

SESSION OF 2002

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2733

As Amended by Senate Committee on
Public Health and Welfare

Brief*

HB 2733, as amended by House and Senate Committees, amends two statutes that concern presumptive death and the distribution of estates in such cases and creates a new statute that concerns absentees missing as a result of a catastrophic event or disaster and the presumption of death in such circumstances.

A new statute created by HB 2733 sets out the procedure to be followed when an absentee is presumed dead as the result of a catastrophic event, disaster, state of emergency, or state of war emergency when a body cannot be found or identified. The terms are defined in the new statute. The absentee would be presumed dead immediately after the catastrophic event if the body could not be recovered due to the nature of the event and evidence presented to a court of proper jurisdiction placed the absentee at the site of the event on the date and at the time of the event. Upon a finding of presumptive death, the court would order the coroner in the county where the death occurred to prepare a death certificate which is to be registered by the Office of Vital Statistics. If new evidence is found, the court may order the death certificate amended or, if the absentee is found to be alive, rescinded.

Amendments to an existing statute, which concerns the administration of estates of persons presumed dead, set the procedure to be followed when the absentee is presumed dead as the result of a catastrophic event, disaster, state of emergency, or state of war emergency. In such instances, no final disposition of the assets of the estate is to be made for three years after the date of the presumptive death, except that assets that are exempt from attachment by creditors

*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/cgi-bin/fulltext/bills.cgi>

and other assets that would otherwise be available for the support of a spouse, children, or other dependents if the absentee were alive, may be paid after allowance for debts and the costs of administration and on order of the court.

The Senate Committee amendments are technical.

Background

HB 2733 was recommended for introduction by the Department of Health and Environment. The Director of the Center for Health and Environmental Statistics explained the bill provides for declaring a catastrophic event, shortens the time period for declaring a presumptive death in such circumstances, and addresses the needs of family members. The bill was developed in response to the New York experience following the September 11 catastrophic events which led most state registrars of vital statistics to review their state laws in light of the exigencies that emerged in New York. Prior to being reported out of the Senate Committee the bill was reviewed by the members of the Judicial Council committee on probate who did not recommend any changes.

The fiscal note indicates passage of the bill would have only a negligible administrative effect that could be absorbed within existing resources.