

SESSION OF 2012

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 79**

As Recommended by House Committee on
Judiciary

Brief*

House Sub. for SB 79 would note the Kansas Legislature's recognition of the right to contract freely under Kansas law, which can be reasonably and rationally circumscribed pursuant to the state's interest in protecting and promoting rights and privileges granted by the U.S. and Kansas constitutions. It also would make void and unenforceable:

- Any court, arbitration, tribunal, or administrative ruling or decision based on a foreign law, legal code, or system that does not grant the parties affected the fundamental liberties, rights, and privileges granted by the U.S. and Kansas constitutions;
- A contract or contractual provision, if severable, that provides for the choice of a foreign law, legal code, or system to govern disputes between the parties that does not grant the parties affected the fundamental liberties, rights, and privileges granted by the U.S. and Kansas constitutions; and
- A contract or contractual provision, if severable, that grants *in personam* jurisdiction for adjudication of disputes if the jurisdiction chosen includes any foreign law, legal code, or system that does not grant the parties affected the fundamental liberties,

*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>

rights, and privileges granted by the U.S. and Kansas constitutions.

The bill would define "foreign law, legal code, or system."

Further, the bill would provide for denial of a claim of forum *non conveniens* or a related claim if a resident, subject to personal jurisdiction in Kansas, seeks to maintain litigation, arbitration, agency, or similarly binding proceedings, and granting the claim violates or likely would violate the fundamental liberties, rights, and privileges granted by the U.S. and Kansas constitutions.

Nothing in the bill would be construed to disapprove of or abrogate any previously rendered Kansas Supreme Court decision. Additionally, it would not be construed to allow a court to:

- Adjudicate or prohibit any religious organization from deciding upon ecclesiastical matter of a religious organization, including, among other issues, the selection, appointment, calling, discipline, dismissal, removal, or excommunication of a member, member of the clergy, or other person who performs ministerial functions; or
- Determine or interpret the doctrine of a religious organization, including, but not limited to, where adjudication by a court would violate the prohibitions of the religion clauses of the first amendment to the U.S. and Kansas constitutions.

Background

SB 79, as introduced, would have amended the state debt setoff law to provide that the collection assistance fee for all debts owed to a court shall be paid by the debtor as an additional cost, rather than deducted from the debts owed to a court.

In the Senate Committee on Judiciary, a representative of the Kansas Association of District Court Clerks and Administrators (KADCCA), appeared in support of the bill. No opponents provided testimony. The Committee made no changes to the bill and recommended it be passed.

In the House Committee on Judiciary, a representative of the KADCCA appeared in support of the bill. The Committee amended the bill by adopting a substitute bill, incorporating the text of HB 2087, as further amended by the House Committee on Judiciary.

The fiscal note for HB 2087, as introduced, stated it would have no fiscal effect on the Judicial Branch.