

SESSION OF 2017

SUPPLEMENTAL NOTE ON SENATE BILL NO. 40

As Amended by Senate Committee on Judiciary

Brief*

SB 40, as amended, would amend the law concerning revocation of appearance bonds to allow a magistrate, when the magistrate sets the bond, to authorize a pretrial services supervision officer to arrest a defendant without a warrant. In such case, a written statement delivered to the official in charge of a county jail or other place of detention would be sufficient warrant for the detention of the defendant. After making an arrest, the bill would require the pretrial services supervision officer to present a similar statement of the circumstances of the violation to the detaining authorities.

The bill would also allow the magistrate to authorize a pretrial services supervision officer to deputize any officer with power of arrest to arrest a defendant without a warrant by giving such other officer a written or verbal statement setting forth that the defendant has, in the judgment of the pretrial services supervision officer, violated the conditions of the defendant's bond. The bill would state the defendant would be detained only until a magistrate is available to consider whether the defendant's bond will be revoked. If an appearance bond is revoked, the bill would require the magistrate to promptly set a new bond rather than setting the bond "forthwith."

Background

The bill was introduced at the request of Sedgwick County. In the Senate Committee on Judiciary hearing, a

*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>

representative of the Sedgwick County Division of Corrections appeared in support of the bill and stated supervision officers currently must obtain a warrant signed by a judge, which can take a significant amount of time and may have to wait until the next business day and creates public safety concerns and inefficiencies. A representative of the Kansas Association of Criminal Defense Lawyers appeared as an opponent of the bill and stated that often a violation is not a criminal act and emphasized the importance of obtaining a warrant. A representative of the Kansas Bail Agents Association submitted written-only opponent testimony.

The Senate Committee adopted an amendment to allow a magistrate to authorize a pretrial services supervision officer to arrest a defendant without a warrant or to deputize any officer with power of arrest to arrest a defendant without a warrant. The bill, as introduced, would have given pretrial services supervision officers this authority regardless of whether it was authorized by a magistrate.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Office of Judicial Administration indicates any fiscal effect on expenditures by the Judicial Branch resulting from the enactment of the bill would be negligible.