

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2125

As Amended by House Committee on Judiciary

Brief*

HB 2125, as amended, would modify law governing filing and preserving of wills to allow a copy of a decedent's will to be filed, and allow a will or a copy of a will to be probated at any time after filing, subject to any other applicable legal defenses to such admission.

Under continuing law, an affidavit must be filed as part of this procedure. The bill would require such affidavit filed on or after July 1, 2021, to state whether the original will or a copy of the will is being filed with the court.

[*Note:* Currently, this statute does not allow for copy of a will to be filed and provides that a will may be probated after a six month period from the death of the testator.]

Background

The bill was introduced by the House Committee on Judiciary at the request of the Kansas Bar Association (KBA).

House Committee on Judiciary

In the House Committee hearing on February 4, 2021, a representative of the KBA testified as a **proponent** of the bill, stating the bill would allow a copy of a will to be preserved for probate in cases when the original will is lost. No other testimony was provided.

*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 House Committee amended the bill to require the affidavit to state whether the original will or a copy is being filed.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration (Office) indicates that enactment of the bill could have a fiscal effect on the Judicial Branch because the bill would allow a copy of a will to be filed as well as remove the six-month time limit to admit wills to probate, which could result in more time spent by court employees and judges processing and deciding cases. The Office estimates enactment of the bill could result in the collection of docket fees assessed in those cases filed under the bill's provisions. Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Wills; probate; affidavit; filing of copy of will