

SESSION OF 2012

SUPPLEMENTAL NOTE ON SENATE BILL NO. 320

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

SB 320 would incorporate a probable cause determination in juvenile offender proceedings, as follows:

- The bill would raise the standard for one of the conditions for placement in a juvenile detention facility from an *allegation* to *probable cause* that the juvenile has committed an offense that would be a felony if committed by an adult;
- The bill would move the statutory provisions for detention hearings and incorporate the probable cause determination into such hearings; and
- The bill would clarify the detention hearing is an informal procedure to which the ordinary evidentiary rules do not apply, allowing the court to consider affidavits, professional reports, and representations of counsel in making the necessary findings.

If the juvenile contests that probable cause exists, the juvenile would be allowed to present contrary evidence or information. If such evidence cannot reasonably be produced at the detention hearing, the juvenile would be allowed to request a rehearing to contest probable cause within 14 days.

Finally, the bill would amend the rules of evidence statute in the Revised Kansas Juvenile Justice Code to

*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>

accommodate the relaxed evidentiary standards for detention hearings and dispositional hearings.

Background

SB 320 was introduced by the Senate Judiciary Committee at the request of the Kansas Judicial Council. In the Senate Judiciary Committee, a representative of the Kansas Judicial Council spoke in support of the bill, explaining the bill was intended to respond to two recent Kansas appellate court decisions holding that juveniles have a constitutional right to a probable cause determination and requesting legislative guidance concerning such determinations. The Committee recommended the bill be passed.

In the House Committee on Corrections and Juvenile Justice, a representative of the Kansas Judicial Council testified in support of the bill. The Committee adopted a technical amendment to improve the organization of KSA 2011 Supp. 38-2343 and recommended the bill be passed as amended.

The fiscal note on the bill states the Office of Judicial Administration estimates the probable cause determination could require 511 additional judge hours. If retired judges were used for this time, at a rate of \$211.66 per day, the total cost from the State General Fund for FY 2013 would be \$13,546. The bill would require additional district court clerk time and could require additional court services officer time. However, a precise fiscal effect for these workloads cannot be provided at this time. Finally, additional expenditures could be incurred for attorneys to represent juveniles at the hearings. Any fiscal effect is not reflected in *The FY 2013 Governor's Budget Report*.