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MEMORANDUM

To: House Committee on Corrections and Juvenile Justice

From: Office of Revisor of Statutes

Date: February 7, 2024

Subject: Bill Brief on HB 2353

HB 2353 increases the amount of time a person may be held for treatment and adds criteria for when continued treatment may be ordered under the care and treatment act for mentally ill persons.

Section 1 amends K.S.A. 59-2958, the statute in the care and treatment act allowing for ex parte emergency orders. Current law provides that an order expires at 5:00 pm on the second day the district court is open after its issuance. This bill would change that to have such an order expire on the third day the district court is open after its issuance.

Section 2 amends K.S.A. 59-2959, the statute in the act related to temporary custody orders. Current law provides that when a request for a temporary custody order is filed, the court shall set the matter for a hearing to be held not later than the close of business the second day the district court is open after the filing. This bill would change that to require the hearing to be held not later than the close of business on the third day the district court is open after the filing.

Section 3 amends K.S.A. 59-2967, the statute in the act related to orders for outpatient treatment. Current law provides that an order for outpatient treatment may be entered by the court at any time in lieu of any type of order that would have required inpatient care and treatment if the court finds that the patient is likely to comply with the outpatient treatment order and is not likely to be a danger to the community or be likely to cause harm to self or others while subject to the order. This bill leaves that standard in place and adds that, alternatively, the court may order such an order if the patient is in need of outpatient treatment to prevent a relapse or deterioration that would likely result in (1) serious bodily harm to self or others, (2) a substantial harm to the patient's well-being, (3) substantial damage to another person's property or (4) serious physical or mental debilitation in the patient. The bill also requires that if

outpatient treatment is ordered, all directives and treatment plans required by the head of the outpatient facility shall be provided to the court in writing within 10 business days after the order for outpatient treatment is issued. Failure to provide the directives and treatment plans is not grounds for dismissal of the order unless the failure is made in bad faith.

Current law in subsection (e) provides that an ex parte emergency custody order issued for noncompliance with an outpatient treatment order shall issued by the court shall expire on 5:00 pm on the second day the district court is open after the patient is taken into custody. This bill would change that to have such an order expire on the third day the district court is open after the patient is taken into custody. Subsection (f) currently requires that on taking a patient into custody pursuant to an ex parte emergency custody order and ordering involuntary inpatient care, the court shall set the matter for hearing not later than the close of business on the second day the court is open for business after the patient is taken into custody. This bill would change that to require the hearing to be held not later than the close of business on the third day the district court is open after the patient is taken into custody.

Section 4 amends K.S.A. 59-2969, the statute about hearings to review the status of patients. Current law provides that upon completion of the hearing, if the court finds by clear and convincing evidence that the patient continues to be a mentally ill person subject to involuntary commitment under the act, the court shall order continued treatment for a specified period of time not to exceed three months. This bill allows that treatment to be ordered for a specified period of time not to exceed six months.