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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 14, 2023

Subject: Bill Brief on HB 2293

House Bill 2293, As Amended by House Committee, creates guidelines for introducing testimony of jailhouse witnesses in criminal prosecutions.

The bill enacts a new section of law that will be a part of and supplemental to the Kansas code of criminal procedure. Subsection (a) requires a prosecuting attorney to disclose their intent to introduce jailhouse witness testimony. The prosecuting attorney shall provide the criminal history of the jailhouse witness, the jailhouse witness's cooperation agreement and any benefit that may result, the contents of statements allegedly made, any information regarding the jailhouse witness recanting, and any information on other criminal cases in which testimony of the jailhouse witness was introduced or intended to be introduced. The court may extend the time for the prosecutor to comply if the witness was not known or the information could not be discovered in time. If the court finds that disclosing the information is likely to cause bodily harm to the witness the court may order evidence be viewed only by defense counsel or issue a protective order.

Subsection (b) requires each prosecuting attorney's office to maintain a record containing information on any case in which testimony by a jailhouse witness is introduced or is intended to be introduced and any benefit associated with the testimony. The prosecuting attorney's office shall forward the information to the Kansas bureau of investigation (KBI). The KBI shall maintain a statewide database that is only available to prosecutors.

Subsection (c) provides that if a jailhouse witness receives any benefit in connection with testimony, the prosecuting attorney shall notify any victim connected to the criminal prosecution. Subsection (d) provides definitions of "benefit" and "jailhouse witness."

The House Committee amendments removed a provision concerning a pre-trial hearing in a criminal prosecution for murder or rape and a provision concerning a jury instruction.