

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2121

As Amended by Senate Committee on Judiciary

Brief*

HB 2121 would amend the penalties for the crime of mistreatment of a dependent adult or elder person, define the term “absconds from supervision,” and amend law regarding sureties and delivery of a person arrested.

Mistreatment of a Dependent Adult or Elder Person

The bill would amend the crime of mistreatment of a dependent adult or elder person to raise the penalty:

- From a severity level 5 person felony to a severity level 2 person felony when the crime involves infliction of physical injury, unreasonable confinement, or unreasonable punishment, and the victim is a dependent adult who is a resident of an adult care home during the commission of the offense; and
- From a severity level 8 person felony to a severity level 5 person felony, when the crime involves omission or deprivation of treatment, goods, or services that are necessary to maintain physical or mental health of the victim, and the victim is a dependent adult who is a resident of an adult care home during the commission of the offense.

*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>

Absconding from Supervision

The bill would add a definition of “absconds from supervision” to the Kansas Code of Criminal Procedure (Code). The bill would define the term to mean knowingly avoiding supervision or knowingly making the defendant’s whereabouts unknown to the defendant’s supervising court services officer or community correctional services officer.

The bill would also add a definition of “absconded from supervision” in a statute relating to parole. The bill would define the term to mean knowingly avoiding supervision or knowingly making the defendant’s whereabouts unknown to the defendant’s supervising parole officer, court services officer, or community correctional services officer.

The bill would make technical amendments to ensure consistency in statutory phrasing.

Sureties; Delivery of a Person Arrested

The bill would amend law related to sureties in the Code to state any person who is released on an appearance bond may be arrested and delivered to a custodial officer of the court by a surety or surety’s designee in the county where the complaint subject to the bond was filed. Under current law, sureties seeking discharge of an appearance bond may do so in any county in the state in which the person is charged.

The bill also would define “custodial officer of the court” as the sheriff or keeper of the jail in the county.

Background

HB 2121 was introduced by the House Committee on Corrections and Juvenile Justice at the request of the Kansas Sentencing Commission (Commission). As introduced and passed by the House, HB 2121 contained the provisions regarding absconding from supervision.

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on February 1, 2021, **proponent** testimony was presented by a representative of the Commission, who stated the bill would codify the holding in *State v. Dooley*, 308 Kan. 641, 423 P.3d 469 (2018) and would result in a more consistent application of the term “absconds from supervision” statewide.

Written-only **proponent** testimony was provided by the Kansas County and District Attorneys Association. No other testimony was provided.

On February 4, 2021, the House Committee amended the bill to replace all references to the term “intentionally” with “knowingly” in both definitions that would be created by the bill.

Senate Committee on Judiciary

In the Senate Committee hearing on March 25, 2021, a representative of the Commission and representatives of the Council of State Governments Justice Center testified as **proponents**. A representative of Riley County Community Corrections provided written-only **proponent** testimony.

On March 25, 2021, the Senate Committee amended the bill to add the contents of HB 2153 (regarding mistreatment of a dependent adult or elder person) and HB 2076 (regarding sureties and delivery of a person arrested).

HB 2153 (Mistreatment of a Dependent Adult or Elder Person)

HB 2153 was introduced by the House Committee on Judiciary at the request of the Office of the Attorney General (OAG).

House Committee on Judiciary

In the House Committee hearing on February 8, 2021, a representative of the OAG testified as a **proponent** of the bill. A representative of Kansas Advocates for Better Care provided written-only **proponent** testimony. Representatives of the Kansas Association of Criminal Defense Lawyers and LeadingAge Kansas testified as neutral conferees.

Senate Committee on Judiciary

In the Senate Committee hearing on March 25, 2021, a representative of the OAG testified as a **proponent** of the bill. A representative of AARP Kansas provided written-only **proponent** testimony.

HB 2076 (Sureties; Delivery of a Person Arrested)

HB 2076 was introduced by the House Committee on Judiciary at the request of Representative Patton on behalf of the Kansas Sheriffs Association.

House Committee on Judiciary

In the House Committee hearing on January 27, 2021, representatives of the Kansas Bail Agents Association and Kansas Sheriffs Association testified as **proponents** of the bill, stating the change would address the problem of some sureties failing to transport offenders between counties when rearrested and leaving sheriffs responsible for transport to the appropriate county. The Kansas Association of Counties provided written-only **proponent** testimony.

No neutral or **opponent** testimony was provided.

On February 11, 2021, the House Committee amended the bill to define “custodial officer of the court.”

Senate Committee on Judiciary

In the Senate Committee hearing on March 22, 2021, representatives of the Kansas Bail Agents Association and Kansas Sheriffs Association testified as **proponents** of the bill.

Fiscal Information

HB 2121 (Absconding from Supervision)

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Department of Corrections indicates enactment of the bill would have no fiscal effect. The Office of Judicial Administration states enactment of the bill would have a negligible fiscal effect that could be absorbed within existing resources.

According to the prison bed impact statement prepared by the Commission on the bill as introduced, enactment of the bill may have an impact on prison admissions and bed space, but the effect could not be determined. The current estimated

available bed capacity is 9,420 for males and 948 for females. Based upon the Commission's most recent ten-year projection contained in its *FY 2020 Adult Inmate Prison Population Projections* report, it is estimated the year-end population for available male capacity will be under capacity by 1,287 inmates in FY 2021 and 1,241 inmates in FY 2022.

Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

HB 2153 (Mistreatment of a Dependent Adult or Elder Person)

According to the fiscal note prepared by the Division of the Budget, the Office of Judicial Administration (OJA) states enactment of the bill could result in less supervision of offenders required to be performed by court services officers, but a fiscal effect cannot be estimated. OJA estimates enactment of the bill could result in a decrease of supervision fee revenue.

The Kansas Sentencing Commission estimates enactment of the bill would result in one to two additional prison admissions each year, one to two additional prison beds needed in FY 2022, and one to three additional prison beds needed in FY 2031. The Department of Corrections states enactment of the bill could be handled within existing resources.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2022 Governor's Budget Report*.

HB 2076 (Sureties; Delivery of a Person Arrested)

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration and Kansas Association of Counties indicate enactment of the bill would have a negligible fiscal effect.

Crimes; criminal procedure; mistreatment of a dependent adult or elder person; resident of adult care home; penalties; abscond from supervision; community corrections; court services; parole; supervision; sureties; appearance bond; arrest and delivery; county where delivered