

SESSION OF 2012

SUPPLEMENTAL NOTE ON SENATE BILL NO. 292

As Recommended by Senate Committee on
Judiciary

Brief*

SB 292 would create a new section providing for the automatic revocation of inheritance rights upon divorce or annulment of a marriage. Pursuant to the bill, absent express terms in a governing instrument, a divorce or annulment would revoke the following when made to a former spouse or a former spouse's relatives: a disposition or appointment of property; a general or nongeneral power of appointment; and a nomination to serve in a fiduciary or representative capacity. Further, it would sever the interest of a former spouse in property held at the time of the divorce or annulment as joint tenants with right of survivorship, making the interest instead a tenancy in common. This severance would not affect any third-party interest in property acquired for value and in good faith unless otherwise declared in a writing.

A revocation or severance would be treated as though the former spouse or former spouse's relative disclaimed the interest, or in the case of a revoked nomination to serve in a fiduciary or representative capacity, as though the former spouse or former spouse's relatives died immediately before the divorce or annulment.

Two other subsections would describe the effect of this bill on third parties. The first would provide that a payor or third party would not be liable for having made a payment or transferred an item of property or any other benefit to a former spouse based on a good faith reliance on the validity

*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>

of a governing document and without having notice of a claimed forfeiture or revocation as a result of an annulment or divorce. This subsection also would outline the notice required to third parties of a claimed forfeiture or revocation as a result of a divorce or annulment. The second subsection would allow a person who purchases or receives property in fulfillment of a debt to keep the property, while specifying that a former spouse or former spouse's relative who receives payment, property, or other benefit to which that person is not entitled under the provisions of this bill will be required to return it.

The bill also would define some of the terms used in the bill.

Background

SB 292 was introduced by the Senate Judiciary Committee at the request of the Kansas Judicial Council. The bill is substantially similar to 2011 HB 2071, as introduced, which passed the House of Representatives, but was replaced by an unrelated substitute bill in the 2011 Senate Judiciary Committee.

In the Senate Judiciary Committee, a representative of the Kansas Judicial Council spoke in support of SB 292. The Committee recommended the bill be passed.

The fiscal note on the bill indicates it would have no effect on the state budget.