

SESSION OF 2014

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR
HOUSE BILL NO. 2065**

As Amended by Senate Committee of the Whole

Brief*

Senate Sub. for HB 2065, as amended, would expand the jurisdiction of district magistrate judges by allowing them to conduct felony first appearance hearings and have jurisdiction over uncontested actions for divorce, as well as over any civil action with the consent of the parties. The bill would clarify that district magistrate judges may hear misdemeanor arraignments. Finally, the bill would amend various statutes to establish that appeals from district magistrate judges who are regularly admitted to practice law in Kansas shall be directly to the Court of Appeals, rather than to a district judge. Appeals from district magistrate judges who are not regularly admitted to practice law in Kansas would continue to be to a district judge. (Under current law, all appeals from district magistrate judges are to a district judge.) To facilitate the new appeals process, the bill would direct that all actions or proceedings before a district magistrate judge regularly admitted to practice law in Kansas be on the record if such actions or proceedings would be on the record before a district judge.

Background

As it passed the 2013 House, HB 2065 would have created the crime of home improvement fraud.

*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 2014 Senate Committee on Judiciary recommended a substitute bill be passed containing the contents of SB 377, regarding the filling of judicial vacancies.

The Senate Committee of the Whole amended the bill by striking the language of the substitute bill recommended by the Senate Committee on Judiciary and replacing it with provisions modified from SB 287. The modifications are described below.

Background of SB 287

SB 287 was introduced by the Senate Judiciary Committee at the request of Senator King, who explained the bill was derived from recommendations made in the 2012 report by the Kansas Supreme Court's Blue Ribbon Commission. The Blue Ribbon Commission was formed in late 2010 and was charged with reviewing the operations of Kansas courts to determine how to improve their efficiency while maintaining access to justice for all Kansans.

In the Senate Committee, the Chair of the Blue Ribbon Commission, Court of Appeals Judge Patrick McAnany, appeared on behalf of the Commission and the Kansas Supreme Court in support of the bill. On behalf of the Supreme Court, Judge McAnany presented a proposed amendment to implement another Blue Ribbon Commission recommendation requiring all newly elected or appointed district magistrate judges to have been admitted to practice law in Kansas. A representative of the Kansas District Magistrate Judge Association also testified in support of the bill. Written testimony supporting the bill was received from another Blue Ribbon Commission member. A representative of the Kansas District Judges' Association testified in opposition to the expansion of magistrate judge jurisdiction.

As introduced and passed by the Senate, SB 287 would have applied the new appeals process for district magistrate judges to all district magistrate judges. The language

amended into Senate Sub. for HB 2065 modified the appeal provisions so that the new appeals process would apply only to district magistrate judges regularly admitted to practice law in Kansas.

According to the fiscal note on SB 287 prepared by the Division of the Budget, the Office of Judicial Administration indicates the bill, as introduced, could increase Judicial Branch expenditures but also could allow district judges to attend more quickly to cases and reduce time spent by district judges on appeals. However, this would increase time spent by appellate court personnel in processing appeals. Revenue from docket fees also could increase. Until the courts can operate with the bill's provisions in place, an accurate estimate of the fiscal effect cannot be provided.