

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2279

As Amended by Senate Committee on Judiciary

Brief*

HB 2279, as amended, amends law related to domestic violence calls and law enforcement agency notification policies and creates law concerning housing protections for victims of domestic violence, as follows.

Domestic Violence Calls; Law Enforcement Agency Notification Policies

Continuing law requires law enforcement agencies in the state to adopt written policies regarding domestic violence calls and make such policies available to all officers of the agency. The bill would require all law enforcement agencies in the state provide training to law enforcement officers regarding the agency's adopted policy.

The bill would add requirements that such written policies provide, when an arrest is made for a domestic violence offense, including an arrest for violation of a protection order, the officer shall provide the victim information regarding:

- The fact that in some cases the person arrested can be released from custody in a short amount of time;
- The fact that in some cases a bond condition may be imposed on the person arrested that prohibits contact with the victim for 72 hours, and if the

*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>

person arrested contacts the victim during that time, the victim should notify law enforcement immediately; and

- Any available services within the jurisdiction to monitor custody changes of the person being arrested, including, but not limited to, the Kansas Victim Information and Notification Everyday (VINE) service, if available in the jurisdiction.

Housing Protections for Victims of Domestic Violence

The bill also would create law prohibiting certain actions being taken against a tenant, lessee, or applicant for a lease because such person has been or is in imminent danger of becoming a victim of domestic violence, sexual assault, human trafficking, or stalking, as follows.

An applicant could not be denied tenancy on the basis of or as a direct result of the circumstances listed above, if the applicant otherwise qualifies for tenancy or occupancy.

A tenant or lessee could not be evicted from the premises or found to be in violation of a rental or lease agreement on the basis of or as a direct result of the circumstances listed above, if the tenant or lessee otherwise qualifies for tenancy or occupancy.

A tenant or lessee would not be liable for rent for the period after vacating rented or leased premises if the tenant or lessee is in the circumstances described above and notifies the landlord or property owner in accordance with provisions set forth in the bill. In an action brought against a tenant or lessee under Kansas law seeking recovery of rent, the tenant or lessee would have an affirmative defense and no liability for rent for the period after vacating the premises if, by preponderance of the evidence, the court finds the tenant or lessee was in the circumstances described above and provided the required notice.

An applicant, tenant, or lessee would qualify for the protections of the bill if the applicant, tenant, or lessee provides a statement regarding the circumstances described above to the landlord or property owner, who could also request the applicant, tenant, or lessee provide additional documentation specified by the bill. Such documentation could include a document signed by the victim and any one of various specified professionals or providers from whom the victim sought assistance, declaring under penalty of perjury the individual believes the qualifying circumstances exist, or a record pertaining to the alleged qualifying circumstances from a court or federal, state, or local law enforcement agency, including a police report. The submission of false information by an applicant, tenant, or lessee would be a basis for denial of tenancy, eviction, or violation of a rental or lease agreement.

A landlord or property owner could impose a reasonable termination fee, not to exceed one month's rent, on a tenant or lessee requesting termination pursuant to the bill before the expiration date of the lease, but only if such fee is contained in the terms of the rental or lease agreement.

The bill would provide the definitions of "domestic violence," "human trafficking," "sexual assault," and "stalking" are the same as those provided by current statutes regarding substitute mailing addresses for victims of such offenses.

Background

HB 2279, as amended by the Senate Committee on Judiciary, includes provisions of HB 2279, as amended by the House Committee on Corrections and Juvenile Justice, regarding law enforcement agency domestic violence policies, and SB 150, as amended by the Senate Committee and passed by the Senate, regarding housing protections for victims of domestic violence.

HB 2279 (Domestic Violence Calls; Law Enforcement Agency Notification Policies)

HB 2279 was introduced by Representatives Victors and Curtis.

In the House Committee on Corrections and Juvenile Justice hearing, proponent testimony was presented by Representative Curtis and representatives of the Kansas Coalition Against Sexual and Domestic Violence (KCSDV) and the Wichita Family Crisis Center. Written-only proponent testimony was provided by Representative Victors and a private citizen. Proponents testified the intent of the legislation was to provide domestic violence victims notice of a potential amount of time that would expire before the arrested person may be released from jail.

A representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association presented opponent testimony. The opponent testified the organizations were concerned with specific bond schedule and no-contact order notice requirements contained in the bill, as introduced.

The House Committee amended the bill to specify notice is to be provided when an arrest is made for a domestic violence offense. The House Committee also adjusted the notice provision related to release from custody and no-contact orders and replaced the notice based upon a bond schedule with notice that an arrested person can be released from custody in a short amount of time.

In the Senate Committee hearing, Representatives Victors and Curtis, a representative of KCSDV, and a private citizen testified in support of the bill. A representative of the Wichita Family Crisis Center and two private citizens provided written-only testimony supporting the bill. No other testimony was provided.

The Senate Committee amended the bill to add the contents of SB 150, as amended by the Senate Committee, regarding housing protections for victims of domestic violence.

According to the fiscal note prepared by the Division of the Budget on HB 2279, as introduced, the Kansas Bureau of Investigation and the Kansas Highway Patrol indicate enactment of the bill would have a negligible fiscal effect on agency operations and would be absorbed within existing resources.

The Kansas Association of Counties and the League of Kansas Municipalities indicate enactment of the bill would result in staff time and attorney costs in drafting written policies with the requirements listed in the bill and additional time for local law enforcement agencies to provide the training required by the bill.

SB 150 (Housing Protections for Victims of Domestic Violence)

SB 150 was introduced by Senators Sykes, Alley, Baumgardner, Berger, Bollier, Doll, Faust-Goudeau, Francisco, Givens, Haley, Hardy, Hawk, Hensley, Hilderbrand, Holland, Kerschen, Longbine, McGinn, Miller, Olson, Pettey, Skubal, Taylor, Wagle, Ware, and Wilborn.

In the Senate Committee on Judiciary hearing, Senators Sykes and Faust-Goudeau and representatives of KCSDV, Keep Girls Safe Foundation, Lenexa Police Department, Metropolitan Organization to Counter Sexual Assault (MOCSA), Sisters of Charity of Leavenworth, The Associated Landlords of Kansas (TALK), and the YWCA of Northeast Kansas testified in support of the bill. Written-only proponent testimony was provided by representatives of Kansas Interfaith Action, United Community Services of Johnson County, the Westwood Police Department, and the Wichita

Family Crisis Center. No neutral or opponent testimony was provided.

The Senate Committee amended the bill to remove administrative agency records from the listed supporting documents, specify the allowable termination fee could not exceed one month's rent, and clarify terminology in the termination fee provision.

In the House Committee on Judiciary hearing, Senators Sykes and Faust-Goudeau and representatives of the Lenexa Police Department, MOCSA, Sisters of Charity of Leavenworth, and TALK testified in support of the bill. Written-only proponent testimony was provided by representatives of KCSDV, Keep Girls Safe Foundation, United Community Services of Johnson County, the Westwood Police Department, and the YWCA of Northeast Kansas. A landlord testified as a neutral conferee. No opponent testimony was provided. At the time of Senate Committee action on HB 2279, the House Committee had not yet taken action on SB 150.

According to the fiscal note prepared by the Division of the Budget on SB 150, as introduced, the Office of Judicial Administration indicates enactment of the bill would have a negligible fiscal effect on Judicial Branch operations.