

SESSION OF 2014

SUPPLEMENTAL NOTE ON SENATE BILL NO. 310

As Amended by Senate Committee on Judiciary

Brief*

SB 310, as amended, would amend the statute governing the summoning of grand juries to allow grand juries summoned upon the petition of the Attorney General or a district or county attorney to consider any alleged misdemeanor that arises as part of the same criminal conduct or investigation underlying any alleged felony considered by the grand jury.

The bill also would amend the statute governing grand jury indictment procedure to allow a grand jury impaneled through elector petition to request that the Attorney General prosecute the case arising from an indictment, if the grand jury is of the opinion that the prosecuting attorney would not diligently prosecute the case. The Attorney General would be required to prosecute the case unless the Attorney General found there was not probable cause to believe a crime has been committed or the defendant has committed such crime.

Finally, the bill would amend the statute governing amendment of grand jury indictments to allow the court to amend an indictment as to the substance of the offense charged for the limited purpose of effectuating a change of plea pursuant to a plea agreement between the defendant and the prosecution. This provision would apply to grand juries impaneled by order of district judges or through petition by a county or district attorney or the Attorney General. It would not apply to grand juries impaneled through elector petition.

*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

The bill was introduced by the Senate Committee on Judiciary at the request of Senator Smith. In the Senate Committee, the Shawnee County District Attorney testified in support of the bill. A representative of the American Family Association of Kansas testified in opposition to the bill.

The Senate Committee amended the bill to exempt elector petition grand juries from the indictment amendment provision and to add the provision allowing an elector petition grand jury to request the Attorney General prosecute a case.

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 Judicial Branch expenditures due to the possibility of increased grand jury deliberations. However, a precise fiscal effect cannot be determined.