

SESSION OF 2014

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2463

As Amended by Senate Committee on Judiciary

Brief*

HB 2463 would establish a specific civil cause of action for a person injured as a result of conduct that would constitute the crime of terrorism or the crime of furtherance of terrorism or illegal use of weapons of mass destruction, against the person who engaged in such conduct. A prevailing plaintiff would be entitled to recover the greater of \$10,000 or three times the actual damages the plaintiff sustained, as well as costs and reasonable attorney's fees. The statute of limitations for the cause of action would be five years after the later of the date of discovery of the conduct or the conclusion of a related criminal case. The victim would be allowed to request the Attorney General pursue such a case on the victim's behalf, with damages to go to the victim and reasonable attorney's fees and costs to go to the Attorney General. The State would be subrogated to a plaintiff's rights if the plaintiff had received compensation from the Crime Victims Compensation Board.

The bill would amend the statute defining the crime of furtherance of terrorism or illegal use of weapons of mass destruction to include raising, soliciting, collecting, or providing material support or resources with the intent that they will be used to plan, prepare, carry out, or aid in the crime of terrorism or the crime of illegal use of weapons of mass destruction, the hindering of the prosecution of these crimes, or the concealment of or escape from any of these crimes. The bill would define "hindering of the prosecution of terrorism."

*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 crimes of terrorism and illegal use of weapons of mass destruction would be added to the civil forfeiture statute.

(Note: The bill appears to add certain sex offenses to the civil forfeiture statute, but these provisions are already in law and the apparent amendments would reconcile conflicting versions of the statute.)

Background

The bill was introduced by the Committee on Corrections and Juvenile Justice at the request of Representative Mast.

In the House Committee, Representative Jones and a private citizen testified in support of the bill. The director of the Kansas Bureau of Investigation (KBI), the Franklin County and Sedgwick County sheriffs, and a representative of the Security Policy Center submitted written testimony supporting the bill.

The House Committee amended the bill to specify that an underlying conviction would not be required for the civil cause of action.

In the Senate Committee on Judiciary, Representative Jones, the Sedgwick County Sheriff, a representative of the KBI, and a private citizen testified in support of the bill. The Franklin County Sheriff and a representative of the Security Policy Center submitted written testimony supporting the bill.

The Senate Committee amended the bill to clarify that the definition of “hindering of the prosecution of terrorism,” with regard to warning a person who has committed the crimes of terrorism or illegal use of weapons of mass destruction of impending discovery or apprehension, would not include any transaction between an individual and that

individual's counsel preserving the individual's constitutional right to representation.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration indicates the bill could increase the number of cases and appeals filed, increasing the time required of judicial and non-judicial personnel. Additional cases also could result in added revenue from docket fees. However, it is not possible to predict the number or complexity of additional cases or appeals, so a precise fiscal effect cannot be determine.

The Attorney General's Office indicates there would be costs of representation, but such costs could be recovered under the bill. Forfeiture actions could add to agency expenditures, but would likely be small and offset by additional revenue from recoveries. Local governments could see increased revenue from forfeitures. A precise fiscal effect is difficult to estimate due to the unknown number of cases that might result from the bill's provisions.

The Kansas Sentencing Commission states the bill may have an effect on prison admission and bed space, but there is no data from which an estimate can be made. Any crimes committed by indigent offenders would produce a fiscal effect on the Board of Indigents' Defense Services, but a specific effect cannot be estimated.

Any fiscal effect associated with the bill is not reflected in *The FY 2015 Governor's Budget Report*.