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MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: February 14, 2024
Subject: Bill Brief for SB 448

Senate Bill 448 establishes procedures in the Kansas code of procedure for municipal courts related to determination of an accused person's competency to stand trial and requires the secretary for aging and disability services to reimburse counties for the costs of keeping persons in the custody of a county jail awaiting examination, evaluation or treatment.

New Section 1 would be a part of the Kansas code of procedure for municipal courts and establish procedures for the determination of an accused person's competency to stand trial. At any time after the defendant has been served with the complaint and before the pronouncement of sentence, if the municipal judge before whom the complaint is pending finds that there is reason to believe that the accused person is incompetent to stand trial, the municipal judge may order an examination to determine the defendant's competency. To facilitate the examination, the court may: (1) Order that an evaluation be completed by an appropriate state, county or private institution or facility; (2) 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 (3) order an evaluation or appoint an examiner from a list of competency evaluators and examiners in use by the district court where the municipal court is located. The costs for an examination or evaluation would be paid from municipal court funds or the general fund of the municipality.

If the examination or evaluation shows that the accused person is incompetent to stand trial, the city attorney shall request that the district attorney or county attorney review the case for the filing of a complaint in the district court. The definition of "incompetent to stand trial" would be the same as the definition used in the Kansas code of criminal procedure – a 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. If the case is accepted and filed in the district court, the municipal court shall dismiss the criminal charges filed against the defendant, and the district court shall proceed in accordance with K.S.A. 22-3302, the statute in the Kansas code of criminal procedure related to proceedings to determine competency. If the case is not accepted by the district attorney or county attorney for filing in the district court, the municipal court shall dismiss the criminal charges filed against the defendant.

Section 2 amends K.S.A. 19-1936, the statute that requires the secretary for aging and disability services to reimburse counties for the costs of keeping certain persons in the custody of a county jail awaiting examination, evaluation or treatment. The bill adds Section 1 to the list of statutes in subsection (a), which means that the secretary will be required to reimburse the county that maintains the county jail where a person is in custody awaiting examination, evaluation or treatment pursuant to Section 1.

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