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MEMORANDUM

To: Chair Gossage and the Senate Committee on Public Health and Welfare

From: Office of Revisor of Statutes

Date: February 18, 2024

Subject: **SB 489, Directing the department of corrections to establish a correctional center nursery for incarcerated expectant mothers and their child to allow certain expectant mothers to bond with their child for up to 36 months while incarcerated.**

Section 1, subsection (a) would direct the department of corrections to establish a women's correctional center nursery on the grounds. The department of corrections would be required to establish the nursery by January 1, 2026, subject to availability of appropriations. Subsection (b) sets forth the eligibility requirements for an offender to participate in the nursery program. Subsection (c) sets forth the responsibilities of the secretary or the secretary's designee must perform prior to an offender being placed into the program. Subsection (d) states the items to which an offender must agree in writing in order to participate in the program. Subsection (e) states the items that could cause an offender's participation in the program to be revoked. Subsection (f) requires the secretary or the secretary's designee to establish policies, criteria and guidelines for the nursery program. Subsection (g) establishes the nursery program for incarcerated moms fund, to be administered by the secretary of corrections. Subsection (h) states that the nursery program shall not be subject to licensing, oversight, or regulation by KDHE or DCF unless the department of corrections voluntarily agrees to such oversight or regulation. Subsection (i) lists the offenders to whom the nursery program does not apply.

Section 2 of the bill amends K.S.A. 23-3203, pertaining to the factors considered in the determination of legal custody, residency, and parenting time of a child. The amendment to the statute adds "whether a parent is participating in the nursery program for incarcerated moms" to the factors that the court shall consider.

Section 3 of the bill amends K.S.A. 38-2202, the definitions section for the Kansas Code for Care of Children. The amendment appears in subsection (d)(2), defining a child in need of care. The amendment states that "A child who is residing in a correctional center nursery with the child's mother as part of the nursery program for incarcerated moms... shall not be found without the care or control necessary for the child's physical, mental, or emotional health due solely to the mother's participation in the program." The term "behavioral health crisis" has been added as a defined term, in subsection (rr), on page 11 of the bill.

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Section 4 of the bill amends K.S.A. 38-2276, which prohibits detainment or placement of child in jail. The bill amends the statute by adding that the prohibition placed on detaining a child in jail does not apply to a child residing in a correctional center nursery with the child's mother, pursuant to section 1.

If enacted, the bill would go into effect on July 1, 2024.