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MEMORANDUM

To: House Committee on Judiciary

From: Office of Revisor of Statutes

Date: January 31, 2023

Subject: Bill Brief on HB 2130

HB 2130 increases certain dollar amounts in the Kansas probate code.

Section 1 amends K.S.A. 59-403, the statute providing allowance to a spouse and minor children. Current law provides for an allowance of not more than \$50,000 in money or other personal or real property. This bill changes that maximum to \$75,000.

Section 2 amends K.S.A. 59-6a202, the elective share statute. Current law provides that if the total amount from other sections and the part of the elective share payable from the decedent's probate estate and nonprobate transfers is less than \$50,000, the surviving spouse is entitled to a supplemental elective-share amount equal to \$50,000 minus the deductions from other sections. This bill would change those amounts to \$100,000.

Section 3 amends K.S.A. 59-6a205, the statute related to nonprobate transfers to others. Current law provides that the augmented estate includes nonprobate transfers of property to people other than the surviving spouse in an amount of \$10,000. This bill changes that amount to \$25,000.

Section 4 amends K.S.A. 59-6a215, the homestead allowance statute. Current law provides that a surviving spouse is entitled to the homestead or may elect to receive a homestead allowance in an amount of \$50,000. This bill changes that amount to \$75,000.

Section 5 amends K.S.A. 59-1507a, the statute requiring payment of benefits to certain people in the probate code. Current law provides that if an individual dies who is entitled to a monthly benefit under the social security act, any veterans administration program or public or private retirement or annuity plan that is \$5,000 or less, then it is paid to certain individuals in an order of preference and that payment is deemed to be a payment to a personal representative and

shall constitute full discharge and release from further claim. This bill changes that amount from \$5,000 to \$10,000.

Section 6 amends K.S.A. 59-1507b, the statute requiring transfer of personal property in the probate code. Current law requires that when a person dies, if the total assets of the estate subject to probate do not exceed \$40,000, any personal property shall be transferred to the successor of the decedent. This bill changes that amount to \$75,000.

Section 7 amends K.S.A. 59-2215, the statute that provides remission of court costs in small estates. Current law provides that when the total assets of an estate do not exceed \$5,000 in value, the court may remit the court costs to the estate. This bill changes that amount to \$10,000.

Section 8 amends K.S.A. 59-2237, the statute that authorizes a person to file a petition making a demand against an estate. Current law provides that a demand not exceeding \$5,000 can be paid without being in compliance with notice and hearing provisions. This bill would change that amount to \$10,000.

Section 9 amends K.S.A. 59-2287, the statute allowing the court to refuse to grant letters. Current law provides that when an estate does not exceed \$50,000, an interested person may petition for refusal of letters by giving bond of at least the value of the estate. This bill changes that amount to \$75,000. The section also currently provides that if the court is satisfied that the real and personal estate is less than \$50,000, the court may order that no letters of administration shall be issued. This bill changes that amount to \$75,000.

Section 10 amends K.S.A. 59-2401, the statute related to appealable orders in the probate code. Current law allows an appeal of an order allowing or disallowing a demand when the amount in controversy exceeds \$5,000. This bill changes that amount to \$10,000.

Section 11 amends K.S.A. 59-2402a, the statute relating to requesting a transfer of the case from a magistrate judge to a district judge. Current law allows an interested party to request such transfer if the petition is to allow any claim exceeding \$5,000. This bill changes that amount to \$10,000