

SESSION OF 2006

SUPPLEMENTAL NOTE ON SENATE BILL NO. 355

As Amended by House Committee on
Judiciary

Brief*

SB 355 would clarify statutes dealing with appeals under Chapter 59 of Kansas Statutes Annotated including appeals from district magistrate judges to district judges and appeals from district court to appellate courts. Appeals from district magistrate judges to a district judge may be taken no later than 10 days from any final order involving adoption, care and treatment of the mentally ill, guardianship and conservatorship, and care and treatment involving alcohol and substance abuse.

Appeals from the district court to an appellate court shall be taken as provided under Article 21 of Chapter 60 of Kansas Statutes Annotated for the following: adoption, care and treatment for the mentally ill, the sexually violent predator law, care and treatment for alcohol and drug abuse and guardianship and conservatorship.

Appeals from a district magistrate judge in any case involving a decedent's estate may be taken no later than 30 days from the entry of the orders listed in Section 2. Upon motion of any party to the proceedings the judge would be able to hold a trial de novo. If a record was made of the proceedings, the district judge would be required to conduct the appeal on the record. Note the bill would raise the amount of an appealable order allowing or disallowing a demand from \$500 to \$5,000 and makes other clarifying amendments to the appealable orders. An appeal from a district court decision to an appellate court shall be taken as provided under Article 21 of Chapter 60 of *Kansas Statutes Annotated*.

Any order appealed from a district magistrate judge or a district judge shall continue in force unless modified by temporary orders entered by the court hearing the appeal. The supersedeas bond provided for in K.S.A. 60-2103 shall not stay proceedings under an appeal from the district court to an appellate court.

*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 court from which the appeal is taken may require an appropriate party, other than the state of Kansas and any political subdivision thereof, to file a bond in such sum and with such sureties as may be fixed and approved by the court to ensure that the appeal will be prosecuted without unnecessary delay and to ensure the payment of all judgments and any sums, damages and costs that may be adjudged against that party.

The bill also would raise the amount of a claim from \$500 to \$5,000 where any interested party is allowed to request the transfer of a case to a district court judge when a magistrate judge is scheduled to hear the case.

Background

The bill was recommended by the Judicial Council Guardianship and Conservatorship Advisory Committee as a way to clarify and simplify appeal procedures under Chapter 59, Kansas Statutes Annotated.

The Senate Committee amendment was technical.

The House Committee inserted the provision regarding appeals from district magistrate judges to district judges.

The bill would have no fiscal impact.