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**Neutral Testimony for House Bill 2697
A bill modifying competency evaluations.**

**Presented to the Judiciary Committee
By Assistant Solicitor General Natalie Chalmers**

February 17, 2022

Chairman Patton and Members of the Committee:

Thank you for the opportunity to provide neutral testimony on HB 2697 on behalf of Attorney General Derek Schmidt.

One of the goals of the bill appears to be to permit competency evaluations be done through Zoom or outpatient treatment. Our office is neutral regarding that goal, though in many cases, the Larned competency evaluation has been helpful for detecting malingering due to the ability to observe defendants throughout their stay.

But our office does have a few concerns about the bill. First, the language limiting the bill to requests for competency evaluations by the “county or district attorney” precludes our office from requesting competency evaluations or otherwise using this statute. Instead, the term “prosecuting attorney” should be used throughout the bill.

Next, our office opposes the change in section one, page two, line three, which limits the evaluation to a single physician or psychologists. In contested hearings, the court needs to hear from more than one expert, otherwise there is a risk of hearing an unduly biased opinion regarding competency.

Further, we also have serious public safety concerns with the possibility of permitting persons charged with serious violent felonies, such as murder or rape, to have outpatient competency treatment. If such persons are capable of violent acts and also incompetent, it would seem they pose a serious safety concern to the public.

Finally, there may be some drafting errors in the bill. For example, K.S.A. 22-3303(b)(1)(3) uses the term commitment, but it does not appear that the prior subsections used the term commitment for competency treatment on an outpatient basis. Without knowing exactly what the bill’s goals are, it is difficult to follow. There appear to be potentially duplicative outpatient

provisions, and there are confusing references to pretrial release for inpatient treatment in subsection (e).

For the above reasons, while the Office of the Attorney General is neutral regarding this bill, we would recommend amendments be considered if this bill proceeds. Thank you for your time.

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