

*Corrected*  
*SESSION OF 2007*

## **SUPPLEMENTAL NOTE ON SENATE BILL NO. 97**

As Amended by Senate Committee on  
Judiciary

### **Brief\***

SB 97, as amended, would create a special application in sentencing which would make the sentence for a third or subsequent conviction for burglary a presumptive prison sentence. Additionally, a defendant convicted of burglary, with a prior criminal history of a burglary and an aggravated burglary, also would be presumptive prison. The sentence would not be considered a departure sentence and would not be subject to an appeal.

### **Background**

The proponents of the bill included Richard Samaniego, Kansas County and District Attorney's Association and written testimony provided by Ed Klumpp, Kansas Association of Chiefs of Police.

There was no testimony in opposition to the bill.

Neutral testimony was provided by Helen Pedigo, Kansas Sentencing Commission.

The Committee amended the bill to strike the reference to aggravated burglary on page 5, line 42 because aggravated burglary is a level 5 person felony and a sentence for that conviction, with two prior nonperson felonies, already would be a presumptive prison sentence. The other amendment was technical in nature.

The fiscal note from the Division of Budget states that, according to the Office of Judicial Administration, the bill would have no discernible fiscal effect on the Judiciary. The Kansas Sentencing Commission estimates that passage of SB 97 would require an additional 14 to 43 adult prison beds in FY 2008, increasing to an additional 29 to 85 adult prison beds by FY 2017.

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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>

When considered by custody level, the Department of Corrections has been operating at near or excess capacity for medium and maximum custody male inmates. Nearly all of the current available capacity for male inmates is at the minimum custody level. If the bill contributes to an increase in the inmate population sufficient to require additional facility capacity, one-time construction and equipment costs would be needed. In addition, annual costs to staff and operate the additional capacity would be required.

If the bill does not contribute to the need for capacity expansion, additional annual costs of approximately \$2,000 per inmate for basic support, including food service, would be needed. Additional expenditures for health care also could be incurred, if the increase in the inmate population required adjustments in the medical contract. The health care contract provides that whenever the inmate count at a facility changes by more than a specified percentage, an adjustment in contract payments is made. The amount of any adjustment would depend on the specific facility involved. Any fiscal effect resulting from this bill has not been included in *The FY 2008 Governor's Budget Report*.