

HOUSE BILL No. 2290

By Committee on Judiciary

2-10

1 AN ACT concerning the care and treatment act for mentally ill persons;
2 relating to 24-hour crisis centers; amending K.S.A. 2014 Supp. 59-
3 2946 and repealing the existing section.
4

5 WHEREAS, It is the public policy of the state of Kansas to limit the
6 trauma sustained by people with mental illness that occurs when a person
7 is involuntarily committed through court and hospital procedures: Now,
8 therefore,
9

10 *Be it enacted by the Legislature of the State of Kansas:*

11 New Section 1. (a) A 24-hour crisis center may admit and detain any
12 person presented for emergency observation and treatment upon written
13 application of a law enforcement officer having custody of such person,
14 except that a state psychiatric hospital shall not admit and detain any such
15 person unless a written statement from a qualified mental health
16 professional authorizing such admission to a state psychiatric hospital has
17 been obtained. The law enforcement officer's application shall state:

18 (1) The name and address of the person to be admitted, if known;

19 (2) the law enforcement officer having custody of the person has
20 reason to believe that:

21 (A) Such person is mentally ill;

22 (B) there is a substantial risk of serious harm to the person or others
23 due to mental illness, unless such person is immediately transported for
24 emergency observation and treatment;

25 (C) the substantial risk of serious harm is imminent, unless such
26 person is immediately transported for emergency observation and
27 treatment; and

28 (D) a detailed explanation of the specific behavior, actions, threats or
29 attempts of actions, behavior or threats creating the substantial risk of
30 harm to the person or others due to mental illness; and

31 (3) the name and relationship of any person who reported or observed
32 specific behavior, actions, threats or attempts of actions, behavior or
33 threats by the mentally ill person in need of emergency observation and
34 treatment.

35 (b) A substantial risk of serious harm to the person or others may be
36 demonstrated by:

1 (1) The person's behavior, actions, threats or attempts of actions,
2 behavior or threats as observed by a law enforcement officer or other
3 reliable person; or

4 (2) evidence of severe emotional distress and deterioration in the
5 person's mental condition to the extent that the person cannot remain at
6 liberty.

7 (c) The law enforcement officer may form the belief that the person
8 meets the criteria for emergency observation and treatment from:

9 (1) The representation of a credible person; or

10 (2) the basis of the behavior, actions, threats or attempts of actions,
11 behavior or threats of the apprehended person or the circumstances under
12 which the apprehended person is found.

13 (d) A law enforcement officer who takes a person into custody
14 pursuant to this section shall immediately transport the person to the 24-
15 hour crisis center in their jurisdiction. If no 24-hour crisis center exists
16 within their jurisdiction, then the law enforcement officer shall follow the
17 procedures pursuant to K.S.A. 59-2953 et seq., and amendments thereto. A
18 jail or similar detention facility shall not be deemed suitable except in
19 circumstances of extreme emergency.

20 (e) The head of the 24-hour crisis center, a physician, psychologist,
21 qualified mental health professional or licensed mental health professional
22 associated with the 24-hour crisis center shall discharge any person
23 admitted pursuant to this section not later than 72 hours after admission,
24 unless such head of the 24-hour crisis center, a physician, a psychologist,
25 qualified mental health professional or licensed mental health professional
26 associated with the 24-hour crisis center determines that the person may be
27 a mentally ill person subject to involuntary commitment and, due to
28 mental illness, the person is likely to cause harm to self or others if not
29 detained. Prior to the end of the authorized period of admission for
30 emergency observation and treatment under this section, a physician,
31 psychologist, qualified mental health professional or licensed mental
32 health professional may file a petition pursuant to K.S.A. 59-2957, and
33 amendments thereto.

34 (f) Nothing in this section shall be construed to prevent a physician,
35 psychologist, qualified mental health professional or licensed mental
36 health professional associated with the 24-hour crisis center from filing a
37 petition provided for in K.S.A. 59-2957, and amendments thereto.

38 (g) The judicial council, in coordination with the Kansas commission
39 on peace officers' standards and training, shall prescribe the form upon
40 which a law enforcement officer shall apply for admission of the mentally
41 ill person to a 24-hour crisis center under this section.

42 (h) If a law enforcement officer's application successfully meets the
43 requirements of subsection (a) to seek admission of a mentally ill person to

1 a 24-hour crisis center under this section, such law enforcement officer
2 shall not be required to seek an ex parte order from the district court.

3 (i) This section shall be part of and supplemental to the care and
4 treatment act for mentally ill persons.

5 Sec. 2. K.S.A. 2014 Supp. 59-2946 is hereby amended to read as
6 follows: 59-2946. When used in the care and treatment act for mentally ill
7 persons:

8 (a) "Discharge" means the final and complete release from treatment,
9 by either the head of a treatment facility acting pursuant to K.S.A. 59-
10 2950, and amendments thereto, or by an order of a court issued pursuant to
11 K.S.A. 59-2973, and amendments thereto.

12 (b) "Head of a treatment facility" means the administrative director of
13 a treatment facility or such person's designee.

14 (c) "Law enforcement officer" shall have the meaning ascribed to it in
15 K.S.A. 22-2202, and amendments thereto.

16 (d) (1) "Mental health center" means any community mental health
17 center organized pursuant to the provisions of K.S.A. 19-4001 through 19-
18 4015, and amendments thereto, or mental health clinic organized pursuant
19 to the provisions of K.S.A. 65-211 through 65-215, and amendments
20 thereto, or a mental health clinic organized as a not-for-profit or a for-
21 profit corporation pursuant to K.S.A. 17-1701 through 17-1775, and
22 amendments thereto, or K.S.A. 17-6001 through 17-6010, and
23 amendments thereto, and licensed in accordance with the provisions of
24 K.S.A. 75-3307b, and amendments thereto.

25 (2) "Participating mental health center" means a mental health center
26 which has entered into a contract with the secretary for aging and
27 disability services pursuant to the provisions of K.S.A. 39-1601 through
28 39-1612, and amendments thereto.

29 (e) "Mentally ill person" means any person who is suffering from a
30 mental disorder which is manifested by a clinically significant behavioral
31 or psychological syndrome or pattern and associated with either a painful
32 symptom or an impairment in one or more important areas of functioning,
33 and involving substantial behavioral, psychological or biological
34 dysfunction, to the extent that the person is in need of treatment.

35 (f) (1) "Mentally ill person subject to involuntary commitment for
36 care and treatment" means a mentally ill person, as defined in subsection
37 (e), who also lacks capacity to make an informed decision concerning
38 treatment, is likely to cause harm to self or others, and whose diagnosis is
39 not solely one of the following mental disorders: Alcohol or chemical
40 substance abuse; antisocial personality disorder; intellectual disability;
41 organic personality syndrome; or an organic mental disorder.

42 (2) "Lacks capacity to make an informed decision concerning
43 treatment" means that the person, by reason of the person's mental

1 disorder, is unable, despite conscientious efforts at explanation, to
2 understand basically the nature and effects of hospitalization or treatment
3 or is unable to engage in a rational decision-making process regarding
4 hospitalization or treatment, as evidenced by an inability to weigh the
5 possible risks and benefits.

6 (3) "Likely to cause harm to self or others" means that the person, by
7 reason of the person's mental disorder: (A) Is likely, in the reasonably
8 foreseeable future, to cause substantial physical injury or physical abuse to
9 self or others or substantial damage to another's property, as evidenced by
10 behavior threatening, attempting or causing such injury, abuse or damage;
11 except that if the harm threatened, attempted or caused is only harm to the
12 property of another, the harm must be of such a value and extent that the
13 state's interest in protecting the property from such harm outweighs the
14 person's interest in personal liberty; or (B) is substantially unable, except
15 for reason of indigency, to provide for any of the person's basic needs,
16 such as food, clothing, shelter, health or safety, causing a substantial
17 deterioration of the person's ability to function on the person's own.

18 No person who is being treated by prayer in the practice of the religion
19 of any church which teaches reliance on spiritual means alone through
20 prayer for healing shall be determined to be a mentally ill person subject to
21 involuntary commitment for care and treatment under this act unless
22 substantial evidence is produced upon which the district court finds that
23 the proposed patient is likely in the reasonably foreseeable future to cause
24 substantial physical injury or physical abuse to self or others or substantial
25 damage to another's property, as evidenced by behavior threatening,
26 attempting or causing such injury, abuse or damage; except that if the harm
27 threatened, attempted or caused is only harm to the property of another, the
28 harm must be of such a value and extent that the state's interest in
29 protecting the property from such harm outweighs the person's interest in
30 personal liberty.

31 (g) "Patient" means a person who is a voluntary patient, a proposed
32 patient or an involuntary patient.

33 (1) "Voluntary patient" means a person who is receiving treatment at
34 a treatment facility pursuant to K.S.A. 59-2949, and amendments thereto.

35 (2) "Proposed patient" means a person for whom a petition pursuant
36 to K.S.A. 59-2952 or 59-2957, and amendments thereto, has been filed.

37 (3) "Involuntary patient" means a person who is receiving treatment
38 under order of a court or a person admitted and detained by a treatment
39 facility pursuant to an application filed pursuant to ~~subsection (b) or (c) of~~
40 K.S.A. 59-2954(b) or (c), and amendments thereto.

41 (h) "Physician" means a person licensed to practice medicine and
42 surgery as provided for in the Kansas healing arts act or a person who is
43 employed by a state psychiatric hospital or by an agency of the United

1 States and who is authorized by law to practice medicine and surgery
2 within that hospital or agency.

3 (i) "Psychologist" means a licensed psychologist, as defined by
4 K.S.A. 74-5302, and amendments thereto.

5 (j) "Qualified mental health professional" means a physician or
6 psychologist who is employed by a participating mental health center or
7 who is providing services as a physician or psychologist under a contract
8 with a participating mental health center, a licensed masters level
9 psychologist, a licensed clinical psychotherapist, a licensed marriage and
10 family therapist, a licensed clinical marriage and family therapist, a
11 licensed professional counselor, a licensed clinical professional counselor,
12 a licensed specialist social worker or a licensed master social worker or a
13 registered nurse who has a specialty in psychiatric nursing, who is
14 employed by a participating mental health center and who is acting under
15 the direction of a physician or psychologist who is employed by, or under
16 contract with, a participating mental health center.

17 (1) "Direction" means monitoring and oversight including regular,
18 periodic evaluation of services.

19 (2) "Licensed master social worker" means a person licensed as a
20 master social worker by the behavioral sciences regulatory board under
21 K.S.A. 65-6301 through 65-6318, and amendments thereto.

22 (3) "Licensed specialist social worker" means a person licensed in a
23 social work practice specialty by the behavioral sciences regulatory board
24 under K.S.A. 65-6301 through 65-6318, and amendments thereto.

25 (4) "Licensed masters level psychologist" means a person licensed as
26 a licensed masters level psychologist by the behavioral sciences regulatory
27 board under K.S.A. 74-5361 through 74-5373, and amendments thereto.

28 (5) "Registered nurse" means a person licensed as a registered
29 professional nurse by the board of nursing under K.S.A. 65-1113 through
30 65-1164, and amendments thereto.

31 (k) "Secretary" means the secretary for aging and disability services.

32 (l) "State psychiatric hospital" means Larned state hospital,
33 Osawatomie state hospital or Rainbow mental health facility.

34 (m) "Treatment" means any service intended to promote the mental
35 health of the patient and rendered by a qualified professional, licensed or
36 certified by the state to provide such service as an independent practitioner
37 or under the supervision of such practitioner.

38 (n) "Treatment facility" means any mental health center or clinic,
39 psychiatric unit of a medical care facility, state psychiatric hospital,
40 psychologist, physician or other institution or person authorized or
41 licensed by law to provide either inpatient or outpatient treatment to any
42 patient.

43 (o) *"24-hour crisis center" means any facility open 24-hours a day,*

1 *365 days a year; serving persons in crisis due to alcohol, substance abuse*
2 *or mental illness.*

3 *(p)* The terms defined in K.S.A. 59-3051, and amendments thereto,
4 shall have the meanings provided by that section.

5 Sec. 3. K.S.A. 2014 Supp. 59-2946 is hereby repealed.

6 Sec. 4. This act shall take effect and be in force from and after its
7 publication in the statute book.