

SESSION OF 2013

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2028

As Amended by Senate Committee on Judiciary

Brief*

HB 2028 would amend provisions of the Kansas Standard Asset Seizure and Forfeiture Act concerning venue in forfeiture proceedings brought by the Attorney General. Currently, a proceeding may be maintained in the county where the property is located or where a civil or criminal action could be maintained against an owner or interest holder for the alleged conduct giving rise to the forfeiture. The bill would add a provision allowing a proceeding brought by the Attorney General to commence and be maintained in Shawnee County. If, however, a motion to change venue is properly filed within 20 days after service of the petition commencing such proceeding, the court would be required to transfer the proceeding to another county where there is proper venue. The bill also would provide that if the proceeding brought by the Attorney General involves property, law enforcement agencies, or owners or interest holders of property in multiple counties, venue would be proper in Shawnee County or any county where there is proper venue, as described above.

To be consistent with the new provisions of the bill, the bill would amend the existing section describing proper venue in forfeiture proceedings to provide that the action could be “commenced” in the county where the property is located or where a civil or criminal action could be maintained against an owner or interest holder for the alleged conduct giving rise to the forfeiture.

*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>

Background

In the House Committee on Judiciary, the Committee heard testimony in favor of the bill from Attorney General Derek Schmidt and Kyle Smith, Deputy Director of the Kansas Bureau of Investigation (KBI). No opponents offered testimony.

The House Committee amended the bill to require courts to transfer a forfeiture proceeding brought by the Attorney General to a proper venue when a motion to change venue is filed. As introduced, the bill would have required courts to determine whether, upon consideration of the totality of the circumstances, the ends of justice required the transfer. The bill also would have allowed courts to hold a hearing on the motion.

In the Senate Committee on Judiciary, the Committee received testimony in favor of the bill from KBI Deputy Director Smith, and Attorney General Schmidt offered written proponent testimony. No opponents offered testimony.

The Senate Committee added language to an existing section to be consistent with the new provisions of the bill and made a technical amendment to correct a reference.

The fiscal note on the bill, as introduced, indicates passage could result in some cost savings for the Attorney General's Office from reduced travel, but the amount cannot be accurately estimated. The Office of Judicial Administration suggested that the bill could increase the number of change of venue hearings related to forfeiture and, if a significant number of forfeiture proceedings were filed in Shawnee County, there may be a need for additional staff in Shawnee County. The fiscal note reports, however, that the precise impact cannot be calculated.