

SESSION OF 2007

SUPPLEMENTAL NOTE ON SENATE BILL NO. 114

As Amended by House Committee of the Whole

Brief*

SB 114, as amended, would amend the penalty provision for certain fraudulent insurance acts. The bill would provide that any combination of fraudulent insurance acts which occur in a period of six consecutive months and involve \$25,000 or more shall have a presumptive sentence of imprisonment, regardless of location on the sentencing grid. Under current law, a fraudulent insurance act involving \$25,000 or more would be considered a severity level 6, nonperson felony and certain individuals would not be subject to a prison sentence.

Background

SB 114 was requested by the Insurance Commissioner whose representative indicated that the bill is intended to decrease the frequency of insurance fraud by increasing the penalty associated with the highest dollar amount of fraud. The bill would put Kansas on par with insurance fraud standards in other states and also would synchronize the Kansas statute with the penalties currently employed by the Kansas Securities Commissioner in prosecuting for the same dollar amount.

The Senate Committee on Financial Institutions and Insurance amended the bill to allow for an aggregate of acts totaling \$25,000 in a specified time period. The penalty for the aggregated acts would be presumptive imprisonment.

The House Committee of the Whole amendment limits the fraudulent insurance acts that would be subject to a presumptive sentence of imprisonment to a combination of acts committed in a specific time frame. The penalty for a single act (involving \$25,000 or more) would be subject to the provisions of current law.

The fiscal note on the original bill prepared by the Division of the Budget indicates that passage of the bill would not have a fiscal effect on the operations of the Insurance Department, Attorney General, or Judiciary. The Kansas Sentencing Commission estimates that passage of the bill would require one additional bed every year from FY 2008 through FY 2009.

The fiscal estimate from the Sentencing Commission indicates that the Kansas Department of Corrections has been operating at near or excess capacity for medium and maximum custody male inmates and that nearly all available current 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 staff costs to operate the additional capacity would be required. If there is not a need for capacity expansion created by the bill, then additional annual costs of approximately \$2,000 per inmate for basic support 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. Any fiscal effect resulting from the enactment of this bill is not reflected in *The FY 2008 Governor's Budget Report*.