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MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: February 1, 2022
Subject: Bill Brief for HB 2277

HB 2277 changes the definition of possession in the criminal code.

Current law in K.S.A. 21-5111, the definition section for the criminal code, defines possession as “having joint or exclusive control over an item with knowledge of or intent to have such control or knowingly keeping some item in a place where the person has some measure of access and right of control.” This bill changes the definition to “knowingly having joint or exclusive control over an item or knowingly keeping some item in a place where the person has some measure of access and right of control.”

The House Committee on Judiciary added a conforming amendment in K.S.A. 21-5701, which is part of the criminal code relating to controlled substances. The amendment removes the definition of “possession” because that definition is provided by K.S.A. 21-5111. The House Committee of the Whole added an amendment to the definition of “drug paraphernalia” in this section. The change in subsection (f)(4) provides that fentanyl testing strips are not drug paraphernalia, which means that possession or distribution of such strips is not subject to the criminal penalties provided for unlawful activities related to drug paraphernalia.