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MEMORANDUM

To: Senate Committee on Judiciary

From: Jason Thompson, Senior Assistant Revisor of Statutes

Date: January 23, 2018

Subject: Bill Brief for SB 265

SB 265 clarifies what conduct is excluded from the crime of incest. Under current law, K.S.A. 21-5604, incest and aggravated incest apply to “otherwise lawful sexual intercourse or sodomy” between certain persons. The statute already defines the terms “sexual intercourse” and “sodomy” by reference to K.S.A. 21-5501; the bill moves that reference to new subsection (d). The bill also adds a definition of the term “otherwise lawful sexual intercourse or sodomy” to specifically exclude rape and aggravated criminal sodomy. This change should clarify that a person can be charged with and punished for those more serious offenses (a severity level 1, person felony), rather than incest (a severity level 10, person felony) or aggravated incest (a severity level 7, 5, or 3, person felony).