

SESSION OF 2008

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2825

As Amended by House Committee on
Judiciary

Brief*

HB 2825 would require that, in a civil or criminal case, the court upon the court's own motion may hold a hearing or any party may request a hearing to seal or redact the court records or to close a court proceeding. Reasonable notice of such hearing would have to be given to all parties in the case. In a criminal case, reasonable notice would also have to be given to the victim if ascertainable. If the court grants the request, it would make and enter a written finding of good cause before closing the proceedings or granting leave to file the records under seal. Good cause to close a proceeding or seal or redact records does not exist unless the court makes a finding on the record that there exists an identified safety, property, or privacy interest of a litigant or a public or private harm that predominates the case and such interest or harm outweighs the strong public interest in access to court records and proceedings.

Agreement of the parties would be considered by the court but would not constitute the sole basis for the sealing or redaction of court records or for closing the court proceeding.

The bill would not apply to the Kansas Code for Care of Children, the revised Kansas Juvenile Justice Code, the Kansas Adoption and Relinquishment Act, or to Supreme Court Rules which allow motions, briefs, opinions, and orders of the Court to identify parties by initials or by familial relationship. A court in these matters would be allowed to issue a protective order.

*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>

In addition, provisions of the bill would not preclude a court from allowing a settlement which includes a confidentiality clause to be filed under seal where the interests of justice would be served by such settlement being filed under seal.

Background

Representative Kinzer expressed support for the original bill. Others who testified in favor of the original bill included Kent Cornish, Kansas Association of Broadcasters; Rick Gannon, Kansas Press Association; John Lewis, citizen; and Alan Cobb, Americans for Prosperity.

Appearing as a neutral conferee was Anne Kindling, Kansas Association of Defense Counsel. Written testimony in opposition to the bill was given by Thomas Stanton, Kansas County and District Attorneys Association.

The fiscal note on the original bill indicates that if the bill became law, additional motions will be filed with the court requesting a hearing to seal or redact court records or to close a court proceeding. This would have a fiscal effect on the courts; however, data are not available to estimate the amount of a fiscal effect. It is probable that the cost could be absorbed within the current budget.