking instruments such as credit or debit cards and "certified" copies of death, marriage, and divorce certificates.

Background

The substitute bill contains provisions of HB 2087 dealing with identity theft as well as provisions of HB 2179 dealing with vital records identity fraud. Both of the concepts of these bills are combined in the substitute bill.

The State Registrar and Director of the Center for Health and Environmental Statistics, Kansas Department of Health and Environment, expressed support for HB 2179.

Those who appeared in support of the original HB 2087 included the legislative sponsor and conferees on behalf of the Kansas Peace Officers Association and the City of Emporia Police Department. A letter of support was received from the Office of the Attorney General.

The Senate Committee made the crimes of vital records identity fraud, identity fraud, identity theft, and dealing in false identification documents all level 8, nonperson felonies and made several technical amendments.

The fiscal note on the substitute bill was not available when the bill passed out of the House Committee.