

SESSION OF 2011

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2151**

As Agreed to March 24, 2011

Brief*

HB 2151 would modify the definition of the crime of "breach of privacy" to include:

- Entering with the intent to listen surreptitiously to private conversations in a private place or to observe the personal conduct of any other person or persons entitled to privacy therein;
- Installing or using a device inside a private place to hear, record, amplify, or broadcast sounds originating from such place that would not ordinarily be audible or comprehensible without the use of such device;
- Installing or using a device or equipment for the interception of wireless communication;
- Using means other than electronic means to secretly videotape, film, photograph, or record an identifiable person who is nude or in a state of undress;
- Looking into any hole or opening or otherwise viewing by means of instrumentality any person with the intent to invade the privacy of the person being viewed ("instrumentality" is defined in the bill); and
- Disseminating or permitting the dissemination of any videotape, photograph, film, or image obtained in

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violation of the restriction explained above on installing or using a concealed device.

Further, it would increase the penalties for some of the acts constituting "breach of privacy."

The bill also would amend the definition for the crime of blackmail, by adding threats to disseminate materials obtained using electronic or other means to secretly videotape, film, photograph, or record an identifiable person who is nude or in a state of undress. That act would be a severity level 4, person felony.

Conference Committee Action

The Conference Committee accepted the Senate's amendments to the bill and modified subsection (1)(3) to read that breach of privacy could be committed by knowingly and without lawful authority, entering with the intent to listen surreptitiously to private conversations in a private place or to observe the personal conduct of any other person or persons entitled to privacy therein.

Background

In the House Committee on Corrections and Juvenile Justice, a representative of the Kansas County and District Attorneys Association appeared in support of HB 2151. No opponents presented testimony.

The Senate Committee of the Whole amended the bill by replacing "outside" with "without the use of such device" in the section concerning the installation or use of a device inside a private place. It also amended the definition of "private place" by striking "but does not include a place to which the public has lawful access."

The Kansas Sentencing Commission estimates that passage of HB 2151 would result in an increase of one adult prison bed in 2012 and four beds by 2020. As the number of male inmates already exceeds capacity, the bed impact of this bill in addition to the impact of other possible legislation is likely to require additional expenditures. *The 2012 Governor's Budget Report* includes \$2.5 million for contract prison beds and, if construction is necessary, the Department of Corrections has identified two expansion projects: two high medium housing units at El Dorado Correctional Facility, with 512 beds at a cost of \$22.7 million for construction and \$9.3 million for operation; and one minimum security housing unit at Ellsworth Correctional Facility, with 100 beds at a cost of \$5.9 million for construction and \$1.8 million for operation.

The Office of Judicial Administration indicates that any increases in litigation would likely be accommodated within existing resources.

The Board of Indigents' Defense Services estimates it would be required to defend three cases each year at a cost of \$1,000 per case, with a total annual increase of \$3,000.

Crimes; Breach of Privacy and Blackmail