

SESSION OF 2024

SUPPLEMENTAL NOTE ON SENATE BILL NO. 419

As Recommended by Senate Committee on
Judiciary

Brief*

SB 419 would amend law in the Kansas Criminal Code pertaining to the crime of aggravated endangering a child. Specifically, the bill would amend elements of the crime to reflect conduct involving fentanyl-related controlled substances; increase the penalty for the crime when bodily harm is inflicted upon the child; and add “fentanyl-related controlled substance” and “methamphetamine” to the list of terms defined in the crime.

Elements

The bill would amend the elements of the crime to specify the following conduct would constitute the crime:

- Causing or permitting a child to be in an environment where the person knows or reasonably should know that:
 - Any person is distributing, possessing with intent to distribute, or manufacturing or attempting to manufacture any fentanyl-related controlled substance;
 - Drug paraphernalia or volatile, toxic, or flammable chemicals are stored or used for the purpose of manufacturing or attempting to manufacture any methamphetamine [*Note:* Current law provides this element is satisfied

*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>

- only when drug paraphernalia or volatile, toxic, or flammable chemicals are stored]; or
- Drug paraphernalia or toxic materials, compounds, or mixtures are stored or used for the purpose of manufacturing or attempting to manufacture any fentanyl-related controlled substance.

[*Note:* The crime is also committed by recklessly causing or permitting a child under 18 years of age to be placed in a situation in which the child's life, body, or health is endangered, which would continue in law.]

Severity Level

The bill would increase the penalty for the crime to a severity level 6, person felony when bodily harm is inflicted upon the child; the crime's current penalty (severity level 9, person felony) would continue in all other cases.

Definitions

The bill would specify, as used in the crime, the definition of "fentanyl-related controlled substance" would have the same meaning as defined in the article of the Criminal Code involving controlled substances, and "methamphetamine" would have the same meaning as defined in Schedule II of the Uniform Controlled Substances Act.

Background

The bill was introduced by the Senate Committee on Judiciary at the request of a representative of the Office of the Attorney General (OAG).

Senate Committee on Judiciary

In the Senate Committee hearing on February 6, 2024, the Attorney General provided **proponent** testimony, stating that the changes in the bill are needed because of the toxicity of fentanyl and the harm to children that may result from conduct involving fentanyl-related substances. Representatives of the Johnson County Sheriff's Office Northeast Kansas Drug Task Force, the Kansas Association of Chiefs of Police, the Kansas County and District Attorneys Association, and the OAG also provided proponent testimony, expressing similar concerns related to the lethality of fentanyl, especially as it relates to children.

Written-only proponent testimony was provided by a representative of the Kansas Bureau of Investigation (KBI).

Written-only opponent testimony was provided by a representative of the Board of Indigents' Defense Services (BIDS).

No other testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, BIDS indicates enactment of the bill would increase agency expenditures on legal counsel and support staff by an unknown amount. BIDS estimates that a severity level 9, person felony case requires 35 hours of direct work by an attorney to provide constitutionally adequate representation. Based on the rates of \$83.36 per hour for public defenders and \$120 per hour for assigned counsel, each new severity level 9, person felony case brought to the agency would result in State General Fund (SGF) expenditures of \$2,918 to \$4,200. BIDS indicates that a severity level 6, person felony case requires 57 hours of defense attorney work. Therefore, each new severity level 6, person felony case brought to the agency would result in SGF

expenditures of \$4,752 to \$6,840. Each severity level 6, person felony that would have previously been charged as a severity level 9, person felony would require the agency to perform 22 hours of additional case work at a cost of \$1,834 to \$2,640. BIDS indicates it may require 1.00 new FTE attorney position and possibly additional support staff depending on the amount of work required by the bill.

The Kansas Sentencing Commission estimates enactment of the bill would result in an increase of five adult prison beds needed by the end of FY 2025. By the end of FY 2024, nine additional beds would be needed. The current estimated available bed capacity is 9,668 for males and 932 for females. Based upon the Commission's most recent ten-year projection contained in its *FY 2024 Adult Inmate Prison Population Projections Report*, it is estimated that the year-end population will total 8,556 male and 828 female inmates in FY 2024 and 8,847 male and 870 female inmates in FY 2025.

The Department of Corrections indicates enactment of the bill would result in SGF expenditures of \$19,132 in FY 2025 and \$39,030 in FY 2026 due to additional prison admissions.

The Judicial Branch indicates enactment of the bill would have the potential to increase the number of cases filed in district courts, and subsequently increase agency operating expenditures due to the additional time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. Enactment of the bill could also require more supervision of offenders by court services officers. However, the Judicial Branch is unable to calculate an exact estimate of this effect. Enactment of the bill has the potential to increase the collections of docket fees that are deposited in the SGF; however, the amount of additional docket fee collections is unknown.

The Department for Children and Families and the Kansas Bureau of Investigation indicate enactment of the bill

would have no fiscal effect on either agency's operations. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2025 Governor's Budget Report*.

The Kansas Association of Counties indicates enactment of the bill may increase operating expenditures for county law enforcement and courts. The League of Kansas Municipalities indicates enactment of the bill would have no fiscal effect on cities.

Crimes; punishment; sentencing; controlled substances; fentanyl-related; fentanyl; aggravated endangerment of a child