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MEMORANDUM

To: House Committee on Judiciary

From: Office of Revisor of Statutes

Date: March 16, 2021

Subject: Bill Brief on SB 102

SB 102 requires earlier notice of anticipated release from custody of a person who may be a sexually violent predator to the attorney general and a multidisciplinary team and specifies where such person will be detained during civil commitment proceedings.

Section 1 amends K.S.A. 59-29a02, the statute containing definitions for the Kansas sexually violent predator act. The bill amends the definition of “agency with jurisdiction” to clarify that such an agency releases “a person confined or serving a sentence” rather than “a person serving a sentence or term of confinement” but the listed agencies remain the department of corrections, the Kansas department for aging and disability services and the prisoner review board.

Section 2 amends K.S.A. 59-29a03, which currently provides that when a person may meet the criteria of a sexually violent predator, the agency with jurisdiction shall give written notice to the attorney general and a multidisciplinary team 90 days prior to release or anticipated release of such person. The bill provides that on and after July 1, 2022, and prior to July 1, 2023, such notice shall be given 90 days to two years prior to release or anticipated release and on and after July 1, 2023, such notice shall be given two years prior to release or anticipated release.

Section 3 amends K.S.A. 59-29a05, the statute that addresses the process for a court to determine whether probable cause exists to believe that a person is a sexually violent predator. Current law provides that if the court makes such a probable cause finding, the court shall direct that the person be taken into custody and detained in the county jail until such time as a determination is made that the person is a sexually violent predator subject to commitment under the act. The bill would retain this law and create an exception for a person who is subject to secure confinement at a correctional facility operated by the secretary of corrections, providing

that when the person is no longer subject to such confinement, the court shall direct the sheriff of the county where the petition is filed to transport the person to the county jail and detain the person in the county jail until a determination is made that the person is subject to commitment under the act.

Further, the bill would add a new subsection (f) to K.S.A. 59-29a05 that applies when a person involved in a proceeding under the Kansas sexually violent predator act remains subject to secure confinement at a correctional facility operated by the secretary of corrections. This subsection would allow the court to secure the person's attendance at the proceeding by directing the sheriff of the county where the proceeding will be held to take the person into the sheriff's physical custody and detain the person in the county jail for such time deemed reasonable to secure the person's attendance at the proceeding. Finally, a new subsection (g) provides that nothing in K.S.A. 59-29a05 creates specific rights for the person alleged to be a sexually violent predator.