

SESSION OF 2018

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2145

As Amended by Senate Committee on Federal
and State Affairs

Brief*

HB 2145, as amended, would amend the definition of “criminal use of weapons” by adding possession of a firearm by any of the following:

- Fugitives from justice;
- Aliens illegally or unlawfully in the United States;
- Persons convicted of a misdemeanor for a domestic violence offense within the past five years; and
- Persons subject to court orders restraining them from harassing, stalking, or threatening an intimate partner, child, or child of an intimate partner.

The bill would also add “throwing star” to the definition of “criminal use of weapons” as knowingly possessing with intent to use the same unlawfully against another, and remove “throwing star” from the definition of “criminal use of weapons” by knowingly selling, manufacturing, purchasing, or possessing certain items.

In addition, the bill would clarify that possession of a device or attachment designed, used, or intended for use in suppressing the report of any firearm would be exempt from the definition of “criminal use of weapons” if the device or attachment satisfies the description of a Kansas-made

*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>

firearm accessory, as set forth in current law. The provisions of this exemption would apply to any violation of current law pertaining to “criminal use of weapons” that occurred on or after April 25, 2013.

The bill would specify the following requirements for the issuance of court orders, after which the individual named in the order would be guilty of criminal use of weapons.

The bill would require such court order to:

- Have been issued after a noticed hearing where the individual had an opportunity to participate; and
- Include findings that such person is a credible threat to the safety of an intimate partner or child; or
- Explicitly prohibit the attempted, threatened, or actual use of physical force against an intimate partner or child that would reasonably be expected to cause bodily injury.

The bill would provide definitions for “domestic violence,” “fugitive from justice,” and “intimate partner.”

The bill would be in effect upon publication in the *Kansas Register*.

Background

House Action

The bill was introduced in the House Committee on Federal and State Affairs. In the House Committee hearing on February 14, 2017, a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs’ Association appeared in support of the bill.

Written-only opponent testimony was provided by 3UP of Kansas and the Kansas Association of Defense Council.

No other testimony was provided.

In February 2018, the House Committee of the Whole amended the bill by reconciling the definition of domestic violence with its definition passed into law during the 2017 Session. The Committee of the Whole also adopted a technical amendment updating statutory references to reflect the most current version of the law.

Senate Action

In the Senate Committee on Federal and State Affairs hearing, representatives of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, Kansas Sheriffs' Association, and Kansas State Rifle Association and a member of the public provided proponent testimony. Written-only proponent testimony was provided by a representative of the Kansas Coalition Against Sexual and Domestic Violence. No other testimony was provided.

The Senate Committee amended the bill to:

- Add “throwing star” in the definition of “criminal use of weapons” as knowingly possessing with intent to use the same unlawfully against another, and remove “throwing star” from the definition of “criminal use of weapons” by knowingly selling, manufacturing, purchasing, or possessing certain items;
- Change the effective date of the bill to upon publication in the *Kansas Register*; and
- Exempt the possession of any device or attachment designed, used, or intended for use in suppressing the report of any firearm from the

criminal use of weapons regulations, as long as the device or attachment satisfies the description of a Kansas-made firearm, as defined in current law. This provision would apply to any violation of “criminal use of weapons” that occurred on or after April 25, 2013.

Fiscal Effect

According to the fiscal note prepared by the Division of the Budget during the 2017 Session on the bill, as introduced, the Office of Judicial Administration indicates enactment of the bill could increase the number of cases filed under the provisions of the bill, which could result in judicial and non-judicial staff spending more time processing, researching, and hearing cases. Enactment of the bill could also result in the collection of docket fees from those cases filed under the provisions the bill. 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 fiscal effect cannot be determined.

The Kansas Sentencing Commission (Commission) estimates enactment of the bill would not have an immediate effect on prison admissions or beds. The Commission indicates the bill would have an effect on the probation population; however, the Commission cannot provide an estimate at this time. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2018 Governor’s Budget Report*. An updated fiscal note was not available at the time of the Senate Committee action.