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MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: March 6, 2024
Subject: Bill Brief for HB 2549

House Bill 2549, As Amended by House Committee of the Whole, changes the lists of persons who are required to be given notice of the hearing on a petition for an independent or stepparent, private agency or public agency adoption under the Kansas adoption and relinquishment act and limits a petition to terminate parental rights under the act to adoption proceedings and sets requirements for petitions to terminate parental rights that are filed separately.

The House Committee of the Whole added the contents of Senate Bill 115 (currently in a conference committee, passed both chambers in 2023) as Section 1 of HB 2549. This section amends K.S.A. 59-2133, the Kansas adoption and relinquishment act statute concerning notice. Current law provides notice requirements for independent and stepparent adoptions in subsection (b) and for agency adoptions in subsection (c). The bill amends subsection (b) to require notice to all persons entitled to notice, but also specifies that persons who receive notice shall not be made a party or granted standing based solely on such notice.

The bill amends subsection (c) to provide separate notice requirements in an independent or stepparent adoption, a private agency adoption, and a public agency adoption. In addition to the persons entitled to notice under current law, presumed parents are added to the list of persons entitled to notice in independent, stepparent, and private agency adoptions, and legal guardians are added to the list of persons entitled to notice in stepparent and private agency adoptions. In a public agency adoption, only the consenting agency is entitled to notice.

Subsection (d) provides that notice of the hearing is not required to be given to a person whose parental rights have been terminated or a person or agency that has waived in writing the right to receive notice. Current law requiring the notice to be by personal service, certified mail return receipt requested or in any other manner the court may direct, is retained in subsection (e).

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Section 2 amends K.S.A. 59-2136, the statute related to determining the necessity of a parent's relinquishment of rights or consent to an adoption. Current law provides that a petition to terminate parental rights may be filed as part of a petition for adoption or as an independent action. This bill would require that petitions to terminate parental rights under the Kansas adoption and relinquishment act may be filed only as part of a petition for adoption or as a separate action in connection with an adoption proceeding that is filed or to be filed.

The bill also provides that if a petition to terminate parental rights is filed separately from a petition for adoption, venue for the termination proceedings shall be in the county where the child or parent resides or is found. An order granting the petition: (1) Is required to be in substantial compliance with the form set forth by the judicial council; (2) is a final judgment that is appealable; (3) shall satisfy the requirement to demonstrate that the necessity for the consent or relinquishment is eliminated if the order is not appealed; and (4) is effective only upon the filing of a decree of adoption.

The bill would take effect from and after publication in the statute book, July 1, 2024.