

SESSION OF 2007

**CONFERENCE COMMITTEE REPORT BRIEF  
SENATE BILL NO. 166**

As Agreed to April 2, 2007

**Brief\***

SB 166 would:

- Expand the list of sex offenses that would qualify a second-time sex offender for a "hard 40" sentence;
- Authorize discharge of an offender from the Juvenile Justice Authority's custody for a new conviction while incarcerated in a juvenile correction facility;
- Repeal the sunset provision of the statute regarding the arrest powers of federal law enforcement officers;
- Repeal certain crimes and update penalties in specified crimes; and
- Amend the crime of unlawfully hosting a minor to change the statutory language from "persons under the age of 18" to "a minor."

**Sex Offenses**

The bill would expand the list of sex offenses that would qualify a second-time sex offender for a life sentence with a mandatory minimum term of imprisonment of not less than 40 years ("Hard 40"). The list would be expanded by adding crimes that were in effect at any time prior to the effective date

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of the Act which are substantially the same as the following crimes:

- Aggravated trafficking, if the victim is less than 14 years of age;
- Rape of a child who is under 14 years of age;
- Aggravated indecent liberties with a child under 14 years of age;
- Aggravated criminal sodomy with a child who is under 14 years of age;
- Promoting prostitution, if the prostitute is less than 14 years of age;
- Sexual exploitation of a child who is under 14 years of age; or
- An attempt, conspiracy, or criminal solicitation of any of the above crimes.

The "Hard 40" provision of the bill would not apply to unlawful voluntary sexual relations.

The bill also would clarify that sexual exploitation of a child is a severity level 5 person felony, unless the child is under 14 years of age and the offender is 18 years of age or older. The latter is an off-grid personal felony.

### **Juveniles**

In addition, the bill would make a juvenile incarcerated in a juvenile correctional facility who commits an offense which, if committed by an adult, would constitute commission of a felony, subject to a new sentence imposed as a consecutive sentence or as a new conviction subject to the discretion of the court,

even when the new crime otherwise presumes a nonprison sentence.

The offender would be discharged from the Juvenile Justice Authority's custody for the new conviction.

### **Arrest Powers**

The bill also would repeal the sunset provision of the statute regarding the arrest powers of federal law enforcement officers.

### **Repeal and Update of Certain Crimes**

The bill would update the penalty provisions in three statutes. KSA 65-28,107, which provides that a person convicted of willfully concealing, canceling, defacing, obliterating or damaging the declaration of another without consent, or forges a revocation of the declaration of another would be updated to a class A, person misdemeanor. A person convicted of falsifying or forging the declaration of another would be subject to a severity level 7, person felony. Second, the bill would update the penalty provision in KSA 17-1311a, regarding misuse of the permanent maintenance funds of cemetery corporations, to a severity level 7, nonperson felony. Third, the bill would update the penalty provision in KSA 47-604, regarding violation of a quarantine affecting domestic animals, to a severity level 7, nonperson felony.

The bill also would repeal criminal statutes regarding the penalty for violating KSA 66-275 which was repealed in 1998; and knowingly falsifying fingerprints or photos regarding private investigative or security operations.

## **Unlawfully Hosting a Minor**

The bill would clarify that the crime of unlawfully hosting minors consuming alcohol or cereal malt beverage is intentionally permitting a person's residence or any land, building, structure or room owned, occupied or procured by such person to be used by an invitee of such person or an invitee of such person's child or ward, in a manner that results in the possession or consumption therein of alcohol or cereal malt beverages by a minor (under current law unlawfully hosting minors has a minimum fine of \$1,000 and applies to persons under 18 years of age).

The bill would be effective upon publication in the *Kansas Register*.

## **Conference Committee Action**

Conference Committee agreed to adopt the House position with the following amendments:

- Authorize imprisonment with the Secretary of Corrections if an offender, incarcerated in a Juvenile Correctional Facility, commits a new felony and authorize the discharge of the offender from the Juvenile Justice Authority's custody for the new conviction;
- Repeal the sunset provision of the statute regarding the arrest powers of federal law enforcement officers (House position on HB 2360);
- Make it unlawful to host a minor rather than a person under the age of 18; and
- Include provisions of SB 324 (Repealing certain crimes and updating penalties) without the provisions known as Alexa's Law.

## Background

The Senate Committee amended the bill, as introduced, to:

- Strike the phrase, "that is comparable to an offense defined" because it is not as precise as the phrase that was inserted by the Committee, *i.e.*, "which is substantially the same as crimes listed."; and
- Add language that made it clear that the "Hard 40" provision does not apply to "Romeo and Juliet" scenarios.

The House Committee of the Whole inserted the provision regarding juveniles.

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- Repeal the sunset provision of the statute regarding the arrest powers of federal law enforcement officers (House position on HB 2360);
- Make it unlawful to host a minor rather than a person under the age of 18; and
- Include provisions of SB 324 (Repealing certain crimes and updating penalties) to delete the provisions known as Alexa's Law.

Sentencing amendments