

SESSION OF 2010

SUPPLEMENTAL NOTE ON SENATE BILL NO. 386

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

SB 386, as amended, would amend the law on discovery and inspection of documents in criminal cases and the admissibility of certain evidence in criminal cases.

Discovery

The bill would clarify that a prosecuting attorney would not be required to provide unredacted vehicle identification numbers or personal identifiers to the defendant unless ordered by the court. If the prosecuting attorney does provide such information to the defendant's attorney, the bill would prevent the defendant's counsel from further disclosing the unredacted numbers or personal identifiers except as authorized by order of the court.

The bill would require the prosecuting attorney to provide notice to the defendant's counsel that the prosecuting attorney redacted books, papers, or documents that had numbers or personal identifiers. Any redaction of such information would be required to be by alteration or truncation of such numbers or identifiers and not by removal.

Personal identifiers would include, but would not be limited to, birthdates, social security numbers, taxpayer identification numbers, drivers license numbers, account numbers of active financial accounts, home addresses, and personal telephone numbers of any victims or material witnesses.

*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>

Admissibility of Evidence

Additionally, the bill would authorize district and municipal courts, in any hearing or trial with a forensic examination report, to use two-way interactive video technology to take testimony from the person who prepared the report, if requested by either the prosecution or defense. The use of any two-way interactive video technology would be required to be in accordance with requirements and guidelines established by the Office of Judicial Administration. All proceedings in a district court that use the technology would be required to be recorded verbatim by the court.

Finally, the bill would repeal the statute on admissibility of certain recorded statements of a child victim pursuant to KSA 22-3433.

The bill would become effective upon the publication of the *Kansas Register*.

Background

The proponents of the bill, as introduced, who presented testimony in the Senate Committee hearing were representatives of the Kansas County and District Attorneys Association and the Office of the Kansas Securities Commissioner.

The opponent of the bill, as introduced, who presented testimony in the Senate Committee hearing was a representative of the Office of Judicial Administration.

The Senate Committee amended the bill to clarify that the prosecuting attorney would be required to request the protective order prohibiting the transmission of the unredacted numbers or identifiers to the defendant or any other person.

The proponents of the bill, as amended by the Senate Committee, who presented testimony in the House Committee

hearing were representatives of the Kansas County and District Attorneys Association and the Office of the Kansas Securities Commissioner.

There were no opponents of the bill who testified in the House Committee.

The House Committee amended the bill to:

- Prevent the defendant's counsel from further disclosing the unredacted numbers or personal identifiers except as authorized by order of the court;
- Require the prosecuting attorney to provide notice to the defendant's counsel that the prosecuting attorney redacted books, papers, or documents that had numbers or personal identifiers if the items are redacted by the prosecuting attorney;
- Require any redaction of such information to be by alteration or truncation of such numbers or identifiers and not by removal; and
- Add the provisions of SB 458 as it passed the Senate Committee of the Whole. SB 458 provides for the use of two-way interactive video technology to take testimony from the person who prepared the forensic examination report.

The fiscal note on the bill, as introduced, may not provide the full potential fiscal impact since the bill has been amended. However, according to the fiscal note on the bill, as introduced, the Attorney General states that any fiscal effect could be absorbed within its existing budget. SB 386, as introduced, has the potential for increasing the number of court hearings. If it does, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. However, it is not possible to predict the number of additional hearings or how time-consuming they would be. Therefore, a precise fiscal effect cannot be determined. In any case, the

fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources.