

SESSION OF 2013

SUPPLEMENTAL NOTE ON SENATE BILL NO. 80

As Amended by Senate Committee on Judiciary

Brief*

SB 80, as amended, would make several amendments to the grand jury statutes. Specifically, the bill would:

- Allow the district attorney or county attorney in such attorney's county, or the Attorney General in any judicial district, to petition the chief judge or designee to summon a grand jury to consider any alleged felony violation;
- Add a requirement that the district court, if it finds the petition is in proper form and orders a grand jury to be summoned, issue such order within 15 days after receipt of the petition;
- Clarify that grand jury members must be "qualified" in the same manner as petit jurors;
- Clarify that grand juries impaneled by petition of a county attorney, district attorney, or the Attorney General may not employ special counsel;
- Specify the following duties of the prosecuting attorney to grand juries impaneled by such attorney's petition:
 - Attend all sessions and inform the grand jury of all offenses liable to indictment and evidence to be presented;

*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>

- Present and examine witnesses on all matters to be considered; and
- Provide members of the grand jury with advice related to all questions as to the proper discharge of their duties;
- Revise the provision governing what matters a grand jury member, attorney, interpreter, reporter, or typist may disclose, to require a court order and permit disclosure only of:
 - Witness testimony to a defendant to determine consistency, only upon a showing of good cause;
 - Evidentiary materials presented to one grand jury to a succeeding grand jury;
 - Grand jury testimony by a defendant to the defendant, but only in the criminal action resulting from such testimony;
- Allow a grand jury impaneled by petition of a prosecuting attorney to serve for a period of six months, which could be extended before expiration for another period of up to six months, for good cause shown by the grand jury;
- Allow the court to order the amendment of an indictment with regard to non-substantive matters that would not prejudice the defendant on the merits, and allow the court to grant the defendant a continuance to prepare a defense upon such amendment; and
- Make a variety of non-substantive, technical changes to update and restructure the statutes.

Background

Under current law, a district or county attorney may petition the district court to order a grand jury to be summoned to investigate alleged violations of an off-grid felony; a severity level 1, 2, 3, or 4 felony; or a drug severity level 1 or 2 felony. The Attorney General does not have authority to petition for an order summoning a grand jury.

The bill was introduced by the Senate Judiciary Committee at the request of Shawnee County District Attorney Chad Taylor. In the Senate Committee, District Attorney Taylor testified in support of the bill. No opponent testimony was presented. The Committee amended the bill to authorize the Attorney General to petition for an order summoning a grand jury. The Committee recommended the bill be passed as amended.

The Division of the Budget's fiscal note on the bill, as introduced, indicates the bill could increase the time required of district courts for the summoning of grand juries and amending of indictments. However, the Office of Judicial Administration cannot provide a precise estimate of the fiscal effect. Local governments could see an increase in fees and mileage paid to grand jurors, if additional juries are impaneled. Any fiscal effect associated with the bill is not reflected in *The FY 2014 Governor's Budget Report*.