

SESSION OF 2013

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2014

As Amended by House Committee on Judiciary

Brief*

HB 2014 would amend the law concerning revocation of inheritance rights upon divorce or annulment of a marriage. Specifically, it would provide that a divorce or annulment of a marriage would, if specified in the decree of divorce or annulment and when made to a former spouse or the former spouse's relatives, revoke any revocable disposition or appointment of property; general or nongeneral power of appointment; or a nomination to serve in a fiduciary or representative capacity. Similarly, the divorce or annulment 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, if the decree specifies for such severance. An exception would exist for express terms of a governing instrument, a court order, or contract relating to the division of a marital estate made between two divorced individuals before or after the marriage, divorce, or annulment.

As to third parties, the bill would provide that a payor or other third party would not be liable for having made a payment or transferred an item of property or any other benefit to a beneficiary or for having taken any other action in good faith reliance on the validity of the governing instrument and without written notice of the claimed forfeiture or revocation as a result of a divorce, annulment, or remarriage. The bill describes the requirements for written notice to third parties. Upon receiving notice, the bill would allow a payor or other third party to pay any amount owed or transfer or deposit any item of property it holds to or with the court

*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>

having jurisdiction of the probate proceedings relating to the decedent's estate, or, if no proceedings have commenced, to or with the court having jurisdiction of probate proceedings relating to the decedent's estates located in the county of the decedent's residence. These payments, transfers, or deposits would discharge the payor or other third party from all claims for the value of the amounts paid to or items of property transferred to or deposited with the court. The court would then hold the funds or property and, upon its determination, order disbursement or transfer in accordance with the determination.

The bill also would allow a person who purchases property for value and without notice or receives property in satisfaction or a legally enforceable obligation 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 would be required to return it or be liable for the amount of the payment or the value of the property or benefit.

Finally, the bill includes language to address the possibility of federal preemption and would define key terms.

Background

In the House Committee on Judiciary, a representative of the Kansas Judicial Council appeared in support of the bill and the Kansas Bar Association offered written proponent testimony. No others offered testimony. The House Committee adopted an amendment to provide that the interests described in the bill would be revoked or severed by the divorce or annulment of a marriage only if the decree specifies they should be revoked or severed.

The Division of Budget's fiscal note for the bill, as introduced, indicates the bill would have no fiscal effect on the Judicial Branch.