

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2229

As Amended by House Committee on Judiciary

Brief*

HB 2229, as amended, would amend law related to theft and the value of loss thresholds that make the penalty for certain crimes a felony.

Theft of Mail

The bill would amend the crime of theft to make theft of property that is mail of the value of less than \$1,500 from three separate locations within a period of 72 hours as part of the same act or transaction, or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct, a severity level 9, nonperson felony. [Note: Under continuing law, theft of property or services of the value of less than \$1,500 is a class A nonperson misdemeanor, unless an exception such as that created by the bill applies.]

The bill would define “mail” as a letter, postal card, package, or bag sent through the U.S. Postal Service or other delivery service, or any other article or thing contained therein, or a sealed article or thing addressed to a person.

Felony Loss Thresholds

The bill would amend the penalty provisions of various crimes in which the penalty level depends on monetary value to increase the loss ceiling for a misdemeanor from less than

*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>

\$1,000 to less than \$1,500. The corresponding floors for the lowest felony penalties and floors or ceilings for applicable exceptions would be changed to \$1,500. The crimes that would be affected are:

- Theft of property lost, mislaid, or delivered by mistake;
- Criminal damage to property;
- Giving a worthless check;
- Counterfeiting;
- Criminal use of a financial card;
- Impairing a security interest;
- Medicaid fraud;
- Official misconduct;
- Presenting or permitting a false claim;
- Misuse of public funds; and
- Criminal desecration.

Background

The bill was introduced by the House Committee on Judiciary at the request of Amazon.com, Inc. As introduced, the bill contained the provisions regarding mail theft.

House Committee on Judiciary

In the House Committee hearing on February 9, 2021, a representative of the Kansas Chamber and a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association testified as **proponents** of the bill, stating the the bill would address a significant increase in theft of retail mail and deliveries from home porches and mailboxes.

No other testimony was provided.

On February 18, 2021, the House Committee amended the bill to add the provisions of HB 2028, as recommended by the House Committee on Corrections and Juvenile Justice, regarding felony loss thresholds.

Background of HB 2028 (Felony Loss Thresholds)

HB 2028 was prefiled for introduction on December 31, 2020, at the request of the Joint Committee on Corrections and Juvenile Justice Oversight.

[*Note:* HB 2028 contains provisions similar to those of 2020 HB 2485, as recommended by the House Committee on Corrections and Juvenile Justice.]

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on HB 2028 on January 19, 2021, **proponent** testimony was provided by a representative of the Kansas Sentencing Commission (Commission), who indicated the bill would align certain loss limits of property crimes with that of theft.

Written-only proponent testimony was provided by representatives of the Kansas Association of Criminal Defense Lawyers and the Kansas County and District Attorneys Association.

No other testimony was provided.

Fiscal Information

HB 2229 (Mail Theft)

According to the fiscal note prepared by the Division of the Budget on HB 2229, as introduced, the Commission estimates enactment of HB 2229 may have an impact on prison admissions and bed space, but the effect cannot be determined at this time.

The Office of Judicial Administration (OJA) indicates enactment of HB 2229 could require more supervision of offenders by court services officers, which could be handled within existing resources. The Department of Corrections (KDOC) indicates enactment of the bill would have no fiscal effect on the agency. Any fiscal effect associated with enactment of HB 2229 is not reflected in *The FY 2022 Governor's Budget Report*.

HB 2028 (Felony Loss Thresholds)

According to the fiscal note prepared by the Division of the Budget on HB 2028, OJA indicates enactment of the bill would increase cases supervised by court services officers, but OJA does not anticipate the need to hire additional personnel. OJA also indicates enactment of the bill would result in decreased revenues to the Correctional Supervision Fund and the State General Fund. OJA also indicates the higher monetary thresholds in the bill could increase the number of misdemeanor cases in the courts, which have lower probation and correctional supervision fees compared to those of felonies, with current felony fees being \$120 and current misdemeanor fees being \$60. OJA states the fiscal effect is unknown because the additional number and type of cases cannot be estimated.

The Commission estimates enactment of HB 2028 would result in a decrease of 2 adult prison beds in use each year over a 10-year forecasting period, with the current estimated bed capacity at 9,420 beds for male inmates and 948 beds for female inmates. Based upon the Commission's most recent 10-year projection, it is estimated that 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. KDOC indicates the reduction in prison population would not be sufficient to reduce current prison expenditures. KDOC notes the reduction would be beneficial for avoiding future prison costs and would improve the ability to socially distance inmates to help mitigate the spread of the coronavirus in the facility and among staff working at the facility and inmates released into the community.

Any fiscal effect associated with enactment of HB 2028 is not reflected in *The FY 2022 Governor's Budget Report*.

Theft of mail and packages; felony loss thresholds