

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Judiciary** recommends **HB 2697** be amended on page 1, following line 6, by inserting:

"Section 1. K.S.A. 22-3301 is hereby amended to read as follows: 22-3301. ~~(1)~~ For the purpose of this article,;

(a) ~~A~~ person is "incompetent to stand trial" when ~~he~~ such person is charged with a crime and, because of mental illness or defect is unable:

~~(a)(1)~~ To understand the nature and purpose of the proceedings against ~~him~~ such person; or

~~(b)(2)~~ to make or assist in making ~~his~~ such person's defense.

~~(2)(b)~~ Whenever the words "competent," "competency," "incompetent" and "incompetency" are used without qualification in this article, they shall refer to the defendant's competency or incompetency to stand trial, as defined in subsection ~~(1)~~ of this section (a).

(c) "Appropriate state, county or private institution or facility" means a facility with sufficient resources, staffing and space to conduct the evaluation or restoration treatment of the defendant. "Appropriate state, county or private institution or facility" does not include a jail or correctional facility as a location where evaluation and restoration treatment services are provided unless the administrative head or law enforcement official in charge of the jail or correctional facility agrees that the facility has the appropriate physical and care capabilities that such services may be provided by:

(1) The state security hospital or its agent or a state hospital or its agent;

(2) a qualified mental health professional as defined in K.S.A. 59-2946, and amendments thereto, who is qualified by training and expertise to conduct competency restoration treatment;

(3) an individual who is qualified by training and experience to conduct competency evaluations and restoration treatment and is licensed by the behavioral sciences regulatory board;
or

(4) a physician who is qualified by training and experience to conduct competency evaluations and restoration treatment and is licensed by the state board of healing arts.";

Also on page 1, in line 10, by striking "county or district" and inserting "prosecuting"; by striking all in line 25 and inserting "an"; in line 26, by striking the second comma and inserting "or"; in line 35, by striking "any" and inserting "an"; also in line 35, by striking all after "appropriate"; in line 36, by striking all before "facility" and inserting "state, county or private institution or";

On page 2, in line 3, by striking "qualified"; also in line 3, after "physician" by inserting "who is qualified through training or experience"; in line 17, after "appropriate" by inserting "institution or";

On page 3, in line 5, by striking all after "by"; in line 6, by striking all before "appropriate" and inserting "an"; also in line 6, by striking the second comma and inserting "or"; in line 12, after the stricken material by inserting "Evaluation or restorative treatment of a defendant shall not be conducted in a jail unless the administrative head or law enforcement official in charge of the jail agrees to such evaluation or restorative treatment being conducted in such jail."; in line 18, by striking "shall" and inserting "may"; also in line 18, by striking "any" and inserting "an"; in line 19, by striking all after "appropriate"; in line 20, by striking all before the second "institution" and inserting "state, county or private"; in line 22, by striking "any" and inserting

"an"; in line 23, by striking all after "appropriate"; in line 24, by striking all before "private" and inserting "state, county or"; also in line 24, by striking all after "facility"; in line 25, by striking all before the period; in line 31, by striking "county or district" and inserting "prosecuting"; in line 36, by striking "any" and inserting "an"; also in line 36, by striking all after "appropriate"; in line 37, by striking all before the second "or" and inserting "state, county"; also in line 37, by striking "a";

On page 4, in line 9, by striking "county or district" and inserting "prosecuting"; in line 12, by striking all after "thereto"; in line 13, by striking all before "within" and inserting a comma; in line 30, by striking "county or district" and inserting "prosecuting"; in line 33, by striking all after "thereto"; in line 34, by striking all before "within" and inserting a comma;

On page 5, in line 9, by striking "county or district" and inserting "prosecuting"; in line 10, by striking "county or"; in line 11, by striking "district" and inserting "prosecuting"; in line 14, after "institution" by inserting "or facility"; in line 16, by striking "may" and inserting "shall"; also in line 16, by striking "or any part"; in line 18, after "institution" by inserting "or facility"; in line 32, by striking "county or district" and inserting "prosecuting"; in line 35, by striking all after "thereto"; in line 36, by striking all before "within" and inserting a comma;

On page 6, in line 11, by striking all before "attorney" and inserting "prosecuting"; in line 14, by striking all after "thereto"; in line 15, by striking all before "within" and inserting a comma; in line 33, by striking "county or district" and inserting "prosecuting"; in line 34, by striking "county or district" and inserting "prosecuting"; in line 38, after "institution" by inserting "or facility"; in line 40, by striking "may" and inserting "shall"; also in line 40, by striking "or any part"; in line 42, after "institution" by inserting "or facility";

On page 7, in line 2, by striking all after the first "the"; by striking all in line 3 and inserting "appropriate state,"; in line 7, by striking "or head"; also in line 7, after "institution" by inserting

"or the head of the facility"; in line 21, by striking "county or district" and inserting "prosecuting"; in line 23, by striking "head"; in line 24, by striking all before "where" and inserting "chief medical officer of any institution or the head of any facility"; in line 29, by striking "the"; in line 30, by striking all before "county" and inserting "an appropriate state,";

On page 8, in line 1, by striking "county or district" and inserting "prosecuting"; in line 4, by striking all after "thereto"; in line 5, by striking all before "within" and inserting a comma; in line 23, by striking all before "attorney" and inserting "prosecuting"; in line 26, by striking all after "thereto"; in line 27, by striking all before "within" and inserting a comma;

On page 9, in line 2, by striking "county or district" and inserting "prosecuting"; in line 3, by striking "county or district" and inserting "prosecuting"; in line 7, after "institution" by inserting "or facility"; in line 9, by striking "may" and inserting "shall"; also in line 9, by striking "or any part"; in line 11, after "institution" by inserting "or facility"; in line 15, by striking all after "at"; by striking all in line 16; in line 17, by striking all before "county" and inserting "an appropriate state,"; in line 30, after "treatment" by inserting "institution or"; in line 38, by striking "affect" and inserting "effect";

On page 10, in line 7, by striking all after "(4)"; by striking all in lines 8 through 10; in line 11, by striking all before "The" and inserting "If a defendant who is charged with a felony is receiving treatment pursuant to this section and is not deemed a present danger to self or others objects to taking any medication prescribed for the purpose of restoring the defendant to competency,"; in line 13, after "treatment" by inserting "institution or"; in line 14, after "designee" by inserting "and to the court where the criminal charges are pending"; also in line 14, by striking all after the period; by striking all in lines 15 through 17; in line 18, by striking all before the period and inserting "The medication may be administered over the defendant's objection only if the court finds that:

(A) The medication is substantially unlikely to have side effects that may undermine the fairness of the trial;

(B) the medication is medically appropriate;

(C) less intrusive alternatives have been considered;

(D) the medication is necessary to advance significantly important governmental trial interests; and

(E) the administrative head or law enforcement official in charge of the jail has agreed to having the medication administered over the defendant's objection in the jail";

Also on page 10, in line 24, by striking "county or district" and inserting "prosecuting"; in line 25, after "treatment" by inserting "institution or"; in line 26, after "institution" by inserting "or facility"; in line 28, by striking "county or district" and inserting "prosecuting"; in line 29, by striking "county or district" and inserting "prosecuting"; in line 34, by striking "county"; in line 35, by striking all before "attorney" and inserting "prosecuting"; in line 36, after "treatment" by inserting "institution or"; in line 38, after "institution" by inserting "or facility"; in line 40, after "treatment" by inserting "institution or"; in line 41, by striking all before "attorney" and inserting "prosecuting";

On page 11, in line 1, by striking "county or district" and inserting "prosecuting"; in line 2, after "treatment" by inserting "institution or"; in line 3, after "treatment" by inserting "institution or"; in line 5, by striking "county or district" and inserting "prosecuting"; in line 7, by striking "county or district" and inserting "prosecuting"; in line 10, after "treatment" by inserting "institution or"; in line 20, by striking "county or district" and inserting "prosecuting"; in line 27, by striking "county or district" and inserting "prosecuting"; in line 42, by striking "district or county" and inserting "prosecuting"; in line 43, by striking "county or district" and inserting "prosecuting";

On page 12, in line 14, by striking "county or district" and inserting "prosecuting";

On page 13, in line 4, by striking all before "attorney" and inserting "prosecuting"; in line 5, by striking "county or district" and inserting "prosecuting"; in line 10, by striking "district or county" and inserting "prosecuting"; in line 25, by striking "district or county" and inserting "prosecuting"; in line 40, by striking "county or district" and inserting "prosecuting";

On page 14, in line 6, by striking "county or district" and inserting "prosecuting"; in line 25, by striking "county"; in line 26, by striking all before "attorney" and inserting "prosecuting"; in line 30, by striking "county or district" and inserting "prosecuting"; in line 36, by striking "county or district" and inserting "prosecuting"; in line 39, by striking "county or district" and inserting "prosecuting";

On page 15, in line 4, by striking all before "attorney" and inserting "prosecuting"; in line 41, by striking "county or"; in line 42, by striking "district" and inserting "prosecuting";

On page 16, in line 2, before "K.S.A." by inserting "K.S.A. 22-3301 and";

And by renumbering sections accordingly;

On page 1, in the title, in line 2, after "amending" by inserting "K.S.A. 22-3301 and"; and the bill be passed as amended.

Chairperson