

SESSION OF 2014

SUPPLEMENTAL NOTE ON SENATE BILL NO. 403

As Recommended by Senate Committee on
Judiciary

Brief*

SB 403 would amend the *habeas corpus* provisions of KSA 60-1501 to establish that a court is not required to entertain a second or successive KSA 60-1501 petition for similar relief on behalf of the same person. A district court would be permitted to find a person who has filed multiple meritless KSA 60-1501 petitions to be an abuser of the writ and to issue an order designating the person as such. This order may be appealed to the Kansas Court of Appeals and reviewed for abuse of discretion. The appeal would be expedited and the final decision of the Court of Appeals would not be subject to rehearing or to review by the Kansas Supreme Court.

A person designated an abuser of the writ would not be allowed to file additional petitions unless the person moved for, and the Court of Appeals granted, an order authorizing such petition. An additional petition could only be granted if the Court of Appeals determined the petition did not raise a claim considered and denied in a prior proceedings, did not seek the same or similar relief as a prior KSA 60-1501 petition, and the petition made a *prima facie* showing of a reasonable likelihood of success on the merits.

A person designated an abuser of the writ would be required to pay all docket fees to file a petition, even if the person would otherwise be eligible to file a poverty affidavit in lieu of a fee.

*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 would contain a severability provision.

Background

The bill was introduced by the Senate Committee on Judiciary at the request of Senator Holmes. In the Senate Committee, Senator Holmes testified in support of the bill. A representative of the Attorney General's Office submitted written testimony supporting the bill. There was no neutral or opponent testimony.

According to the fiscal note prepared by the Division of the Budget on the bill, the Office of Judicial Administration indicates the bill could decrease the workload of the district courts, increase the workloads of the Kansas Court of Appeals and the clerks of the district courts, and result in the collection of additional docket fees. However, a precise fiscal effect cannot be estimated until the court have operated with the provisions of the bill in place.