

SESSION OF 2007

SUPPLEMENTAL NOTE ON SENATE BILL NO. 324

As Amended by House Committee of the Whole

Brief*

SB 324, as amended, 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The bill also would repeal the criminal statutes regarding the penalty for violating KSA 66-275 which was repealed in 1998; and knowingly falsifying fingerprints or photos regarding private investigative or security operations.

In addition, the bill would enact Alexa's Law dealing with crimes against unborn children, such as fetal homicide. "Unborn child" would be defined to mean a living individual organism of the species homo sapiens, in utero, at any stage of gestation from fertilization to birth. Enumerated crimes against persons, which also would mean an unborn child, include the following:

*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>

- Murder in the first degree at KSA 21-3401
- Murder in the second degree at KSA 21-3402
- Voluntary manslaughter at KSA 21-3403
- Involuntary manslaughter at KSA 21-3404
- Vehicular homicide at KSA 21-3405
- Battery at KSA 21-3412
- Aggravated battery at KSA 21-3414
- Capital murder at KSA 21-3439

Attempt, conspiracy, and solicitation to commit the above mentioned crimes would be incorporated in the bill.

The bill would not apply to:

- Any act committed by the mother of the unborn child;
- Any medical procedure, including abortion; and
- The lawful dispensation or administration of lawfully prescribed medication.

Background

The proponents of the bill included Helen Pedigo, Executive Director of the Kansas Sentencing Commission (KSC); Mark Stafford, General Counsel of the Kansas Board of Healing Arts; and Melissa Wangemann, Legal Counsel for the Secretary of State's Office. Ms. Pedigo testified that the KSC requested the introduction of this bill to repeal statutes that include classification of penalties which no longer exist after the passage of the Kansas Sentencing Guidelines in 1993. Mr. Stafford and Ms. Wangemann requested that the penalty provisions in the statutes affecting their agencies be updated to reflect current classification of penalties rather than repeal the criminal statutes. Ms. Pedigo did not object to this alternative.

Joseph Molina, Assistant Attorney General, provided testimony in opposition to the bill. The Attorney General's Office objected to the repeal of the criminal statute on misuse of permanent maintenance fund by cemetery corporations. Mr.

Molina suggested the penalty section be updated to reflect the current classification of penalties.

The Senate Committee amended the bill to:

- Update the penalty provisions in KSA 65-28,107. 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 is subject to a class A, person misdemeanor. A person convicted of falsifying or forging the declaration of another is subjected to a severity level 7, person felony; and
- Update the penalty provision in KSA 17-1311a, regarding misuse of the permanent maintenance fund of cemetery corporations, to a severity level 7, nonperson felony.

The Senate Committee of the Whole amended the bill to update the penalty provision in KSA 47-604, regarding violation of a quarantine affecting domestic animals, to a severity level 7, nonperson felony.

The House Committee deleted the repeal of KSA 21-3727, dealing with injury to a domestic animal.

The House Committee of the Whole amended the bill to insert provisions of 2007 HB 2006, also known as Alexa's Law.

The fiscal note from the Division of Budget states that passage of the bill, as introduced, would decriminalize certain activities. According to the Division of Budget, any fiscal effect on the courts would be inconsequential; however, the effect on the general public cannot be determined.