

SESSION OF 2010

**SUPPLEMENTAL NOTE ON
SUBSTITUTE FOR SENATE BILL NO. 353**

As Amended by House Committee of the Whole

Brief*

Sub. for SB 353 would rename the existing crimes of trafficking and aggravated trafficking to make it human trafficking and aggravated human trafficking, and make corresponding changes in all statutes referencing these crimes. Additionally, the bill would expand the crime of human trafficking to add coercing employment and peonage (involuntary servitude) as two additional ways to commit the crime. The bill would clarify that the use of the labor of any person incarcerated in a state or county correctional facility or city jail would not be human trafficking. Human trafficking would remain a severity level 2, person felony.

The bill also would add human trafficking and aggravated human trafficking to the list of crimes which are subject to forfeiture, *i.e.*, seizure of the property and the proceeds of the illegal activity.

Finally, the bill would amend the Kansas Offender Registration Act. Under current law, an offender convicted on or after May 29, 1997 of promoting prostitution or patronizing a prostitute where the victim is under 18 years of age must register pursuant to the Act. The bill would expand the list of offenders who must register to include those convicted on or after July 1, 2010 of promoting prostitution or patronizing a prostitute, regardless of whether the victim is under 18 years of age.

*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>

Background

SB 353, as introduced, would have created the two new crimes of coercing employment and peonage. Additionally, it would have expanded the newly renamed crime of human trafficking to add knowingly transporting or concealing any person into the state who is not lawfully present in the United States. Transporting or concealing such person would have been a severity level 2, person felony but also would have been subject to a ten-year enhancement if the offense was part of an ongoing commercial or criminal organization or enterprise and the aliens' lives were in danger or the aliens presented a life-threatening health risk to the people of Kansas. All of these sections are deleted in Sub. for SB 353. However, the crimes of coercing employment and peonage are incorporated into the crime of human trafficking in Sub. for SB 353.

The proponents of the bill, as introduced, who provided testimony in the Senate Committee hearing were Senator Derek Schmidt, sponsor of the bill; representatives of the Kansas Peace Officers Association; the Kansas Association of Criminal Defense Lawyers; the Wichita Children's Home; the Kansas Area United Methodist Church; the Concerned Women for America of Kansas; and former Senator Nick Jordan.

The opponent of the bill, as introduced, who provided testimony in the Senate Committee hearing was the Kansas Livestock Association (KLA). The KLA raised concerns over the provision that would have expanded human trafficking to add knowingly transporting or concealing any person into the state who is not lawfully present in the United States with the ten-year enhancement.

After the hearing in the Senate, the parties were asked to confer to try to work out a mutually acceptable bill. Sub. for SB 353 is the product of that conference and was provided to the Senate Committee at the time SB 353 was considered for final action in the Senate Committee. Therefore, there was no testimony on Sub. for SB 353.

The House Committee of the Whole amended the bill to amend the Kansas Offender Registration Act. The bill would expand the list of offenders who must register to include those convicted on or after July 1, 2010 of promoting prostitution or patronizing a prostitute, regardless of whether the victim is under 18 years of age.

The fiscal note provided on this bill, as introduced, may not be applicable since the substitute bill is different from the bill, as introduced.