

SESSION OF 2023

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2031**

As Amended by House Committee on  
Corrections and Juvenile Justice

**Brief\***

HB 2031, as amended, would create a special sentencing rule stating that, notwithstanding statutory provisions regarding lesser and included crimes or any other provisions of law to the contrary, the sentence for a violation of criminal possession of a weapon by a convicted felon shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed, if the trier of fact finds beyond a reasonable doubt that:

- The weapon the offender possessed during such violation was a firearm; and
- Such firearm was possessed by the offender during the commission of any violent felony, as defined by the bill.

The bill would define “violent felony” to mean the following crimes defined in statute:

- Capital murder or first- or second-degree murder;
- Voluntary manslaughter;
- Kidnapping or aggravated kidnapping;
- Aggravated assault or aggravated assault of a law enforcement officer;

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\*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>

- Aggravated battery or aggravated battery against a law enforcement officer;
- Mistreatment of a dependent adult or mistreatment of an elder person;
- Robbery or aggravated robbery;
- Rape;
- Aggravated criminal sodomy;
- Aggravated endangering a child;
- Abuse of a child;
- Any felony offense under statutes prohibiting the unlawful manufacturing, cultivation, or distribution of controlled substances;
- Burglary or aggravated burglary;
- Arson or aggravated arson;
- Treason;
- Criminal discharge of a firearm;
- Fleeing or attempting to elude a police officer;
- Any felony that includes the domestic violence designation, as determined by the trier of fact under the relevant statutory procedure; or
- Any attempt, conspiracy, or criminal solicitation of any felony offense described above.

The bill would provide that a sentence imposed under its provisions would not be considered a departure sentence and would not be subject to appeal, and no other sentence would be permitted.

A whereas clause would provide amendments made by the bill would be known as the “Reduce Armed Violence Act.”

## **Background**

The bill was introduced by the House Committee on Corrections and Juvenile Justice at the request of a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association.

### ***House Committee on Corrections and Juvenile Justice***

In the House Committee hearing on January 25, 2023, representatives of the Johnson County Sheriff’s Office, the Kansas Gang Investigators Association, the Kansas Sheriffs Association, the Kansas State Lodge Fraternal Order of Police, and the Wichita Police Department testified as **proponents** of the bill, stating the would address the rise in violent crime being committed by convicted felons while using firearms.

Written-only proponent testimony was provided by the City of Topeka.

A representative of the Board of Indigents’ Defense Services Legislative Committee and a private citizen testified as **opponents** of the bill, stating concerns with reducing judicial discretion and offenses involving cannabis within the qualifying crimes.

No other testimony was provided.

The House Committee amended the bill to remove the possession of controlled substances from the list of violent felonies.

## **Fiscal Information**

According to the fiscal note prepared by the Division of Budget on the bill, as introduced, the Kansas Sentencing Commission (Commission) estimates enactment of the bill would result in an increase of 29 adult prison beds needed by the end of FY 2023 and an increase of 232 adult prison beds needed by the end of FY 2033. The current estimated available bed capacity is 9,428 for males and 936 for females. Based upon the most recent ten-year projections, it is estimated the year-end population will total 7,933 male and 764 female inmates in FY 2023.

The Department of Corrections indicates that enactment of the bill would increase marginal costs for the operation of correctional facilities for food, clothing, and other supplies. The annual cost is estimated to be \$100,769 based on the FY 2022 marginal cost of \$9.52 per day per occupied bed.

The Office of Judicial Administration (OJA) indicates enactment of the bill would require findings of certain facts to sentence an offender which could result in longer trial lengths but a fiscal effect cannot be estimated.

Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Crimes; Reduce Armed Violence Act; criminal possession of a weapon