

SESSION OF 2010

SUPPLEMENTAL NOTE ON SENATE BILL NO. 459

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

SB 459, as amended, would amend the Juvenile Justice Code. The bill would:

- Clarify the court has the discretion to revoke, without notice, the stay and juvenile sentence of the extended jurisdiction of a juvenile offender and order the imposition of the adult sentence if the court finds that a juvenile committed a new offense or violated one or more conditions of the juvenile's sentence;
- Specify the burden of proof is a preponderance of the evidence if the juvenile offender on extended jurisdiction challenges the reasons for revocation of extended jurisdiction;
- Require the court to revoke the juvenile sentence and order the imposition of the adult sentence if the court finds that a juvenile committed a new offense or violated one or more conditions of the juvenile's sentence by a preponderance of the evidence; or the court would be given the discretion, upon agreement of the county or district attorney and the juvenile offender's attorney of record, to modify the adult sentence previously ordered;
- Require the Commissioner of the Juvenile Justice Authority to notify the juvenile's attorney and the juvenile's parent, in writing, of the initial placement of the juvenile offender; and

*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>

- Make a technical amendment to change “study” to “custody.”

Background

In June, 2008, the Kansas Supreme Court issued its opinion in *In re L.M.*, 286 Kan. 460, 186 P.3d 164 (2008), and held that juveniles 14 years of age or older who are charged with a felony have a right to a jury trial under the *Constitution of the State of Kansas*. The Kansas Judicial Council’s Juvenile Offender/Child in Need of Care Advisory (JO/CINC) Committee recommended 2009 SB 88 in response to the Court’s opinion. 2009 SB 88 contained proposed legislation concerning the Juvenile Offender Code and Child in Need of Care (CINC). At the Senate Committee on Judiciary’s two hearings on 2009 SB 88, concerns were raised by Social and Rehabilitation Services and the Kansas Coalition Against Sexual and Domestic Violence. In addressing the concerns of the parties, it was determined that the Juvenile Offender provisions and the Child in Need of Care provisions should be introduced in separate bills. SB 459 is the bill recommended by JO/CINC Committee on the Juvenile Offender Code provisions. SB 460 is the bill recommended by JO/CINC Committee on the CINC provisions.

The proponent of the bill, as introduced, who presented testimony in the Senate Committee hearing was a representative of the Kansas Judicial Council (KJC). The proponent asked the Senate Committee to delete Section 1 and Section 2, relating to juvenile jury trials, from the bill to allow the KJC additional time to study the issue.

The opponent of the bill, as introduced, who presented testimony in the Senate Committee hearing was the Kansas County and District Attorneys Association (KCDAA). The opponent informed the Senate Committee that the KCDAA’s concern is addressed by the deletion of Section 1 and Section 2 from the bill.

The Senate Committee amended the bill to delete Section 1 and Section 2 regarding juvenile jury trials at the request of the Kansas Judicial Council.

The proponents of the bill, as introduced, who presented testimony in the House Committee hearing were a representative of the Kansas Judicial Council (KJC) and a representative of the Kansas County and District Attorneys Association.

The House Committee amended the bill to require the court to revoke the juvenile sentence and order the imposition of the adult sentence if the court finds that a juvenile committed a new offense or violated one or more conditions of the juvenile's sentence by a preponderance of the evidence; or give the court the discretion, upon agreement of the county or district attorney and the juvenile offender's attorney of record, to modify the adult sentence previously ordered.

According to the fiscal note on the bill, as introduced, the Juvenile Justice Authority (JJA) states passage of SB 459 could result in some youth staying in the JJA system longer, but the fiscal effect to the agency cannot be determined at this time, as the agency does not track the number of "extended jurisdiction of youth" in custody. The fiscal effect would depend on the number of juveniles who would stay within the JJA system.

The Office of Judicial Administration indicates passage of SB 459 would have no fiscal effect to the Judicial Branch. Any fiscal effect resulting from the passage of SB 459 has not been included in *The FY 2011 Governor's Budget Report*.