

SESSION OF 2022

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2607

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2607, as amended, would amend time limitations for *habeas corpus* motions under KSA 60-1507.

Under continuing law, such motions must be filed within one year of:

- The final order of the last Kansas appellate court to exercise jurisdiction on a direct appeal or the termination of such appellate jurisdiction; or
- The denial of a petition for writ of *certiorari* to the U.S. Supreme Court or issuance of such court's final order following granting such petition.

The bill would add that such motions would have to be filed within one year of the decision of the district court denying a prior motion under the section, the opinion of the last appellate court in this state to exercise jurisdiction on such prior motion, or the denial of the petition for review on such prior motion, whichever is later.

The bill would provide that this amendment would not bar actions under this section that are brought within one year of the bill's effective date.

The bill would be in effect upon publication in the *Kansas Register*.

*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>

Background

The bill was introduced by the House Committee on Corrections and Juvenile Justice by Representative Owens at the request of the Kansas Attorney General's Office.

House Committee on Corrections and Juvenile Justice

In the House Committee hearing on February 10, 2022, a representative of the Kansas Attorney General's Office provided **proponent** testimony, stating the bill would close an inadvertent loophole and remedy a lack of clarity regarding subsequent KSA 60-1507 motions claiming ineffective counsel by mirroring time calculations in the federal *habeas* process, and the bill would codify a recent Kansas Court of Appeals decision, *Rowell v. State*, 490 P.3d 78 (2021).

A representative of the Kansas Association of Criminal Defense Lawyers (KACDL) provided neutral testimony, stating the bill works as clarification of the statute of limitation that already exists and suggesting an amendment that any amendments to the section would not be applied retroactively to bar actions brought within one year of the bill's effective date.

No other testimony was provided.

On February 14, 2022, the House Committee amended the bill at the request of KACDL to extend the time limit for actions under the section to one year beyond the effective date of the bill; and, at the request of the Attorney General's Office, to change the effective date from publication in the statute book to publication in the *Kansas Register*.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial

Administration (OJA) indicates enactment of the bill could have a fiscal effect on Judicial Branch operations because the bill's provisions would add another time limit on how long a criminal defendant has to file a *habeas* action, and because of that additional time limit, it is possible that fewer criminal cases would be filed. However, a fiscal effect could not be estimated. Any fiscal effect associated with the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Habeas corpus; KSA 60-1507 motions; one year time limitation