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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 5, 2020

Subject: Bill Brief for SB 416

Senate Bill 416 would require earlier notice of anticipated release from custody of a person who may be a sexually violent predator and specify where such person will be detained during civil commitment proceedings.

Section 1 amends K.S.A. 59-29a03, a statute in the Kansas sexually violent predator act that addresses potential release from custody of a person who may be a sexually violent predator. Current law requires the agency with jurisdiction to give written notice to the attorney general and a multidisciplinary team 90 days prior to release or anticipated release. On and after July 1, 2021, and prior to July 1, 2022, the bill would require such notice to be given 90 days to two years prior to release or anticipated release. On and after July 1, 2022, the bill would require such notice to be given two years prior to release or anticipated release.

Section 2 amends K.S.A. 59-29a05, a statute in the Kansas sexually violent predator act that addresses the process for a court to determine whether probable cause exists to believe that a person is a sexually violent predator. Current law provides that if the court makes such a probable cause finding, the court shall direct that the person be taken into custody and detained in the county jail until such time as a determination is made that the person is a sexually violent predator subject to commitment under the act. The bill would retain this law and create an exception for a person who is subject to secure confinement at a correctional facility operated by the secretary of corrections, providing that when the person is no longer subject to such confinement, the court shall direct the sheriff of the county where the petition is filed to transport

the person to the county jail and detain the person in the county jail until a determination is made that the person is subject to commitment under the act.

Further, the bill would add a new subsection (f) to K.S.A. 59-29a05 that applies when a person involved in a proceeding under the act remains subject to secure confinement at a correctional facility operated by the secretary of corrections. This subsection would allow the court to secure the person's attendance at the proceeding by directing the sheriff of the county where the proceeding will be held to take the person into the sheriff's physical custody and detain the person in the county jail for such time deemed reasonable to secure the person's attendance at the proceeding. Finally, a new subsection (g) provides that these changes do not create specific rights for the person alleged to be a sexually violent predator.