

SESSION OF 2013

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2182

As Further Amended by House Committee

Brief*

HB 2182, as amended, would amend provisions concerning grand juries summoned by petition, commonly referred to as citizens grand juries. The bill would require a petition to summon a grand jury to state the name, address, and phone number of the person filing the petition, the subject matter of the prospective grand jury, a reasonably specific identification of areas for inquiry, and sufficient general allegations to warrant a finding that such inquiry may lead to information, which, if true, would warrant a true bill of indictment.

After a prosecutor has conducted an examination of the prospective grand jurors, the bill would require the court to approve and submit to the clerk of the county a list of all remaining legally qualified grand jurors for a second drawing of grand juror names. Upon receipt of the list, the clerk would draw for a second time 15 names of persons to serve as grand jurors from that list. If the county has an alternate method for securing jury panels directly from the computer, the clerk would be required to use the computer to generate 15 names of persons to serve as grand jurors from that list.

After a citizens grand jury is summoned, but before it begins its deliberations, the bill would require the judge or judges of the district court of the county in which the petition is presented to provide instructions to the grand jury regarding its conduct and deliberations. The bill lists those instructions that must be presented, but states the instructions given would not be limited to the instructions listed in the bill.

*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 bill also would require the person filing the petition to be the first witness called by the grand jury for the purpose of presenting evidence and testimony as to the subject matter and allegations of the petition. The bill would allow the grand jury to investigate any concerns associated with the petition and to select any special counsel or investigator employed by the grand jury by majority vote after hearing testimony from the person filing the petition. The bill also would allow any person to file with the prosecuting attorney or with the foreman of the grand jury a written request to testify or retestify in an inquiry before a grand jury or to appear before a grand jury. The written request would include a summary of that person's written testimony.

Finally, upon a majority vote of the grand jury, the bill would allow the grand jury to seek the removal of the assigned judge pursuant to existing law that provides for removal if a party or party's attorney believe the judge to whom an action is assigned cannot afford that person a fair trial in the action.

Background

In the House Committee on Judiciary, Kansas Secretary of State Kris Kobach, representatives of the American Family Association and Kansans for Life, and private citizens appeared in support of the bill. The Kansas County and District Attorneys Association offered written testimony opposing the bill.

The House Committee amended the bill to require a judge provide instructions to the grand jury regarding its conduct and deliberations, revise provisions allowing a person to request to testify or retestify in an inquiry before a grand jury or to appear before a grand jury, and replace language in the bill with a reference to an existing statute with substantially the same language.

After the House Committee took action on the bill, the bill was withdrawn from the calendar, referred to the House Committee on Appropriations, and rereferred to the House Committee on Judiciary, where the committee further amended the bill. The Judiciary Committee added language requiring the petition to summon a grand jury to include the name, address, and phone number of the person filing the petition.

The fiscal note prepared by the Division of the Budget for the bill, as introduced, indicates passage could increase the amount of time spent by district courts and could increase costs for the judicial branch, but the precise impact cannot be determined.