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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: March 19, 2024
Subject: Bill Brief for HB 2353

House Bill 2353, As Amended by House Committee, 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 such an order expires at 5:00 pm on the second day the district court is open after its issuance. The bill provides that such an order expires at 5:00 pm 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. The bill provides that the hearing is required 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 in subsection (a) 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 an outpatient treatment order and that the patient will not likely be a danger to the community or be likely to cause harm to self or others while subject to the order. The bill, as amended by the House Committee on Judiciary, authorizes the court to order outpatient treatment if the court finds that the patient: (1) Will meet the criteria for required inpatient care and treatment in the proximate future without such outpatient treatment and is only likely to attend outpatient treatment if there is a court order mandating such treatment; or (2) is, if left untreated, reasonably expected to experience an increase

in the symptoms caused by the illness that would result in the need for inpatient care and treatment in the proximate future and whose mental illness has previously caused the patient to refuse needed and appropriate mental health services in the community. The bill also amends subsection (c) to require 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 issued by the court shall expire at 5:00 pm on the second day the district court is open after the patient is taken into custody. The bill provides that such an order expires at 5:00 pm 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. The bill provides that the hearing is required 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 in subsection (f) 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 for any initial order for continued treatment, nor more than six months in any subsequent order for continued treatment. The bill allows such treatment to be ordered for a specified period of time not to exceed six months for any initial order for continued treatment, nor more than six months in any subsequent order for continued treatment.

The bill would take effect from and after publication in the statute book, July 1, 2024.