

SENATE BILL No. 374

AN ACT concerning criminal procedure; relating to competency of a defendant to stand trial; establishing procedures in the Kansas code of procedure for municipal courts related to determination of an accused person's competency to stand trial; authorizing a municipal judge to order an examination; authorizing a district court judge to rely on a psychiatric or psychological examination ordered by a municipal court to facilitate an examination; requiring further consideration of evaluation and treatment for defendants charged with the most serious offenses; requiring certain items to be contained in a petition and written report of the evaluation in an involuntary commitment proceeding; setting requirements for involuntary commitment proceedings when the defendant has not been committed or has been released and the court has determined a probability does not exist that the defendant will regain competency in the foreseeable future; requiring the court to make certain findings with respect to a person who is alleged to be mentally ill and subject to involuntary commitment for care and treatment when such person is also a criminal defendant; amending K.S.A. 12-4113, 22-3302, 22-3303, 22-3305 and 59-2983 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) At any time after a defendant has been served with the complaint and before the satisfaction of sentence, if the municipal judge before whom the proceedings are pending finds that there is reason to believe that such defendant is incompetent to stand trial, all speedy trial requirements shall be suspended and, after a hearing, the court may order a psychiatric or psychological examination of such defendant in accordance with this section.

(b) To facilitate a psychiatric or psychological examination, the court may order that an examination and report be completed by:

- (1) An appropriate state, county or private institution or facility;
- (2) a licensed physician or psychologist who is qualified through training or experience; or
- (3) an examiner from a list of competency examiners used in the district court where the municipal court is located.

(c) No statement made by a defendant during any examination provided for by this section, whether or not such defendant consents to the examination, shall be admitted in evidence against such defendant in any criminal proceeding.

(d) The costs for an examination ordered pursuant to this section shall be paid from municipal court funds or the general fund of the municipality.

(e) An examination ordered pursuant to this section shall be completed within 60 days of the court's order for such examination to determine the defendant's competency.

(f) Before the expiration of the 60-day examination period, an examiner approved by the court to examine a defendant shall certify to the court whether such defendant is competent to stand trial.

(g) Upon certification to the court that a defendant subject to examination under this section has been determined by the examiner to be competent to stand trial, the suspended proceedings shall resume.

(h) Upon certification to the court that a defendant subject to examination under this section has been determined by the examiner to be incompetent to stand trial, the court shall conduct a hearing to make a finding in writing regarding the competency of such defendant. Such defendant shall be present for any hearing to determine competency.

(i) If the court finds that a defendant is incompetent to stand trial, the criminal charges against such defendant shall be dismissed without prejudice and the city attorney may:

- (1) File a petition pursuant to K.S.A. 59-2945 et seq., and amendments thereto, in the appropriate district court; or
- (2) request that the district attorney or county attorney review the case for the filing of a complaint in the district court.

(j) If the city attorney receives credible information that a defendant who was previously found to be incompetent to stand trial

has regained competency, the city attorney may refile the charges within the applicable statute of limitations.

(k) If a charge is refiled by the city attorney pursuant to subsection (j), the court shall conduct a hearing to make a finding in writing regarding the current state of the defendant's competency. The defendant shall be present for any hearing to determine competency.

(l) This section shall be a part of and supplemental to the Kansas code of procedure for municipal courts.

(m) The provisions of this section shall take effect on and after July 1, 2026.

Sec. 2. On and after July 1, 2026, K.S.A. 12-4113 is hereby amended to read as follows: 12-4113. As used in this act:

(a) "Appearance bond" means an undertaking, with or without security, entered into by a person in custody by which the person is bound to comply with the conditions of the undertaking.

(b) "Accused person" means a person, corporation or other legal entity accused by a complaint of the violation of a city ordinance.

(c) "Arraignment" means the formal act of calling the person accused of violating an ordinance before the municipal court to inform the person of the offense with which the person is charged, to ask the person whether the person is guilty or not guilty and, if guilty, to impose sentence.

(d) "Arrest" means the taking of a person into custody in order that the person will appear to answer for the violation of an ordinance. The giving of a notice to appear is not an arrest.

(e) "Bail" is the security given for the purpose of insuring compliance with the terms of an appearance bond.

(f) "City attorney" means any attorney who represents the city in the prosecution of an accused person for the violation of a city ordinance.

(g) "Complaint" means a sworn written statement, or a written statement by a law enforcement officer, of the essential facts constituting a violation of an ordinance.

(h) "Custody" means the restraint of a person pursuant to an arrest.

(i) "Detention" means the temporary restraint of a person by a law enforcement officer.

(j) "Law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order and to make arrests for violation of the laws of the state of Kansas or ordinances of any municipality thereof.

(k) "Notice to appear" is a written notice to a person accused by a complaint of having violated an ordinance of a city to appear at a stated time and place to answer to the charge of the complaint.

(l) "Subpoena" is a process issued by the court to cause a witness to appear and give testimony at a time and place therein specified.

(m) "Ordinance traffic infraction" is a violation of an ordinance that proscribes or requires the same behavior as that proscribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118, and amendments thereto.

(n) "Warrant" is a written order made by a municipal judge directed to any law enforcement officer commanding the officer to arrest the person named or described in it.

(o) "Ordinance cigarette or tobacco infraction" is a violation of an ordinance that proscribes the same behavior as proscribed by subsection ~~(m) or (n)~~ of K.S.A. 79-3321 ~~(m) or (n)~~, and amendments thereto.

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

(1) *Understand the nature and purpose of the proceedings against such person; or*

(2) *make or assist in making such person's defense.*

(q) *"Treatment provider" means any mental health center or clinic, psychiatric unit of a medical care facility, psychologist, physician or other institution or person authorized or licensed by law to provide either inpatient or outpatient treatment to any patient.*

Sec. 3. On and after July 1, 2026, K.S.A. 22-3302 is hereby amended to read as follows: 22-3302. (a) At any time after the defendant has been charged with a crime and before pronouncement of sentence, the defendant, the defendant's counsel or the prosecuting attorney may request a determination of the defendant's competency to stand trial. If, upon the request of either party or upon the judge's own knowledge and observation, the judge before whom the case is pending finds that there is reason to believe that the defendant is incompetent to stand trial, the proceedings shall be suspended and a hearing conducted to determine the competency of the defendant.

(b) If the defendant is charged with a felony, the hearing to determine the competency of the defendant shall be conducted by a district judge.

(c) (1) The court shall determine the issue of competency and may impanel a jury of six persons to assist in making the determination. The court may order a psychiatric or psychological examination of the defendant. To facilitate the examination, the court may:

(A) Order that an evaluation be completed by an appropriate state, county or private institution or facility to be conducted in person or by use of available electronic means while the defendant is in jail, at any secure location or on pretrial release;

(B) designate an appropriate state, county or private institution or facility to conduct the examination while the defendant is in jail, at any secure location or on pretrial release; ~~or~~

(C) appoint a licensed physician who is qualified through training or experience or a licensed psychologist to examine the defendant and report to the court; *or*

(D) *rely on the psychiatric or psychological examination ordered by a municipal court.*

(2) If the court orders the defendant committed to an institution or facility for the examination, the commitment shall be for a period not to exceed 60 days from the date of admission or until the examination is completed, whichever is the shorter period of time. No statement made by the defendant in the course of any examination provided for by this section, whether or not the defendant consents to the examination, shall be admitted in evidence against the defendant in any criminal proceeding.

(3) Before the expiration of the 60-day evaluation period, the professional approved by the court to examine the defendant or, if the defendant is committed for inpatient examination, the chief medical officer or head of the appropriate institution or facility shall certify to the court whether the defendant is competent to stand trial.

(4) Upon notification of the court that a defendant committed for psychiatric or psychological examination under this subsection has been found competent to stand trial, the court shall order that the defendant be returned no later than seven days after receipt of the notice for proceedings under this section. If the defendant is not returned within that time, the county where the proceedings will be held shall pay the costs of maintaining the defendant at the institution or facility for the period of time the defendant remains at the institution or facility in excess of the seven-day period.

(d) If the defendant is found to be competent, the proceedings that

have been suspended shall be resumed. If the proceedings were suspended before or during the preliminary examination, the judge who conducted the competency hearing may conduct a preliminary examination or, if a district magistrate judge was conducting the proceedings prior to the competency hearing, the judge who conducted the competency hearing may order the preliminary examination to be heard by a district magistrate judge.

(e) If the defendant is found to be incompetent to stand trial, the court shall proceed in accordance with K.S.A. 22-3303, and amendments thereto.

(f) If proceedings are suspended and a hearing to determine the defendant's competency is ordered after the defendant is in jeopardy, the court may either order a recess or declare a mistrial.

(g) The defendant shall be present personally at all proceedings under this section.

Sec. 4. K.S.A. 22-3303 is hereby amended to read as follows: 22-3303. (a) (1) A defendant who is charged with a crime and is found to be incompetent to stand trial shall be ordered for evaluation and treatment, conducted on an outpatient or inpatient basis, by an appropriate state, county or private institution or facility. 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.

(2) An evaluation and treatment may be ordered to be conducted on an outpatient basis in person or by use of available electronic means while the defendant is in jail, at any secure location, on pretrial release or in any other appropriate setting.

~~(3) For a defendant charged with a misdemeanor offense, outpatient evaluation and treatment may be ordered to be conducted by an appropriate state, county or private institution or facility.~~

~~(4) For a defendant charged with a felony offense, outpatient evaluation and treatment may be ordered to be conducted by an appropriate state, county or private institution or facility.~~

~~(5) For a defendant charged with a felony offense, a commitment to the state security hospital or its agent or a state hospital or its agent may be conducted on an inpatient basis or, if the defendant meets the screening criteria established by the state security hospital, on an outpatient basis evaluation and treatment:~~

~~(A) Shall be ordered to be conducted on an inpatient basis by the state security hospital or its agent or a state hospital or its agent except as provided in paragraph (3)(B); or~~

~~(B) may be ordered to be conducted on an outpatient basis by an appropriate state, county or private institution or facility if the defendant meets the screening criteria established by the state security hospital.~~

~~(6)(4) At the commencement of outpatient treatment, the institution or facility conducting the treatment shall notify the prosecuting attorney in the county where the criminal proceeding is for the pending criminal proceeding for the purpose of providing victim notification.~~

(b) (1) Except as provided in subsection (d), if the defendant is ordered to receive an evaluation and treatment on an outpatient basis conducted by an appropriate state, county or private institution or facility, the chief medical officer of such institution or head of such facility shall certify to the court, within 90 days after the commencement of outpatient treatment, whether the defendant has a substantial probability of attaining competency to stand trial in the foreseeable future. The court shall set a hearing within 21 days after

certification unless exceptional circumstances warrant delay, for the purpose of determining competency.

(2) If such probability does exist, the court shall order the defendant to remain in jail or at a secure location, on pretrial release pursuant to K.S.A. 22-2802, and amendments thereto, or at an appropriate setting until the defendant attains competency to stand trial or for a period of six months from the date of the commencement of outpatient treatment, whichever occurs first. If such probability does not exist, *or if the defendant has not attained competency to stand trial within six months after the date of the commencement of treatment*, the court shall order the prosecuting attorney ~~where the charges are filed for the pending criminal proceeding~~ to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, within 21 days of receipt of the certification from the chief medical officer of the institution or head of the facility unless exceptional circumstances warrant delay. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony, or a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719, prior to their repeal, or K.S.A. 21-5505(b), 21-5506(b), 21-5508(b), 21-5604(b) or 21-5812(b), and amendments thereto, *or an attempt, conspiracy or criminal solicitation of an offense described in this paragraph*, and commitment proceedings have commenced, for such proceeding, "mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person, as defined in K.S.A. 59-2946(e), and amendments thereto, who is likely to cause harm to self or others, as defined in K.S.A. 59-2946(f)(3), and amendments thereto. The other provisions of K.S.A. 59-2946(f), and amendments thereto, shall not apply.

~~(3) If a defendant who was found to have had a substantial probability of attaining competency to stand trial, as provided in paragraph (2), has not attained competency to stand trial within six months from the date of the original commitment, the court shall order the prosecuting attorney where the charges are filed or the secretary for aging and disability services to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, within 21 days of receipt of the certification from the chief medical officer of the institution or the head of the facility unless exceptional circumstances warrant delay. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony, or a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719, prior to their repeal, K.S.A. 21-5505(b), 21-5506(b), 21-5508(b), 21-5604(b) or 21-5812(b), and amendments thereto, and commitment proceedings have commenced, for such proceeding, "mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person, as defined in K.S.A. 59-2946(e), and amendments thereto, who is likely to cause harm to self or others, as defined in K.S.A. 59-2946(f)(3), and amendments thereto. The other provisions of K.S.A. 59-2946(f), and amendments thereto, shall not apply.~~

(4) When reasonable grounds exist to believe that a defendant who has been adjudged incompetent to stand trial is competent, the court in which the criminal case is pending shall conduct a hearing in accordance with K.S.A. 22-3302, and amendments thereto, to determine the person's present mental condition. Such court shall give reasonable notice of such hearings to the prosecuting attorney, the defendant and the defendant's attorney of record, if any. The prosecuting attorney shall provide victim notification. If the court, following such hearing, finds the defendant to be competent, the

proceedings pending against the defendant shall be resumed.

(5)(4) A defendant committed to a public institution or facility under the provisions of this section who is thereafter sentenced for the crime charged at the time of commitment shall be credited with all of the time during which the defendant was committed and confined in such public institution or facility.

(c) (1) Except as provided in subsection (d), if a defendant is ordered or met criteria to receive an evaluation and treatment on an outpatient basis conducted by the state security hospital or its agent or a state hospital or its agent, the chief medical officer shall certify to the court, within 90 days after commencement of treatment, whether the defendant has a substantial probability of attaining competency to stand trial in the foreseeable future.

(2) If such probability does exist, the court shall order the defendant to remain in jail or at a secure location, on pretrial release pursuant to K.S.A. 22-2802, and amendments thereto, or at an appropriate setting until the defendant attains competency to stand trial or for a period of six months from the date of the commencement of outpatient treatment, whichever occurs first. If such probability does not exist, *or if the defendant has not attained competency to stand trial within six months from the date of the commencement of treatment*, the court shall order the prosecuting attorney ~~where the charges are filed or the secretary for aging and disability services for the pending criminal proceeding~~ to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, within 21 days of receipt of the certification from the chief medical officer of the institution or the head of the facility unless exceptional circumstances warrant delay. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony or a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719, prior to their repeal, or K.S.A. 21-5505(b), 21-5506(b), 21-5508(b), 21-5604(b) or 21-5812(b), and amendments thereto, *or an attempt, conspiracy or criminal solicitation of an offense described in this paragraph*, and commitment proceedings have commenced, for such proceeding, "mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person, as defined in K.S.A. 59-2946(e), and amendments thereto, who is likely to cause harm to self or others, as defined in K.S.A. 59-2946(f)(3), and amendments thereto. The other provisions of K.S.A. 59-2946(f), and amendments thereto, shall not apply.

~~(3) If a defendant who was found to have had a substantial probability of attaining competency to stand trial, as provided in paragraph (2), has not attained competency to stand trial within six months from the date of the original commitment, the court shall order the prosecuting attorney where the charges are filed or the secretary for aging and disability services to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, within 21 days of receipt of the certification from the chief medical officer of the institution or the head of the facility unless exceptional circumstances warrant delay. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony or a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719, prior to their repeal, or K.S.A. 21-5505(b), 21-5506(b), 21-5508(b), 21-5604(b) or 21-5812(b), and amendments thereto, and commitment proceedings have commenced, for such proceeding, "mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person, as defined in K.S.A. 59-2946(e), and amendments thereto, who is likely to cause harm to self or others, as defined in K.S.A. 59-2946(f)(3), and amendments~~

~~thereto. The other provisions of K.S.A. 59-2946(f), and amendments thereto, shall not apply.~~

(4) When reasonable grounds exist to believe that a defendant who has been adjudged incompetent to stand trial is competent, the court in which the criminal case is pending shall conduct a hearing in accordance with K.S.A. 22-3302, and amendments thereto, to determine the person's present mental condition. Such court shall give reasonable notice of such hearings to the prosecuting attorney, the defendant and the defendant's attorney of record, if any. The prosecuting attorney shall provide victim notification. If the court, following such hearing, finds the defendant to be competent, the proceedings pending against the defendant shall be resumed.

~~(5)~~(4) A defendant committed to a public institution or facility under the provisions of this section who is thereafter sentenced for the crime charged at the time of commitment shall be credited with all of the time during which the defendant was committed and confined in such public institution or facility.

(d) (1) If the defendant is ordered or met criteria to receive an evaluation and treatment on an outpatient basis and the chief medical officer of the appropriate state, county or private institution or facility determines that the defendant's mental health condition or behaviors warrant terminating outpatient treatment services and commencing evaluation and treatment on an inpatient basis, the chief medical officer of the institution or the head of the facility shall provide a report to the court within 10 days after outpatient treatment services are terminated. Such report shall certify the date that outpatient treatment was terminated and the reason inpatient evaluation and treatment services are recommended. A copy of such report shall be provided to the chief medical officer of the state security hospital. Upon receipt of such report, the court shall issue any orders or warrants required to facilitate the sheriff of the county where the charges are filed to take the defendant into custody and transport such defendant to the state security hospital or its agent or a state hospital or its agent for admission for inpatient services. The chief medical officer shall submit a report pursuant to subsection (e) as to whether the defendant has attained competency within 90 days of the defendant's admission to such hospital for inpatient evaluation and treatment.

(2) The court, prosecuting attorney ~~where criminal charges are pending~~, the defense counsel for a defendant charged with a felony offense who is receiving outpatient evaluation and treatment services and the chief medical officer of any institution or the head of any facility where the defendant is receiving outpatient services shall provide requested documentation to the state security hospital or its agent or the state hospital or its agent for the purpose of managing inpatient admission.

(e) (1) If the defendant is charged with a felony offense, the court may order a defendant to receive inpatient evaluation and treatment at an appropriate state, county or private institution or facility after considering the defendant's mental condition, behaviors and the availability of outpatient evaluation and treatment options. The chief medical officer of the institution or the head of the facility shall certify to the court, within 90 days after the commencement of inpatient treatment, whether the defendant has a substantial probability of attaining competency to stand trial in the foreseeable future.

(2) If such probability does exist, the court shall order the defendant to remain in jail or at a secure location, on pretrial release pursuant to K.S.A. 22-2802, and amendments thereto, or at an appropriate setting until the defendant attains competency to stand trial or for a period of six months from the date of the commencement of

inpatient treatment, whichever occurs first. If such probability does not exist, *or if the defendant has not attained competency to stand trial within six months from the date of the commencement of treatment*, the court shall order the prosecuting attorney ~~where the charges are filed or the secretary for aging and disability services for the pending criminal proceeding~~ to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, within 21 days of receipt of the certification from the chief medical officer of the institution or the head of the facility unless exceptional circumstances warrant delay. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony or a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719, prior to their repeal, or K.S.A. 21-5505(b), 21-5506(b), 21-5508(b), 21-5604(b) or 21-5812(b), and amendments thereto, *or an attempt, conspiracy or criminal solicitation of an offense described in this paragraph*, and commitment proceedings have commenced, for such proceeding, "mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person, as defined in K.S.A. 59-2946(e), and amendments thereto, who is likely to cause harm to self or others, as defined in K.S.A. 59-2946(f) (3), and amendments thereto. The other provisions of K.S.A. 59-2946(f), and amendments thereto, shall not apply.

~~(3) If a defendant who was found to have had a substantial probability of attaining competency to stand trial, as provided in paragraph (2), has not attained competency to stand trial within six months from the date of the original commitment, the court shall order the prosecuting attorney where the charges are filed or the secretary for aging and disability services to commence involuntary commitment proceedings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, within 21 days of receipt of the certification from the chief medical officer of the institution or the head of the facility unless exceptional circumstances warrant delay. When a defendant is charged with any off-grid felony, any nondrug severity level 1 through 3 felony or a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719, prior to their repeal, or K.S.A. 21-5505(b), 21-5506(b), 21-5508(b), 21-5604(b) or 21-5812(b), and amendments thereto, and commitment proceedings have commenced, for such proceeding, "mentally ill person subject to involuntary commitment for care and treatment" means a mentally ill person, as defined in K.S.A. 59-2946(e), and amendments thereto, who is likely to cause harm to self or others, as defined in K.S.A. 59-2946(f)(3), and amendments thereto. The other provisions of K.S.A. 59-2946(f), and amendments thereto, shall not apply.~~

(4) When reasonable grounds exist to believe that a defendant who has been adjudged incompetent to stand trial is competent, the court in which the criminal case is pending shall conduct a hearing in accordance with K.S.A. 22-3302, and amendments thereto, to determine the person's present mental condition. Such court shall give reasonable notice of such hearings to the prosecuting attorney, the defendant and the defendant's attorney of record, if any. The prosecuting attorney shall provide victim notification. If the court, following such hearing, finds the defendant to be competent, the proceedings pending against the defendant shall be resumed.

~~(5)(4)~~ A defendant committed to a public institution or facility under the provisions of this section who is thereafter sentenced for the crime charged at the time of commitment shall be credited with all of the time during which the defendant was committed and confined in such public institution or facility.

(f) (1) Notwithstanding the provisions of K.S.A. 59-29a22, and

amendments thereto, psychotropic medications may be prescribed for any defendant who is ordered or has met the criteria to receive evaluation and treatment on an inpatient or outpatient basis at an appropriate state, county or private institution or facility.

(2) Psychotropic medications shall be prescribed, ordered and administered in conformity with accepted clinical practice. Psychotropic medication shall be administered only upon the written order of a physician or upon a verbal order noted in the defendant's medical records and subsequently signed by the physician. The attending physician shall regularly review the drug regimen of each defendant under such physician's care and shall monitor any symptoms of harmful side effects.

(3) Whenever any defendant is receiving psychotropic medications that alter the defendant's mental state in such a way as to adversely affect the defendant's judgment or hamper the defendant in preparing for or participating in any hearing provided for by this section, for two days prior to and during any such hearing, the treatment institution or facility shall not administer such medication or treatment unless such medication or treatment is necessary to sustain the defendant's life or to protect the defendant or others. Prior to the hearing, a report of all psychotropic medications or other treatment that has been administered to the defendant and a copy of any written consent signed by the defendant shall be submitted to the court. Counsel for the defendant may preliminarily examine the attending physician regarding the administration of any medication to the defendant within two days of the hearing and the effect that medication may have had on the defendant's judgment or ability to prepare for or participate in the hearing. If the court determines that medication or other treatment has been administered that adversely affects the defendant's judgment or ability to prepare for or participate in the hearing, the court may grant the defendant a reasonable continuance to allow for the defendant to be better able to prepare for or participate in the hearing. The court shall order that such medication or other treatment be discontinued until the conclusion of the hearing unless the court finds that such medication or other treatment is necessary to sustain the defendant's life or to protect the defendant or others. If the court makes such a finding, the court shall order the hearing to proceed.

(4) (A) 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, the defendant's objection shall be recorded in the defendant's medical record and written notice of such objection shall be forwarded to the medical director of the treatment institution or facility or the director's designee and to the court where the criminal charges are pending. ~~The medication may be administered over the defendant's objection only if the court finds. Within 30 days after receipt of such objection, the medical director of the treatment institution or facility shall certify to the court whether medication would aid in restoring the defendant's competency. The court shall set the matter for hearing within 30 days after receipt of such certification unless exceptional circumstances warrant delay. At such hearing, the prosecuting attorney has the burden to establish by clear and convincing evidence that:~~

~~(A)(i) The medication is substantially likely to render the defendant competent to stand trial;~~

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

~~(B)(iii) the medication is medically appropriate;~~

~~(C)(iv) less intrusive alternatives have been considered;~~

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

(E)(vi) 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.

(B) *The defendant shall be represented by counsel at a hearing conducted pursuant to subparagraph (A) but is not required to be present at the discretion of the court. The court shall permit the prosecuting attorney and the defendant to appear at such proceedings, call or inquire of any witness with information relevant to the hearing and offer argument to the court. The defendant's attorney in the pending criminal proceeding shall also have standing to appear at such proceedings, call or inquire of any witness with information relevant to the hearing and offer argument to the court. The court may permit testimony through a two-way electronic audio-visual communication device. Any other proceeding related to the defendant's competency shall be suspended or continued pending a determination of the court under this paragraph. If the court makes a written finding that the prosecuting attorney has met the burden described in subparagraph (A), the court shall issue an order requiring the medication to be administered over the defendant's objection. If the court makes a written finding that the prosecuting attorney has failed to meet such burden, the court shall order competency proceedings to resume.*

(5) No experimental medication shall be administered without the consent of the defendant or such defendant's legal guardian.

(g) *Whenever involuntary commitment proceedings have been commenced as required by this section:*

(1) *The petition shall:*

(A) *Be accompanied by the court order to commence involuntary commitment proceedings, the initial evaluation to determine competency and the reports pertaining to whether the defendant has a substantial probability of attaining competency to stand trial in the foreseeable future; and*

(B) *not be required to include a state screen or a signed certificate;*

(2) *the written report of the evaluation shall include:*

(A) *A report on the reason for admission or case filing;*

(B) *the current mental status of the defendant;*

(C) *the medications that the defendant is currently taking, if any;*

(D) *the likelihood of the defendant causing harm to self or others, including an analysis of whether the defendant understands the seriousness of the charges alleged; and*

(E) *any diagnosis of the defendant; and*

(3) *having been found incompetent in the pending criminal case, the defendant shall be deemed to lack capacity to make informed decisions concerning treatment until such time as the chief medical officer overseeing the defendant's treatment determines that competency is restored.*

Sec. 5. K.S.A. 22-3305 is hereby amended to read as follows: 22-3305. (a) ~~Whenever involuntary commitment proceedings have been commenced by the secretary for aging and disability services or the prosecuting attorney as required by K.S.A. 22-3303, and amendments thereto,—and the prosecuting attorney for the pending criminal proceeding shall have standing, concurrent with the prosecuting attorney of the county in which the hearing is held, to appear at such proceedings, call or inquire of any witness with information relevant to the hearing and offer argument to the court. The defendant's attorney in the pending criminal proceeding shall also have standing to appear~~

at such proceedings, call or inquire of any witness with information relevant to the hearing and offer argument to the court. If the defendant is not committed to a treatment institution or facility as a patient, the defendant shall remain in the institution or facility where committed pursuant to K.S.A. 22-3303, and amendments thereto, until the court has determined that additional evaluation and treatment is no longer warranted pursuant to subsection (d). The ~~secretary for aging and disability services or the~~ prosecuting attorney shall promptly notify the court and the prosecuting attorney of the county where the criminal proceedings are pending for the purpose of providing victim notification; of the result of the involuntary commitment proceeding.

(b) Whenever involuntary commitment proceedings have been commenced ~~by the secretary for aging and disability services or the~~ prosecuting attorney as required by K.S.A. 22-3303, and amendments thereto, and the defendant is committed to a treatment institution or facility as a patient but thereafter is to be discharged pursuant to the care and treatment act for mentally ill persons, the defendant shall remain in the institution or facility where committed pursuant to K.S.A. 22-3303, and amendments thereto, and the head of the treatment institution or facility shall promptly notify the court and the prosecuting attorney of the county where the criminal proceedings are pending for the purpose of providing victim notification; that the defendant is to be discharged from the involuntary commitment.

(c) When giving notification to the court and the prosecuting attorney pursuant to subsection (a) or (b), the treatment institution or facility shall include in such notification an opinion from the head of the treatment institution or facility as to whether or not the defendant is now competent to stand trial. Upon request of the prosecuting attorney, the court may set a hearing on the issue of whether or not the defendant has been restored to competency. If such hearing request is granted, the prosecuting attorney shall provide victim notification regarding the hearing date. Such hearing request shall be filed within 14 days of completion of the notification from the head of the treatment institution or facility pursuant to subsection (a) or (b). The hearing shall take place within 21 days after receipt of the hearing request unless the court finds that exceptional circumstances warrant delay of the hearing. If no such hearing request is made within 14 days after receipt of notice pursuant to subsection (a) or (b), the court shall order the defendant to be discharged from commitment and shall dismiss without prejudice the charges against the defendant, and the period of limitation for the prosecution for the crime charged shall not continue to run until the defendant has been determined to have attained competency in accordance with K.S.A. 22-3302, and amendments thereto. The prosecuting attorney shall provide victim notification regarding the discharge order.

(d) (1) Whenever involuntary commitment proceedings have been commenced as required by K.S.A. 22-3303, and amendments thereto, and the defendant has not been committed or has been released from such commitment pursuant to subsection (a) or (b) but the court determines that a probability still does not exist that the defendant will regain competency within the foreseeable future, the court shall consider the nature of the pending criminal proceedings to determine if additional evaluation and treatment are necessary and:

(A) If the defendant is charged with a misdemeanor or nonperson felony, the court shall dismiss the criminal proceedings without prejudice, and the prosecuting attorney shall provide victim notification.

(B) Except as provided in paragraph (1)(C), if the defendant is charged with a person felony, the court shall provide notice to the

parties of the pending criminal proceedings that, unless the prosecuting attorney objects in writing within 14 days of receipt of such notice, the criminal proceedings shall be dismissed without prejudice. If the prosecuting attorney objects, the court shall set the matter for hearing within 14 days after receipt of such objection to determine whether to enter an order of further commitment for additional evaluation and treatment pursuant to paragraph (2). The court may grant a continuance of the hearing for good cause.

(C) If the defendant is charged with an off-grid felony, any nondrug severity level 1 through 3 felony or a violation of K.S.A. 21-3504, 21-3511 or 21-3719, prior to their repeal, or K.S.A. 21-5506(b), 21-5508(b), or 21-5812(b), and amendments thereto, or an attempt, conspiracy or criminal solicitation of an offense described in this subparagraph, the court shall set the matter for hearing to determine whether to enter an order of further commitment for additional evaluation and treatment pursuant to paragraph (2).

(2) At a hearing held pursuant to this subsection, the prosecuting attorney has the burden to establish, by clear and convincing evidence, that there is a compelling state interest in ordering further evaluation and treatment for the defendant. The defendant shall be represented by counsel at such hearing but is not required to be present at the discretion of the court. The defendant's attorney in the pending criminal proceeding shall also have standing to appear at such proceedings, call or inquire of any witness with information relevant to the hearing and offer argument to the court. In making a determination whether there is a compelling state interest in ordering further evaluation and treatment, the court shall review the nature and seriousness of the pending charges, including whether there is probable cause to support the pending charges, and shall consider:

(A) Whether the alleged offenses create a serious risk to public safety and evaluate:

(i) Whether the charge includes an allegation that the defendant actually inflicted bodily or emotional harm on another person or created a reasonable apprehension of bodily or emotional harm to another person;

(ii) the extent of the impact of the alleged offense on public safety;

(iii) the number and nature of related charges pending against the defendant;

(iv) the length of potential confinement if the defendant is convicted; and

(v) the number of potential and actual victims or persons impacted by the defendant's alleged acts;

(B) the prior history of the defendant, including, but not limited to, criminal history, treatment history and history of violence; and

(C) any evidence of whether further treatment is likely to be successful in restoring competency or reducing the risk of offender recidivism.

(3) If the court finds that there is a compelling state interest in ordering further evaluation and treatment of the defendant, the court shall proceed in accordance with K.S.A. 22-3303, and amendments thereto. If the court finds that there is no compelling state interest in ordering further evaluation and treatment, the case shall be dismissed without prejudice, and the prosecuting attorney shall provide victim notification.

Sec. 6. K.S.A. 59-2983 is hereby amended to read as follows: 59-2983. (a) Nothing in this act shall be construed to apply to any person alleged or thought to be a mentally ill person subject to involuntary commitment for care and treatment under this act who is in custody on a criminal charge, except with the consent of either the prosecuting

attorney or trial court.

(b) (1) During an involuntary commitment proceeding initiated pursuant to article 33 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, the court shall consider the totality of the circumstances, including, but not limited to, prior convictions or adjudications, pending crimes allegedly committed by the criminal defendant and any presumption provided by paragraph (2).

(2) If such criminal defendant is charged with an off-grid or nondrug severity level 1 through 3 felony or a violation of K.S.A. 21-3504, 21-3511 or 21-3719, prior to their repeal, or K.S.A. 21-5506(b), 21-5508(b) or 21-5812(b), and amendments thereto, or an attempt, conspiracy or criminal solicitation of an offense described in this paragraph, there shall be a presumption that such criminal defendant is likely to cause harm to self or others whenever the court is required to determine whether a criminal defendant is a mentally ill person subject to involuntary commitment for care and treatment under this act.

(3) A criminal defendant shall not be discharged from an involuntary commitment initiated pursuant to article 33 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, without the court conducting a hearing in accordance with this section and K.S.A. 59-2965(d), and amendments thereto, to determine whether such criminal defendant remains a mentally ill person subject to involuntary commitment for care and treatment under this act.

Sec. 7. K.S.A. 22-3303, 22-3305 and 59-2983 are hereby repealed.

Sec. 8. On and after July 1, 2026, K.S.A. 12-4113 and 22-3302 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the
SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.