

SESSION OF 2020

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2447**

As Amended by Senate Committee on Judiciary

**Brief\***

HB 2447, as amended, would amend statutes to address the use of two-way electronic audio-visual communication (videoconferencing) in various Kansas court proceedings, as follows.

***Kansas Code of Procedure for Municipal Courts***

The bill would amend statutes in the Kansas Code of Procedure for Municipal Courts to state videoconferencing may be used in the following situations:

- Between the defendant and the judge for an appearance upon a municipal court warrant or for arraignment;
- For appearance, pleas, and satisfaction of the judgment and sentence of the court;
- Between the defendant and defendant's counsel in the courtroom for any nonevidentiary hearing conducted by the court to determine the merits of any motion, unless good cause is shown why videoconferencing should not be utilized.

The bill would specify that existing ordinances and charter ordinances relating to the use of videoconferencing in municipal court shall remain in effect until amended or repealed by the city.

---

\*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 Code of Criminal Procedure***

The bill would amend statutes in the Kansas Code of Criminal Procedure that currently allow videoconferencing to be used in proceedings to determine release conditions for a person charged with a crime, at arraignment, and at any motion hearing conducted by the court. Specifically, the bill would remove language allowing the use of videoconferencing at the discretion of the court and replace it with language allowing videoconferencing unless good cause is shown why it should not be utilized. The bill would remove language from these statutes requiring the defendant to be informed of the defendant's right to be personally present in the courtroom, if the defendant so requests, and stating that exercising this right shall in no way prejudice the defendant. In the provision allowing videoconferencing to be used in a motion hearing, the bill would add language specifying such hearing must be nonevidentiary. The bill would also amend the arraignment statutes to specify that videoconferencing may be used for an arraignment at which the defendant stands mute or enters a not guilty plea, and that the defendant in a felony case must be present at any arraignment in which a no contest or guilty plea is entered.

### ***Revised Kansas Code for Care of Children***

The bill would add language to the Revised Kansas Code for Care of Children stating, in any proceeding under the Code, the court may allow a child or parent to appear by videoconference in lieu of the child's or parent's personal presence.

### ***Kansas Rules of Civil Procedure***

The bill would amend the statute governing witness testimony. Under current law, the witness' testimony at trial must be taken in open court, unless otherwise provided by law, and for good cause in compelling circumstances and with

appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location. The bill would replace this provision with a provision allowing testimony by contemporaneous transmission from a different location whenever any party requests the use of videoconferencing by written notice at least seven days before the hearing or proceeding. The notice would have to include the name and Internet protocol address of the testifying witness and the date and time the witness would testify. The court could modify the notice period upon a showing of good cause, and the bill would allow the Supreme Court to adopt rules to govern the administration of an oath to a witness who testifies by videoconference under these provisions.

### ***Technical Amendments***

Throughout the above statutes, and in statutes in the Revised Kansas Juvenile Justice Code, the bill would make technical amendments to ensure consistency in statutory phrasing and references.

### **Background**

The bill was introduced by the House Committee on Judiciary at the request of the Judicial Branch.

In the House Committee hearing, the Chief Judge of the Kansas Court of Appeals and representatives of the League of Kansas Municipalities (LKM) and Kansas Association of District Court Clerks and Administrators testified in support of the bill, stating generally that the bill represented the recommendations of the Judicial Branch Videoconferencing Committee and would allow increased use of videoconferencing in courts across the state. The LKM representative also requested an amendment clarifying the application of the bill's provisions to municipalities that already use the technologies addressed in the bill. [*Note:* This

amendment was adopted by the Senate Committee, as noted below.] A representative of the Kansas Bar Association submitted written-only proponent testimony. No other testimony was provided.

The House Committee amended the bill to also allow parents to testify *via* videoconferencing under the Revised Kansas Code for Care of Children and to allow the court to modify the notice period for good cause and to allow the Supreme Court to adopt rules to govern the administration of an oath for the provisions in the Rules of Civil Procedure.

In the Senate Committee on Judiciary hearing on May 18, 2020, the same conferees testified in support of the bill as before the House Committee. The conferees noted the response to the COVID-19 pandemic included widespread use by Kansas courts of some of the technologies addressed by the bill. Representatives of the Johnson County Sheriff's Office and the Kansas Bar Association submitted written-only proponent testimony. No other testimony was provided.

The Senate Committee adopted the amendment requested by LKM.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Office of Judicial Administration states enactment of the bill could result in some savings to counties from not transporting individuals to court for criminal trials, and there would be no fiscal effect on expenditures or revenues to the Judicial Branch. The Kansas Association of Counties indicates enactment of the bill could result in some costs associated with maintaining equipment for counties that decide to utilize the technology.