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Disability Rights Center of Kansas

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Testimony in Support of HB 2353 House Corrections & Juvenile Justice February 8, 2024

Chairman Owens and members of the Committee:

My name is Lane Williams. I am the Legal Director at the Disability Rights Center of Kansas (DRC). DRC is a public interest legal advocacy organization that is part of a national network of federally mandated and funded organizations empowered to advocate for Kansans with disabilities. DRC is the officially designated protection and advocacy organization in Kansas. DRC is a private, 501(c)(3) nonprofit corporation, organizationally independent of state government and whose sole interest is the protection of the legal rights of Kansas with disabilities.

Thank you for allowing me the opportunity to submit testimony in support of HB 2353.

DRC staff attorneys and advocates provide legal and advocacy services to Kansans with disabilities on disability rights issues, including access to mental health services in the community instead of an institution whenever reasonably possible. We also monitor the two state hospitals pursuant to our access authority under federal law. We do not represent individuals in Care and Treatment cases pursuant to K.S.A. 59-2946, et seq. or provide legal advice to them, but we provide general information to patients who ask to speak with us concerning their rights under care and treatment act. We also provide that information to patients who call our office for assistance.

DRC staff and other stakeholders were invited to meet with KDADS staff periodically for the past 12 months to discuss proposed revisions to the care and treatment act, particularly concerning outpatient treatment orders in K.S.A 59-2967.¹ One proposed revision we discussed at length was increasing the length of time an individual may be held on an ex parte emergency custody for alleged material non-compliance of an outpatient treatment order. The current expiration time for the ex parte order is at 5:00 p.m. on the second day or the next business day the court is open if the second day is a weekend or holiday. K.S.A. 59-2967 (e)(f). The proposed revision is to increase that time

¹ HB 2353, Section 3, pp. 4-5.

to the 3rd day at 5:00 p.m. We initially expressed reservations about the change because an individual has a greater chance to be held over the weekend before a hearing. In between meetings we reviewed data from other states indicating that 3 days of treatment instead of 2 improved the individual's ability to stabilize and avoid another inpatient stay. Although we are still concerned about the potential for a longer wait time for court, we support the proposed change because of the opportunity to reduce orders for inpatient treatment.

Another proposed revision is to K.S.A. 2967(a)(1)(2) concerning the standard for ordering outpatient treatment (OTO) in lieu of an inpatient order. Concerns were raised that the current standard creates a small window for someone to remain on an OTO successfully. The group reviewed different options and adopted the one that we felt better clarifies the standard for issuing an OTO and provides the individual a better opportunity to avoid or discontinue inpatient treatment through mandated outpatient treatment. DRC supports this revision.

Finally, DRC supports the proposed revision to subsection (c) which requires the outpatient treatment facility to provide the court with the individual's treatment plan within ten business days. The requirement will allow the court to be fully informed of the facility's plan to carry out the directives of the OTO.

Thank you for considering our comments.