

SESSION OF 2017

SUPPLEMENTAL NOTE ON SENATE BILL NO. 10

As Amended by Senate Committee on Judiciary

Brief*

SB 10 would amend the law concerning liens and claims against real or personal property. The bill would amend the procedure for judicial review of a lien or claim when a person has reason to believe any document or instrument purporting to create a lien or claim is fraudulent. Specifically, when the court orders a lien or claim to be set aside, the bill would require the court's findings of fact or conclusions of law to include an order prohibiting the person who filed such lien or claim from filing any future lien or claim with any filing officer without approval of the court that enters the order.

The bill also would create a new crime, making it a severity level 8 nonperson felony for a person to cause to be presented to a recorder of record for filing in any public record any lien or claim against any real or personal property when the person knows or reasonably should know such lien or claim is false or contains any materially false, fictitious, or fraudulent statement or representation and such person causes the lien or claim to be presented for filing with the intent to harass, damage, or defraud any person. It would also be a severity level 8 nonperson felony for a person to violate a court order issued as described above.

Background

The bill was introduced at the request of the Office of the Attorney General. In the Senate Committee on Judiciary, representatives of the League of Kansas Municipalities,

*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>

Kansas Association of Chiefs of Police, Kansas Peace Officers Association, Kansas Sheriffs' Association, and the Office of the Attorney General appeared in support of the bill. The proponents explained some citizens will file fictitious liens against public officials in retaliation for legitimate exercises of authority. The Kansas Land Title Association written-only opposition testimony expressed concerns about potential liability under the broad language of the bill.

The Committee adopted an amendment agreed to by the proponents and opponent to clarify the crime would apply when a person causes to be presented any lien or claim against any real or personal property and such person causes the lien or claim to be presented for filing with the intent to harass, damage, or defraud any person. It would also be a severity level 8 nonperson felony for a person to violate a court order issued as described above. The Committee also agreed to make the crime applicable to a lien or claim against any real or personal property, not just that of a public official.

According to the fiscal note prepared by the Division of the Budget, the Office of Judicial Administration indicates the bill, as introduced, could decrease expenditures and revenues related to civil lien or claim filing and increase expenditures and revenues related to criminal filings.

The Prison Bed Impact Statement prepared by the Kansas Sentencing Commission indicates the bill, as introduced, would have no immediate impact on prison admissions and beds, but would have a negligible impact when a probation violator is revoked to prison. The bill would also have an impact on the probation population; however, it cannot be determined because no such data exists to base an impact. Finally, the bill would have a negligible impact on the journal entry workload of the Commission.