

SESSION OF 2018

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2549

As Amended by Senate Committee on Public
Health and Welfare

Brief*

HB 2549, as amended, would amend law related to the competency of a defendant to stand trial.

The bill would allow a court in misdemeanor and felony cases to commit a defendant to the state security hospital or any appropriate state, county, or private institution or facility for a psychiatric or psychological examination and report to the court for determination of competency to stand trial. Additionally, if a defendant who is charged with a misdemeanor or felony is found incompetent to stand trial, the bill would require the court to commit the defendant for evaluation and treatment to any appropriate state, county, or private institution or facility.

The bill would add “facility” to the list of places where a defendant may be committed for evaluation and treatment and make technical amendments, including a change in reference from the Secretary of Social and Rehabilitation Services to the Secretary for Aging and Disability Services.

[*Note:* Under current law, defendants charged with a felony may be committed only to a state security hospital or any county or private institution for examination and report to the court and, if found incompetent to stand trial, are to be committed only to a state security hospital or any appropriate county or private institution for evaluation and treatment. Under current law, a defendant charged with a misdemeanor may be committed only to any appropriate state, county, or

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

private institution for examination and report and, if found incompetent to stand trial, may be admitted only to these same institutions for evaluation and treatment.]

Background

The bill was introduced by the House Committee on Health and Human Services at the request of the Department for Aging and Disability Services (KDADS). In the House Committee hearing, a representative of KDADS testified in support of the bill, stating the bill would allow greater flexibility in the completion of forensic evaluations related to competency and restoration with the goal of reducing the bed availability list for the state psychiatric hospitals by allowing defendants to be committed to any appropriate state psychiatric hospital or county or private institution for competency evaluation and restoration treatment. The KDADS representative stated the removal of the lists of state hospital catchment areas in statute would simplify the process of identifying the catchment areas, because the lists are found in statute and regulation (KAR 30-26-1a), necessitating a change in both when modification of a catchment area is necessary.

Neutral testimony was provided by representatives of the Association of Community Mental Health Centers of Kansas, Inc., Kansas Association of Counties (KAC), Kansas Mental Health Coalition, and Kansas Sheriffs' Association. The representatives providing neutral testimony generally stated support for providing some flexibility to KDADS in order to improve treatment access, especially if both Osawatomie State Hospital (OSH) and Larned State Hospital (LSH) provide the competency evaluation services, resulting in an increased capacity of the system and reduced wait times. However, they expressed concern that removing the catchment areas from statute could result in moving mental health resources farther away from communities, reducing access, complicating discharge efforts, increasing costs to counties, and impacting the availability of law enforcement

personnel to serve smaller counties while also transporting individuals to the state mental health hospitals.

No opponent testimony was provided.

The House Committee amended the bill by removing the section containing definitions (KSA 2017 Supp. 39-1602), including the definitions for the OSH and LSH catchment areas, and removing references to the statute from the title and the repealer section of the bill. As a result of this action, the bill would make no changes to the current language of KSA 2017 Supp. 39-1602, which would remain in statute.

In the Senate Committee on Public Health and Welfare hearing, proponent testimony was provided by representatives from KAC (moved from neutral to proponent after the House Committee amendment), KDADS, and the Kansas Sheriffs' Association (moved from neutral to proponent after the House Committee amendment). Written-only neutral testimony was provided by a representative from the Association of Community Health Centers of Kansas, Inc. No other testimony was provided.

The Senate Committee made a technical amendment to make the title reflect the contents of the bill.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Corrections, KDADS, and the Office of Judicial Administration indicate enactment of the bill would have no fiscal effect on operations.