

SESSION OF 2016

SUPPLEMENTAL NOTE ON SENATE BILL NO. 378

As Amended by Senate Committee on Judiciary

Brief*

SB 378, as amended, would bring within the Kansas Act Against Discrimination (Act) an existing statutory prohibition on discharge, discrimination, or retaliation against an employee who is a victim of domestic violence or sexual assault for taking time off from work to obtain relief or services, seek medical attention, or make court appearances related to such domestic violence or sexual assault, making it an unlawful employment practice under the Act to violate this provision. The bill would change the prohibition on discrimination or retaliation to a prohibition on “adverse employment action.”

The bill would amend the definition of “domestic violence” for purposes of this prohibition to add the meaning of the term as defined in the Criminal Code. The definition of “sexual assault” would be expanded by adding all offenses in the sex offense chapter of the Criminal Code that currently are not listed in statute, as well as the offenses of selling sexual relations, promoting the sale of sexual relations, buying sexual relations, and commercial sexual exploitation of a child.

The bill would add a definition for “crime victim” to include any person who suffered direct or threatened physical, emotional, or financial harm as the result of the commission or attempted commission of a person felony crime against such person, as well as certain relatives of such person.

*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>

The bill would add provisions prohibiting discharge or adverse employment actions against crime victims in similar circumstances as those already provided for victims of domestic violence or sexual assault. Similar documentation would be required of crime victims when taking time off for the specific purposes as is currently required of victims of domestic violence or sexual assault.

The bill would replace the current provision directing the Secretary of Labor to enforce the prohibition and giving the Secretary rules and regulations authority for such enforcement with provisions allowing for complaint to and enforcement by the Kansas Human Rights Commission under the Kansas Act Against Discrimination. The bill would add determinations with respect to alleged violations of this prohibition to the list of no-probable-cause determinations by the Kansas Human Rights Commission that are exempted from the Kansas Judicial Review Act.

Background

The bill was introduced by the Senate Committee on Judiciary at the request of the Department of Labor. As introduced, the bill would have amended the definitions of “domestic violence” and “sexual assault” and provided for enforcement by the Kansas Human Rights Commission by reference to provisions in the Kansas Act Against Discrimination and through procedures specified in the bill.

In the hearing before the Senate Committee, representatives of the Department of Labor and Kansas National Organization of Women testified in support of the bill. A representative of the Kansas Attorney General’s Office provided written testimony supporting the bill. The executive director of the Kansas Human Rights Commission testified as a neutral conferee. Representatives of the Kansas Coalition Against Sexual and Domestic Violence provided written neutral testimony.

The Senate Committee amended the bill to extend protections to crime victims, as defined in the amendment, and to bring the provision within the Kansas Act Against Discrimination to better define the enforcement procedures by the Kansas Human Rights Commission.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Human Rights Commission estimates the bill could result in 50 additional complaints and 500 additional public contacts, requiring additional expenditures of \$80,715 from the State General Fund for FY 2017. Of this amount, \$54,360 would fill an existing Special Investigator II FTE position and \$26,355 would be for associated operating costs, including additional public inquiries, printing, repair and servicing, professional fees, office supplies, and office equipment. U.S. Equal Employment Opportunity Commission (EEOC) reimbursements would not be available, as complaints filed on the basis of domestic violence or sexual assault do not fall within the jurisdiction of the EEOC.

The Office of Judicial Administration indicates the bill could result in more district court cases, increasing the workload of judges and staff and increasing docket fee revenue. However, the precise fiscal effect for the Judicial Branch is unknown.

The Department of Labor indicates there would be no fiscal effect for the agency.

Any fiscal effect is not reflected in *The FY 2017 Governor's Budget Report*.