

SESSION OF 2015

SUPPLEMENTAL NOTE ON SENATE BILL NO. 140

As Amended by Senate Committee on Judiciary

Brief*

SB 140, as amended, would amend provisions relating to forfeiture of appearance bonds by specifying that a county attorney or district attorney may file a motion for default judgment when a forfeiture has not been set aside.

Background

Under current law, when a forfeiture of an appearance bond has not been set aside, the court shall on motion enter a judgment of default. The law does not specify who may file the motion.

The bill was introduced in the Senate Committee on Judiciary at the request of the Kansas Judicial Branch. As introduced, the bill would have required a county or district attorney to file a motion in this situation.

At the Senate Committee hearing, a representative of the Kansas Judicial Branch Debt Collection Committee testified in support of the bill. A representative of the Kansas Bail Agents Association testified in opposition to the bill. No neutral testimony was presented to the Senate Committee.

The Senate Committee adopted an amendment prepared at the suggestion of the Kansas Bail Agents Association, to clarify that only county attorneys or district attorneys may file motions for default. The amendment also would provide prosecutorial discretion in filing such motions.

*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>

According to the fiscal note prepared by the Division of the Budget on the bill, the Office of Judicial Administration indicates that the bill, as introduced, could result in an increase in default motions, which would in turn increase bond forfeiture revenue. Current law provides for the following distribution of bond forfeiture revenue: 40 percent to the County General Fund; 30 percent to the Indigents' Defense Services Fund; and 30 percent to the State General Fund. Any fiscal effect in association with the bill is not reflected in *The FY 2016 Governor's Budget Report*.