

SESSION OF 2008

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2780**

As Agreed to May 2, 2008

Brief*

HB 2780 amends the law regarding the following provisions:

- Cruelty to animals fine would be increased, on a second or subsequent conviction, to not less than \$500 nor more than \$2,500;
- Aggravated endangering a child is an offense that could not be expunged;
- An offender, whose non-prison sanction is revoked and whose crime was sexually motivated, would be required to serve post-release supervision
- When a non-prison sanction is issued on a presumptive prison sentence, an offender would be required to serve post-release supervision;
- Domestic battery fines would be increased from \$1,000 to \$7,500; and
- Add the Heart of America Regional Computer Forensics Laboratory to the list of facilities that can perform and charge for criminalistic laboratory services.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

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Conference Committee Action

The Conference Committee agreed to the following:

- Delete provisions of the bill dealing with the Department of Corrections and treatment of inmates; and
- Retain provisions regarding domestic battery, cruelty to animals, expungement restriction, violations of non-prison sanctions, and the Heart of America Regional Computer Forensics Laboratory provision.

Background

The proponents of the original bill in the House Committee were Roger Werholtz, Secretary, Kansas Department of Corrections; Judge Ernest Johnson, Judge of the 29th Judicial District (Wyandotte County); and Marilyn Scafe, Executive Director, Kansas Reentry Policy Council.

There was no testimony in opposition to the bill in the House Committee.

The House Committee on Judiciary amended the bill to:

- Clarify that the notified prosecutor, or the prosecutor if the new conviction is in the same county, has 90 days to obtain personal service on the offender;
- Clarify that the prosecutor does not have to personally serve the warrant on the offender;
- Add the Heart of America Regional Computer Forensics Laboratory to the list of facilities that can perform and charge for criminalistic laboratory services.
- Adopt the amendments recommended by the Revisor to clarify:

- The fine for cruelty to animals;
- That aggravated endangering a child is an offense that cannot be expunged;
- That an offender whose non-prison sanction is revoked and whose crime was sexually motivated is required to serve post-release supervision;
- That when a non-prison sanction is issued on a presumptive prison sentence, an offender is required to serve post-release supervision; and
- That the fine for a domestic battery would be increased from \$1,000 to \$7,500.

The House Committee of the Whole inserted the provision that would add the Heart of America Regional Computer Forensics Laboratory to the list of facilities that perform criminalistic laboratory services.

The proponents of the bill in the Senate Committee were Judge Ernest Johnson, 29th Judicial District (Wyandotte County); Roger Werholtz, Secretary, Kansas Department of Corrections; and Dave Debenham, Deputy District Attorney, Shawnee County. Marilyn Scafe, Executive Director, Kansas Re-Entry Policy Council, and Representative Pat Colloton provided written testimony in support of the bill.

The Senate Committee amended the bill to:

- Clarify that a notice to appear would accompany any warrant issued pursuant to the bill;
- Provide that a hearing would be required within 120 days of receipt of the notice to the prosecutor;

- Authorize a court, on a second or subsequent revocation, for an offender who violates conditions of release, assignment to a Community Correctional Services Program, or a non-prison sanction, to place the offender in a state substance abuse treatment facility established by the KDOC for at least four months for intensified substance abuse treatment if the court has made the findings that substance addiction is the underlying factor for revocation, the state substance abuse facility is likely to be more effective than prison in reducing the risk of offender recidivism, and participation in an intensive substance abuse treatment program would serve the community and promote offender reformation; and
- Authorize a court to retain jurisdiction to modify an offender's sentence to a less severe penalty after the successful completion of the intensive treatment program. If the offender's term of imprisonment expires, the offender would be placed on the applicable post-release supervision.

The fiscal note states that the Kansas Sentencing Commission estimates that the enactment of HB 2780, as introduced, would not have an effect on adult prison beds. As a result, the Department of Corrections estimates the bill would not have a fiscal effect on agency operations. The Office of Judicial Administration indicates that there could be a fiscal effect on the operations of the court system; however, the agency estimates the fiscal effect would be negligible and could be accommodated within existing resources. Any fiscal effect resulting from HB 2780 is not reflected in *The FY 2009 Governor's Budget Report*.