

SESSION OF 2013

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2175**

As Amended by House Committee on Federal  
and State Affairs

**Brief\***

HB 2175 would amend existing law and create new law concerning official misconduct. Under the bill, the crime of official misconduct would include a public officer or employee, as specified in the bill, who intentionally and without probable cause, as part of a determination of whether to grant access to a publicly accessible form of transportation:

- Touches certain areas of another person's body, including touching through clothes;
- Removes a child younger than 18 years of age from the physical custody or control of the child's parent or legal guardian;
- Commits an assault or aggravated assault as described in KSA 2012 Supp. 21-5412; or
- Harasses, delays, coerces, threatens, intimidates, or denies or conditions the person's access to the publicly accessible transportation because of a person's refusal to consent to any of the above.

The bill would define the specific public officer or employee as an officer, employee, or agent of the federal Transportation Security Administration, or any successor entity, or any person acting under a contract with the federal Transportation Security Administration, or any successor entity.

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\*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 bill would create a new law allowing the Attorney General, with the consent of the proper county or district attorney, to represent the State of Kansas and defend the validity of the official misconduct statute if its constitutionality would be challenged. The provision would allow the Attorney General to make any legal arguments considered appropriate, including but not limited to:

- The exercise of state police powers;
- Liberty interests secured by the *U.S. Constitution*;
- The powers reserved to the state by the Tenth Amendment; and
- Any rights and protections secured by the *Kansas Constitution*.

## **Background**

At the hearing held by the House Committee on Federal and State Affairs, Representative Hildabrand and a private citizen testified in support of the bill. There was no neutral or opponent testimony on the bill.

The House Committee amended the bill by removing language that would have made the bill applicable to publicly accessible venues, as well as publicly accessible transportation facilities. The Committee also changed the definition of public officer or employee to include specifically only officers, employees, or agents of the federal Transportation Security Administration and successor entities.

According to the fiscal note on the bill from the Division of the Budget, the Office of the Attorney General has indicated the bill would have no fiscal effect on agency operations. The Office of Judicial Administration has indicated the bill could increase the number of cases filed with district and appellate courts and could increase costs associated with processing, researching, and hearing cases. The

additional cases also would result in increased revenue from docket fees and penalties. Since the number and complexity of the cases cannot be predicted, a precise fiscal effect cannot be determined. However, the fiscal effect likely would be accommodated within the existing schedule of court cases and not require additional resources. Any fiscal effect associated with the bill is not reflected in *The FY 2014 Governor's Budget Report*.