

SESSION OF 2015

SUPPLEMENTAL NOTE ON SENATE BILL NO. 104

As Amended by Senate Committee on Judiciary

Brief*

SB 104, as amended, would facilitate the use of two-way electronic audio-visual communication in certain court proceedings, as follows.

The bill would amend statutes governing municipal court proceedings to allow such communication to be used for a first appearance; appearance, pleas and satisfaction of the judgment and sentence of the court; arraignment; or nonevidentiary hearings conducted to determine the merits of any motion, between the defendant and defendant's counsel in the courtroom, unless good cause is shown why such communication should not be utilized.

The bill would amend the Code of Criminal Procedure to establish that the following proceedings may be conducted *via* such communication, unless good cause is shown why it should not be utilized:

- Proceedings before a magistrate to determine release conditions of a person charged with a crime, between the defendant and the judge;
- Arraignment at which the defendant stands mute or enters a not guilty plea, between the defendant and the judge; and
- Any nonevidentiary hearing conducted by the court to determine the merits of any motion, between the defendant and defendant's counsel in the courtroom.

*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 amend or strike statutory provisions regarding the defendant's right to be personally present at these proceedings to allow for the use of such communication.

The bill would amend the Revised Code for Care of Children (CINC Code) to permit the court to allow a child to appear by such communication in lieu of personal presence, in any proceeding under the CINC Code.

The bill would make technical amendments to the Revised Juvenile Justice Code to provide consistency in references to audio-visual communication.

Finally, the bill would amend the Rule of Civil Procedure governing testimony of witnesses to allow testimony by contemporaneous transmission from a different location if a party requests the use of such communication by written notice at least several days before the hearing or proceeding. The notice would have to include the name and internet protocol address of the witness who will testify *via* such communication, as well as the date and time the witness will testify.

Background

The bill was introduced by the Senate Judiciary Committee at the request of the Kansas Supreme Court. In the Senate Committee, a district judge testified on behalf of the Judicial Branch Videoconferencing Committee in support of the bill, stating the bill reflected the work and recommendations of the Videoconferencing Committee. A representative of the Kansas Department for Children and Families (DCF) also testified in support and requested an amendment allowing two-way electronic audio-visual communication during child in need of care proceedings.

The Senate Committee adopted the amendment proposed by DCF and a technical amendment providing consistency in references to audio-visual communications.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Association of Counties indicates the bill could reduce costs of transporting criminals to court, but it would require counties to purchase audio-visual communication equipment if the technology is not currently available. The costs associated with the bill cannot be determined until the courts operate with the provisions in place.