

SESSION OF 2013

SUPPLEMENTAL NOTE ON SENATE BILL NO. 20

As Recommended by Senate Committee on
Judiciary

Brief*

SB 20 would amend the procedure for the filing of poverty affidavits and petitions by plaintiffs in civil cases who seek to be relieved from paying the docket fee. Such affidavits would be required to include a factual basis for the plaintiff's allegation of poverty, including, but not limited to, the source and amount of the plaintiff's weekly income. The plaintiff would be required to sign and swear to the affidavit, under penalty of perjury. An affidavit in substantial compliance with the form set forth by the Kansas Judicial Council would be deemed sufficient.

Once an affidavit is filed, the court may authorize the filing of a petition and may establish the amount of the filing fee to be paid. Upon the filing of a petition, the court would be required to review the petition and dismiss it, if the court finds the poverty allegation is untrue or if the petition is frivolous, malicious or brought in bad faith; fails to state a claim on which relief may be granted; or seeks monetary relief against a defendant immune from such relief. Service of process shall not be made unless the court grants leave following the review.

Background

SB 20 was introduced by the Senate Judiciary Committee at the request of Attorney General Derek Schmidt. In the Senate Judiciary Committee, a representative of the

*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>

Attorney General spoke in support of the bill, explaining the provisions were similar to federal requirements found in 28 USC § 1915. The Committee recommended the bill be passed.

The fiscal note on the bill states the Judicial Branch does not believe it would cause any additional expenditures for the branch. The bill could have a negligible effect on docket fee collections, but no accurate estimate of the possible effect is possible until the courts have been able to operate under the provisions of the bill.

Any fiscal effect associated with SB 20 is not reflected in *The FY 2014 Governor's Budget Report*.