



Date: February 12, 2024

To: Chair Kellie Warren and the Senate Judiciary Committee

Re: City of Wichita's Written Testimony in Support of SB 448, *Sharon Dickgub*

Amending the Kansas Municipal Court Procedure Act to establish procedures related to the determination of an accused person's competency to stand trial.

Thank you for allowing the City of Wichita to submit written testimony in support of SB 448. The City of Wichita recommends that the bill be forwarded out of committee for the full Senate's consideration.

The bill establishes a process for municipal court judges to determine the competency of a defendant to stand trial for criminal charges filed in municipal court.

Competency issues have been a concern of municipal court judges for decades but recently on September 27, 2023 a federal lawsuit was filed against the City of Wichita alleging that the municipal court failed to order competency evaluations for defendants that may have been incompetent.

K.S.A. 22-3302 provides the district court with a process to determine a defendant's competency to stand trial. It also provides the district court a way for an incompetent defendant to get mental health treatment in hopes of regaining competency. Currently, Kansas statutes do not provide municipal courts with a process to determine competency nor order mental health treatment.

The proposed bill seeks to provide municipal courts a process to follow to ensure compliance with U.S. Supreme Court decisions regarding competency issues and provide an incompetent defendant the opportunity for treatment as provided in K.S.A. 22-3303 through the district court.

Municipal courts across Kansas adjudicate thousands of cases each year. Many defendants charged with misdemeanor criminal offenses suffer from mental illness. They are often either a danger to themselves or to others. Without a process in place for district court involvement, an incompetent mentally ill defendant, potentially dangerous, goes untreated and not prosecuted.

The Bill provides that if a municipal judge is made aware of a defendant's potential incompetence, they may order an examination to determine competency. This examination would be paid for by the municipality and the examination may be from the same

institution, facility, or physician contracted by the district court where the municipality is located.

If the examination shows the defendant is incompetent to stand trial, then the city prosecutor must contact the county or district attorney in their jurisdiction to request that the case be transferred to the district court. The county or district attorney does not have to accept the case. If the case is accepted, then a new case is filed against the defendant in the district court and the district court will determine competency as authorized by K.S.A. 22-3202 and 22-3303. If the county or district attorney refuses to accept the case then the municipal judge must dismiss the case in the municipal court.

The bill also seeks to add municipal court competency cases to the list of cases eligible for reimbursement of jail fees for the cost of housing a defendant while in custody awaiting a competency evaluation. This reimbursement would go to the county jail housing the inmate awaiting competency evaluation. K.S.A. 19-1936 already allows reimbursement to county jails holding inmates awaiting competency evaluations in district court cases.

The City of Wichita supports the passage of SB 448 and would ask that the bill be moved forward.