

SESSION OF 2006

SUPPLEMENTAL NOTE ON SENATE BILL NO. 40

As Amended by House Committee on
Judiciary

Brief*

SB 40 would amend a probate statute, dealing with notice to a surviving spouse regarding the spouse's elective share rights, to require the notice be given by the administrator, executor, petitioner, or attorney, rather than by the court.

Another provision of the bill would provide that when the surviving spouse is the administrator, executor, petitioner, or applicant, the surviving spouse may acknowledge by pleading or affidavit that he or she is aware of the elective share rights and thus would eliminate the requirement that surviving spouses mail notices to themselves.

Background

SB 40 was introduced in 2005, at the request of the Office of Judicial Administration on behalf of district court clerks, who pointed out other probate notices are not given by the court.

The bill was referred to the Kansas Judicial Council's Probate Advisory Committee, at the request of the Senate Judiciary Chairman, after a district court judge objected to the change.

The Senate Committee on Judiciary added an amendment which would provide that when the surviving spouse is the administrator, executor, petitioner, or applicant, the surviving spouse may acknowledge by pleading or affidavit that he or she is aware of the elective share rights and thus would eliminate the requirement that surviving spouses mail notices to themselves.

The House Committee amendment was technical in nature.

*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>

The Probate Law Advisory Committee endorsed SB 40 and suggested the Senate Committee amendment.