

SESSION OF 2009

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2059

As Recommended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2059 would amend the crime of receiving or acquiring proceeds derived from a violation of the Uniform Controlled Substance Act (UCSA) to include proceeds derived from violations of similar offenses from another jurisdiction. Current law only makes it illegal to receive or acquire proceeds derived from violations of the Kansas UCSA rather than from any jurisdiction.

Background

The proponents of the bill, as introduced, who testified at the House Committee on Corrections and Juvenile Justice were Randy Hearrell, Executive Director, Kansas Judicial Council; and Ed Klumpp, on behalf of the Kansas Association of Chiefs of Police and the Kansas Peace Officers Association. Mr. Hearrell stated that the Judicial Council's Criminal Law Advisory Committee studied the case that was the impetus to this bill. It is captioned *State v. Dominguez-Pena*.

There was no opponent of the bill, as introduced, who testified at the House Committee on Corrections and Juvenile Justice.

The fiscal note from the Division of Budget states that passage of the bill has the potential for increasing litigation in the courts because of the new violation created by the bill. If it does, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system.

*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>

However, it is not possible to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect on the operations of the court system cannot be determined. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources.

The Kansas Sentencing Commission estimates that passage of HB 2059 would require additional adult prison beds; however, the precise number is unknown, because there are no existing data for similar offenses from other jurisdictions. The current capacity for male inmates is 8,553 and projections indicate that this capacity will be exceeded by the end of FY 2016. If HB 2059 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, operate, and maintain the additional capacity would be incurred. The 2007 Legislature authorized a construction package that included capacity expansion projects at El Dorado, Yates Center, Ellsworth, and Stockton in the event population estimates indicate expansion is needed. If one or more of these projects are necessary, the estimated total costs would range from \$7.0 million for one project at Ellsworth to \$66.4 million for all four projects. The actual construction costs would depend on when construction is undertaken. The actual operating costs incurred would depend on the base salary amounts, fringe benefit rates, food service costs, and inmate health care costs applicable at the time the additional capacity is occupied. If HB 2059 contributes to an increase in the inmate population beyond this additional capacity, other expansion projects would need to be identified.

If the effect from HB 2059 does not require expansion of capacity, the additional annual costs would be approximately \$2,400 per inmate for basic support, including food services. Additional expenditures for health care could also be incurred if the increase in the inmate population requires 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 2010 Governor's Budget Report*.