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MEMORANDUM

To: House Committee on Corrections and Juvenile Justice

From: Office of Revisor of Statutes

Date: February 7, 2024

Subject: Bill Brief on HB 2630

HB 2630 amends the rules of evidence to allow history of previous domestic violence offenses to be admitted during a prosecution of a domestic violence offense.

The bill amends K.S.A. 60-455, the section in the rules of evidence that pertains to evidence of prior crimes or civil wrongs. The section is amended to provide that except as provided in K.S.A. 60-445, the statute that gives the judge discretion to exclude evidence if the judge finds the probative value is substantially outweighed by unfair and harmful surprise, in a criminal action in which the defendant is accused of a domestic violence offense, evidence of the defendant's commission of another domestic violence offense is admissible and may be considered for its bearing on any matter to which it is relevant and probative.

As used in this section, "domestic violence offense" means the same as it is defined in the Kansas criminal code, which is:

"Domestic violence offense" means any crime committed whereby the underlying factual basis includes an act of domestic violence."

"Domestic violence" means an act or threatened act of violence against a person with whom the offender is involved or has been involved in a dating relationship, or an act or threatened act of violence against a family or household member by a family or household member. "Domestic violence" also includes any other crime committed against a person or against property, or any municipal ordinance violation against a person or against property, when directed against a person with whom the offender is involved or has been involved in a dating relationship or when directed against a family or household member by a family or household member. For the purposes of this definition:

(1) "Dating relationship" means a social relationship of a romantic nature. In addition to any other factors the court deems relevant, the trier of fact may consider the following when making a determination of whether a relationship exists or existed: Nature of the relationship, length of time the relationship existed, frequency of interaction between the parties and time since termination of the relationship, if applicable.

(2) "Family or household member" means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time. "Family or household member" also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time.