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MEMORANDUM

To: Senate Committee on Judiciary
From: Office of Revisor of Statutes
Date: January 26, 2021
Subject: Bill Brief for SB 3

Senate Bill 3 creates a certified drug abuse treatment program for people on diversion and allows county and district attorneys to enter into agreements with court services or community corrections for supervision.

New Section 1 creates a certified drug abuse treatment program for people who enter a diversion agreement on and after July 1, 2021, on a complaint alleging a felony violation of K.S.A. 21-5706 whose offense is classified in grid blocks 5-C through 5-I and who have no prior felony drug convictions. As part of the consideration of whether to allow diversion, the person would be subject to a drug abuse assessment including a clinical interview and a standardized criminal risk-need assessment. The diversion agreement would require the person to comply with and participate in the program if the person meets the criteria set by the Kansas sentencing commission. The term of treatment shall not exceed 18 months. People participating in the program would be allowed to be supervised by community corrections or court services pursuant to an agreement entered into under the provisions added in K.S.A. 22-2907. People in the program shall be discharged if they are convicted of a new felony or has a pattern of international conduct that demonstrates a refusal to comply with or participate in the program in the opinion of the county or district attorney. People discharged shall be subject to the revocation provisions in their diversion agreement.

Section 2 amends K.S.A. 22-2907 to allow a county or district attorney to enter into a memorandum of understanding with the chief judge of a judicial district or community correctional services to assist with supervising people on diversion. The county or district attorney would retain authority over whether a defendant is given the option of diversion and whether a diversion agreement should be revoked. A memorandum of understanding shall include provisions relating to levels of supervision, use of a criminal risk-need assessment and payment of costs for supervision. When a person on diversion is being supervised under a memorandum of

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understanding, they shall pay a supervision fee under K.S.A. 21-6607 and any cost of urinalysis testing. The office of judicial administration would be allowed to adopt guidelines on the content of a memorandum of understanding between a county or district attorney and a chief judge.

Section 3 amends K.S.A. 22-2909 to allow diversion agreements to include provisions about supervision by the county or district attorney, or by court services or community corrections pursuant to a memorandum of understanding, including fees and costs.

Section 4 amends K.S.A. 75-5291 to provide that nothing shall prohibit a community correctional services program from providing supervision services pursuant to a memorandum of understanding.

Section 5 amends K.S.A. 75-52,144 to provide for certified drug abuse treatment programs in the case of diversion as opposed to conviction. It also requires the county or district attorney to determine the extent that the person on diversion can pay for assessment and treatment. Those payments would be used by the supervising agency to offset costs. If the financial obligations are not or cannot be met, the county or district attorney shall be notified for the purpose of collection or review and action on the person's diversion agreement.