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MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: February 15, 2024
Subject: Bill Brief for SB 473

Senate Bill 473 authorizes a notice to appear that meets certain requirements to serve as a lawful complaint under the Kansas code of criminal procedure.

Section 1 amends K.S.A. 22-2202, the statute that provides definitions for terms used in the Kansas code of criminal procedure. Current law provides that a “complaint” means a written statement under oath of the essential facts constituting a crime, except that a citation or notice to appear issued by a law enforcement officer pursuant to and in compliance with K.S.A. 8-2106 or a citation or notice to appear issued pursuant to and in compliance with K.S.A. 32-1049 shall be deemed a valid complaint if it is signed by the law enforcement officer. The bill amends this provision to include that a notice to appear issued by a law enforcement officer pursuant to and in compliance with K.S.A. 22-2408 (Section 2 of the bill) for any unclassified misdemeanor or nonperson misdemeanor shall be deemed a valid complaint if signed by the law enforcement officer and if: (1) There is a memorandum of agreement between the law enforcement agency that employs such officer and the county or district attorney in the jurisdiction where the notice to appear is issued; and (2) the notice to appear complies with the requirements of the memorandum of agreement and K.S.A. 22-3201(b), which outlines the requirements for prosecutions in the district court upon a complaint, indictment or information.

Section 2 amends K.S.A. 22-2408, relating to requirements for a written notice to appear in court that may be served on a person by a law enforcement officer whenever an officer detains any person without a warrant, for any act punishable as a misdemeanor, and such person is not immediately taken before a magistrate for further proceedings. Current law requires the person detained, in order to secure release, to give a written promise to appear in the court by signing the written notice prepared by the officer. The officer is then required to cause to be filed, without

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unnecessary delay, a complaint in the court in which a person released is given notice to appear, charging the crime stated in such notice. The bill creates an exception to the complaint requirement if the notice to appear is a valid complaint pursuant to K.S.A. 22-2202.

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