

SESSION OF 2024

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2549

As Amended by House Committee of the Whole

Brief*

HB 2549, as amended, would amend law in the Kansas Adoption and Relinquishment Act (Act) governing petitions to terminate parental rights (TPR) and notice required to be given in a hearing on a petition for adoption.

Termination of Parental Rights Petitions

The bill would specify a TPR petition may be filed only as part of a petition for adoption or as a separate action in connection with the petition for adoption. Current law provides a TPR petition may be filed as an independent action.

For TPR petitions that are filed separately from petitions for adoption, the bill would specify venue for TPR petitions must be in the county where the child or a parent resides or is found, and the order granting the petition must:

- Be in substantial compliance with the Kansas Judicial Council (Judicial Council) form;
- Be a final judgment that is appealable as a matter of right;
- Satisfy the Act requirement that the necessity for consent or relinquishment is eliminated (if the order is not appealed); and

*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>

- Be effective only upon the filing of an adoption decree.

Notice of Hearing on Adoption Petitions

The bill would reorganize and clarify provisions related to the notice of hearing required to be given after a petition for adoption has been filed in various types of adoptions, as follows.

Independent and Stepparent Adoptions

The bill would require notice in an independent and stepparent adoption to be given to:

- The parents, presumed parents, or possible parents;
- Any person who has physical custody of the child; and
- Any legal guardian of the child.

Private Agency Adoptions

The bill would require notice in a private agency adoption to be given to:

- The consenting agency;
- The parents, the presumed parents, or possible parents;
- Any relinquishing person;
- Any person who has physical custody of the child; and
- Any legal guardian of the child.

Public Agency Adoptions

The bill would require notice in a public agency adoption to be given only to the consenting agency.

Other Amendments

The bill would also clarify that a person who receives notice of a hearing on an adoption petition would not be made a party or granted standing based solely on the fact that the person received such notice. The bill would further specify that notice is not required to be given to a person whose parental rights have been terminated or to a person who or agency that has waived the right to receive notice in writing.

Background

As introduced, the bill contained provisions related to TPR petitions. The House Committee of the Whole inserted the provisions of SB 115, as passed by the House, concerning notice in adoption petitions. Background for both bills are described below.

HB 2549 (Termination of Parental Rights Petitions)

The bill was introduced by the House Committee on Judiciary at the request of a representative of the Judicial Council.

House Committee on Judiciary

In the House Committee hearing, a representative of the Adoption Law Advisory Committee of the Judicial Council provided **proponent** testimony, stating the statute's current language allowing "independent actions" has been misinterpreted by some petitioners and that the change in the bill would prevent the filing of TPR petitions against a parent

when no related adoption proceeding is pending before a court. No other testimony was provided.

House Committee of the Whole

The House Committee of the Whole adopted an amendment inserting the contents of SB 115, as passed by the House in the 2023 Legislative Session. [Note: SB 115 is currently in conference between the Senate Committee on Judiciary and the House Committee on Child Welfare and Foster Care, but no action had been taken by the Conference Committee at the time House Committee of the Whole took action on the bill.]

SB 115 (Notice of Hearing on Adoption Petitions)

The bill was introduced by the Senate Committee on Judiciary at the request of a representative of the Kansas Judicial Council.

Senate Committee on Judiciary

In the Senate Committee hearing on February 8, 2023, **proponent** testimony was provided by representatives of Saint Francis Ministries and the Kansas Judicial Council, who stated the objective of the bill is to correct issues that have arisen as a result of the Legislature expanding notice requirements for public agency adoptions in 2018, which has, in some cases, resulted in trauma for a child when a biological parent whose rights have been terminated attended the hearing.

No other testimony was provided.

House Committee on Child Welfare and Foster Care

In the House Committee hearing on March 15, 2023, **proponent** testimony was provided by representatives of

Saint Francis Ministries and the Kansas Judicial Council, who restated their positions from the Senate Committee hearing.

The House Committee amended the bill to make it effective upon publication in the *Kansas Register* [Note: This amendment was not retained by the House Committee of the Whole.]

Fiscal Information

HB 2549

According to the fiscal note prepared by the Division of the Budget on the bill, the Office of Judicial Administration indicates enactment of the bill would have a negligible effect on the number of adoptions and, therefore, any effect on expenditures and revenue for the Judicial Branch and the State General Fund would be minimal.

The Department for Children and Families indicates enactment of the bill would not have a fiscal effect on the agency.

The Judicial Council indicates enactment of the bill would have no fiscal effect on the agency and that it would develop the form required under the bill.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2025 Governor's Budget Report*.

SB 115

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 have a fiscal effect on Judicial Branch operations because the bill's provisions would require district court clerks to send adoption hearing notices to additional individuals, which would

increase the clerks' workload. The Office indicates a fiscal effect cannot be estimated until the Judicial Branch has had an opportunity to operate under the bill's provisions. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Termination of parental rights; adoption; Kansas Adoption and Relinquishment Act; Kansas Judicial Council; notice of hearing