

HOUSE BILL No. 2240

By Committee on Judiciary

2-1

1 AN ACT concerning the care and treatment of certain persons; enacting
2 the crisis intervention act; amending K.S.A. 59-2953, 59-2980, 59-
3 29b53 and 59-29b80 and K.S.A. 2016 Supp. 39-2001, 39-2002, 39-
4 2003, 59-2978 and 59-29b78 and repealing the existing sections.
5

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

7 New Section 1. The provisions of sections 1 through ~~14~~ **15**, and
8 amendments thereto, shall be known and may be cited as the crisis
9 intervention act.

10 New Sec. 2. When used in the crisis intervention act:

11 (a) "Behavioral health professional" includes a physician, **physician**
12 **assistant**, psychologist, qualified mental health professional, **social**
13 **worker** or licensed addiction counselor.

14 (b) "Head of a crisis intervention center" means the administrative
15 director of a crisis intervention center or a behavioral health professional
16 designated by such person.

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

19 (d) "Licensed addiction counselor" shall have the meaning ascribed to
20 it in K.S.A. 59-29b46(d), (e) or (f), and amendments thereto.

21 (e) "Crisis intervention center" means any entity licensed by the
22 Kansas department for aging and disability services that is open 24 hours a
23 day, 365 days a year, equipped to serve voluntary and involuntary
24 individuals in crisis due to mental illness, substance abuse or a co-
25 occurring condition, and that uses certified peer specialists.

26 (f) "Crisis intervention center service area" means the counties to
27 which the crisis intervention center has agreed to provide service.

28 (g) "Physician" means a person licensed to practice medicine and
29 surgery as provided for in the Kansas healing arts act or a person who is
30 employed by a state psychiatric hospital or by an agency of the United
31 States and who is authorized by law to practice medicine and surgery
32 within such hospital or agency.

1 (h) "Psychologist" means a licensed psychologist, as defined by
2 K.S.A. 74-5302, and amendments thereto.

3 (i) "Qualified mental health professional" shall have the meaning
4 ascribed to it in K.S.A. 59-2946(j), and amendments thereto.

5 (j) "Treatment" means any service intended to promote the mental
6 health of the patient and rendered by a qualified professional, licensed or
7 certified by the state to provide such service as an independent practitioner
8 or under the supervision of such practitioner; and the broad range of
9 emergency, outpatient, intermediate and inpatient services and care,
10 including diagnostic evaluation, medical, psychiatric, psychological and
11 social service care, vocational rehabilitation and career counseling, which
12 may be extended to persons with an alcohol or substance abuse problem.

13 (k) "Domestic partner" means a person with whom another person
14 maintains a household and an intimate relationship, other than a person to
15 whom such person is legally married.

16 **(l) "Physician assistant" means a person licensed to practice
17 medicine and surgery as a physician assistant by the state board of
18 healing arts.**

19 *(m) "Social worker" means a person licensed under the social
20 workers licensure act.*

21 New Sec. 3. (a) The fact that a person has been detained for
22 emergency observation and treatment under this act shall not be construed
23 to mean that such person shall have lost any civil right such person would
24 otherwise have as a resident or citizen, any property right or legal capacity,
25 except as may be specified within any court order or as otherwise limited
26 by the provisions of this act or the reasonable policies which the head of a
27 crisis intervention center may, for good cause shown, find necessary to
28 make for the orderly operations of that facility. No person held in custody
29 under the provisions of this act shall be denied the right to apply for a writ
30 of habeas corpus. **No judicial action taken as part of the procedure
31 provided in section 8(c), and amendments thereto, shall constitute a
32 finding by the court.**

33 (b) There shall be no implication or presumption that a patient within
34 the terms of this act is, for that reason alone, a person in need of a guardian
35 or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3097,
36 and amendments thereto.

37 New Sec. 4. Nothing in this act shall be construed to prohibit a person
38 with capacity to do so from making an application for admission as a
39 voluntary patient to a crisis intervention center. Any person desiring to do
40 so shall be afforded an opportunity to consult with such person's attorney
41 prior to making any such application. If the head of the crisis intervention
42 center accepts the application and admits the person as a voluntary patient,
43 then the head of the crisis intervention center shall notify, in writing, the

1 person's legal guardian, if known.

2 New Sec. 5. (a) Any law enforcement officer who takes a person into
3 custody pursuant to K.S.A. 59-2953 or 59-29b53, and amendments
4 thereto, may transport such person to a crisis intervention center if the
5 officer is in a crisis intervention center service area. The crisis intervention
6 center shall not refuse to accept any person for evaluation if such person is
7 brought to the crisis intervention center by a law enforcement officer and
8 such officer's jurisdiction is in the crisis intervention center's service area.
9 If a law enforcement officer is not in a crisis intervention center service
10 area or chooses not to transport the person to a crisis intervention center,
11 then the officer shall follow the procedures set forth in the care and
12 treatment act for persons with an alcohol or substance abuse problem,
13 K.S.A. 59-29b45 et seq., and amendments thereto{, **or the care and**
14 **treatment act for mentally ill persons, K.S.A. 59-2945 et seq., and**
15 **amendments thereto}**.

16 New Sec. 6. (a) A crisis intervention center may admit and detain any
17 person 18 years of age or older who is presented for emergency
18 observation and treatment upon the written application of a law
19 enforcement officer.

20 (b) An emergency observation and treatment application shall be
21 made on a form set forth by the secretary for aging and disability services
22 or a locally developed form approved by the secretary. The original
23 application shall be kept in the regular course of business with the law
24 enforcement agency, and a copy shall be provided to the crisis intervention
25 center and to the patient. The application shall state:

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

28 (2) the name and address of the person's spouse, domestic partner or
29 nearest relative, if known;

30 (3) the applicant's belief that the person may be a mentally ill person
31 subject to involuntary commitment as defined in K.S.A. 59-2946, and
32 amendments thereto, a person with an alcohol or substance abuse problem
33 subject to involuntary commitment as defined in K.S.A. 59-29b46, and
34 amendments thereto, or a person with co-occurring conditions, and
35 because of such mental illness, alcohol or substance abuse problem or co-
36 occurring conditions, is likely to cause harm to self or others if not
37 immediately detained;

38 (4) the factual circumstances in support of that belief and the factual
39 circumstances under which the person was taken into custody, including
40 any known pending criminal charges; and

41 (5) whether the person has a wellness recovery action plan or
42 psychiatric advance directive, if known.

43 New Sec. 7. (a) A crisis intervention center may evaluate, admit and

1 detain any person 18 years of age or older who is presented for emergency
2 observation and treatment upon the written application of any adult.

3 (b) An emergency observation and treatment application shall be
4 made on a form set forth by the secretary for aging and disability services
5 or a locally developed form approved by the secretary. The original
6 application shall be kept by the applicant, and a copy shall be provided to
7 the crisis intervention center and to the patient. The application shall state:

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

10 (2) the name and address of the person's spouse, domestic partner or
11 nearest relative, if known;

12 (3) the applicant's belief that the person may be a mentally ill person
13 subject to involuntary commitment as defined in K.S.A. 59-2956, and
14 amendments thereto, a person with an alcohol or substance abuse problem
15 subject to involuntary commitment as defined in K.S.A. 59-29b46, and
16 amendments thereto, or a person with co-occurring conditions, and
17 because of such mental illness, alcohol or substance abuse problem or co-
18 occurring conditions, is likely to cause harm to self or others if not
19 immediately detained;

20 (4) the factual circumstances in support of that belief and the factual
21 circumstances under which the person was presented to the crisis
22 intervention center;

23 (5) any known pending criminal charges;

24 (6) any known prior psychiatric, medical or substance use history;
25 and

26 (7) whether the person has a wellness recovery action plan or
27 psychiatric advance directive, if known.

28 New Sec. 8. (a) The head of the crisis intervention center shall
29 evaluate a person admitted pursuant to this act within four hours of
30 admission to determine whether the person is likely to be a mentally ill
31 person subject to involuntary commitment for care and treatment, as
32 defined in K.S.A. 59-2946, and amendments thereto, a person with an
33 alcohol and substance abuse problem subject to involuntary commitment
34 for care and treatment, as defined in K.S.A. 59-29b46, and amendments
35 thereto, or a person with co-occurring conditions, and because of such
36 mental illness, alcohol or substance abuse problem or co-occurring
37 conditions, is likely to cause harm to self or others if allowed to remain at
38 liberty. The head of the crisis intervention center shall inquire whether the
39 person has a wellness recovery action plan or psychiatric advance
40 directive.

41 (b) A behavioral health professional shall evaluate a person admitted
42 pursuant to this act not later than 23 hours after admission and again not
43 later than 48 hours after admission to determine if the person continues to

1 meet the criteria described in subsection (a). The 23-hour evaluation must
2 be performed by a different behavioral health professional from the one
3 who conducted the initial evaluation under subsection (a).

4 (c) Not later than 48 hours after admission, if the head of the crisis
5 intervention center determines that the person continues to meet the
6 criteria described in subsection (a), then the head of the crisis intervention
7 center shall file an affidavit to that effect for review by the district court in
8 the county where the crisis intervention center is located. The affidavit
9 shall include or be accompanied by the written application for emergency
10 observation and treatment, information about the person's original
11 admission to the crisis intervention center, the care and treatment provided
12 to the person, and the factual circumstances in support of the evaluating
13 professional's opinion that the person meets the criteria described in
14 subsection (a). After reviewing the affidavit and any accompanying
15 documentation, the court shall order the release of the person or order that
16 the person may continue to be detained and treated at the crisis
17 intervention center, subject to subsections (d) and (e).

18 (d) The head of the crisis intervention center shall discharge a person
19 admitted pursuant to this act at any time the person no longer meets the
20 criteria described in subsection (a) and, except as provided in subsection
21 (e), not later than 72 hours after admission. Upon discharge, the crisis
22 intervention center shall make reasonable accommodations for the person's
23 transportation.

24 (e) Not later than 72 hours after admission, if the head of the crisis
25 intervention center determines that a person admitted pursuant to this act
26 continues to meet the criteria described in subsection (a), then the head of
27 the crisis intervention center shall immediately file the petition provided
28 for in K.S.A. 59-2957, and amendments thereto, or K.S.A. 59-29b57, and
29 amendments thereto, and shall find appropriate placement for the
30 individual, including, but not limited to, community hospitals equipped to
31 take involuntary commitments or the designated state hospital. If the 72-
32 hour period ends after 5 p.m., then the petition must be filed by the close
33 of business of the first day thereafter that the district court is open for the
34 transaction of business.

35 New Sec. 9. (a) Whenever any person is involuntarily admitted to or
36 detained at a crisis intervention center pursuant to this act, the head of the
37 crisis intervention center shall:

38 (1) Immediately advise the person in custody that such person is
39 entitled to immediately contact the person's legal counsel, legal guardian,
40 personal physician or psychologist, minister of religion, including a
41 Christian Science practitioner, or immediate family as defined in
42 subsection (b) or any combination thereof. If the person desires to make
43 such contact, the head of the crisis intervention center shall make available

1 to the person reasonable means for making such immediate
2 communication;

3 (2) provide notice of the person's involuntary admission including a
4 copy of the documentation authorizing the involuntary admission to that
5 person's attorney or legal guardian, immediately upon learning of the
6 existence and whereabouts of such attorney or legal guardian, unless that
7 attorney or legal guardian was the person who signed the application
8 resulting in the patient's admission. If authorized by the patient pursuant to
9 K.S.A. 65-5601 through 65-5605, and amendments thereto, the head of the
10 crisis intervention center also shall provide notice to the patient's
11 immediate family, as defined in subsection (b), immediately upon learning
12 of the existence and whereabouts of such family, unless the family
13 member to be notified was the person who signed the application resulting
14 in the patient's admission; and

15 (3) immediately advise the person in custody of such person's rights
16 provided for in section 14, and amendments thereto.

17 (b) "Immediate family" means the spouse, domestic partner, adult
18 children or children, parent or parents, and sibling or siblings, or any
19 combination thereof.

20 New Sec. 10. (a) Medications and other treatments shall be
21 prescribed, ordered and administered only in conformity with accepted
22 clinical practice. Medication shall be administered only upon the written
23 order of a physician or upon a verbal order noted in the patient's medical
24 records and subsequently signed by the physician. The attending physician
25 shall review regularly the drug regimen of each patient under the
26 physician's care and shall monitor any symptoms or harmful side effects.
27 Prescriptions for psychotropic medications shall be written with a
28 termination date not exceeding 30 days thereafter, but may be renewed.

29 (b) During the course of treatment, the responsible physician or
30 psychologist or such person's designee shall reasonably consult with the
31 patient or the patient's legal guardian and give consideration to the views
32 the patient or legal guardian expresses concerning treatment and any
33 alternatives, including views expressed in any wellness recovery action
34 plan or psychiatric advance directive. No medication or other treatment
35 may be administered to any voluntary patient without the patient's consent
36 or the consent of such patient's legal guardian.

37 (c) Consent for medical or surgical treatments not intended primarily
38 to treat a patient's mental disorder shall be obtained in accordance with
39 applicable law.

40 (d) Whenever a patient receiving treatment pursuant to this act
41 objects to taking any medication prescribed for psychiatric treatment, and
42 after full explanation of the benefits and risks of such medication such
43 objection continues, the medication may be administered over the patient's

1 objection. Such objection shall be recorded in the patient's medical record.

2 (e) In no case shall experimental medication be administered without
3 the patient's consent, which consent shall be obtained in accordance with
4 section 12(a)(6), and amendments thereto.

5 New Sec. 11. (a) Restraints or seclusion shall not be applied to a
6 patient unless it is determined by the head of the crisis intervention center
7 or a physician or psychologist to be necessary to prevent immediate
8 substantial bodily injury to the patient or others and that other alternative
9 methods to prevent such injury are not sufficient to accomplish this
10 purpose. Restraints or seclusion shall never be used as a punishment or for
11 the convenience of staff. The extent of the restraints or seclusion applied to
12 the patient shall be the least restrictive measure necessary to prevent such
13 injury to the patient or others, and the use of restraint or seclusion in a
14 crisis intervention center shall not exceed three hours without medical
15 reevaluation, except that such medical reevaluation shall not be required,
16 unless necessary, between the hours of 12:00 midnight and 8:00 a.m.
17 When restraints or seclusion are applied, there shall be monitoring of the
18 patient's condition at a frequency determined by the treating physician or
19 psychologist, which shall be no less than once per each 15 minutes. The
20 head of the crisis intervention center or a physician or psychologist shall
21 sign a statement explaining the treatment necessity for the use of any
22 restraint or seclusion and shall make such statement a part of the
23 permanent treatment record of the patient.

24 (b) The provisions of subsection (a) shall not prevent, for a period not
25 exceeding two hours without review and approval thereof by the head of
26 the crisis intervention center or a physician or psychologist:

27 (1) The use of such restraints as necessary for a patient who is likely
28 to cause physical injury to self or others without the use of such restraints;

29 (2) the use of restraints when needed primarily for examination or
30 treatment or to ensure the healing process; or

31 (3) the use of seclusion as part of a treatment methodology that calls
32 for time out when the patient is refusing to participate in treatment or has
33 become disruptive of a treatment process.

34 (c) As used in this section:

35 (1) "Restraints" means the application of any device, other than
36 human force alone, to any part of the body of the patient for the purpose of
37 preventing the patient from causing injury to self or others; and

38 (2) "seclusion" means the placement of a patient, alone, in a room,
39 where the patient's freedom to leave is restricted and where the patient is
40 not under continuous observation.

41 New Sec. 12. (a) Every patient being treated in any crisis intervention
42 center, in addition to all other rights preserved by the provisions of the
43 crisis intervention act, shall have the following rights:

- 1 (1) To wear the patient's own clothes, keep and use the patient's own
2 personal possessions, including toilet articles, and keep and be allowed to
3 spend the patient's own money;
- 4 (2) to communicate by all reasonable means with a reasonable
5 number of persons at reasonable hours of the day and night, including both
6 to make and receive confidential telephone calls and by letter, both to mail
7 and receive unopened correspondence, except that if the head of the crisis
8 intervention center denies a patient's right to mail or to receive unopened
9 correspondence under the provisions of subsection (b), such
10 correspondence shall be opened and examined in the presence of the
11 patient;
- 12 (3) conjugal visits, if facilities are available for such visits;
- 13 (4) to receive visitors in reasonable numbers and at reasonable times
14 each day;
- 15 (5) to refuse involuntary labor other than the housekeeping of the
16 patient's own bedroom and bathroom, provided that nothing herein shall be
17 construed to prohibit a patient from performing labor as part of a
18 therapeutic program to which the patient has given their written consent
19 and for which the patient receives reasonable compensation;
- 20 (6) not to be subject to such procedures as psychosurgery,
21 electroshock therapy, experimental medication, aversion therapy or
22 hazardous treatment procedures without the written consent of the patient;
- 23 (7) to have explained the nature of all medications prescribed, the
24 reason for the prescription and the most common side effects and, if
25 requested, the nature of any other treatment ordered;
- 26 (8) to communicate by letter with the secretary for aging and
27 disability services, the head of the crisis intervention center and any court,
28 attorney, physician, psychologist, qualified mental health professional,
29 licensed addiction counselor or minister of religion, including a Christian
30 Science practitioner. All such communications shall be forwarded at once
31 to the addressee without examination and communications from such
32 persons shall be delivered to the patient without examination;
- 33 (9) to contact and consult privately with the patient's physician,
34 psychologist, qualified mental health professional, licensed addiction
35 counselor, minister of religion, including a Christian Science practitioner,
36 legal guardian or attorney at any time;
- 37 (10) to be visited by the patient's physician, psychologist, qualified
38 mental health professional, licensed addiction counselor, minister of
39 religion, including a Christian Science practitioner, legal guardian or
40 attorney at any time;
- 41 (11) to be informed orally and in writing of such patient's rights under
42 this section upon admission to a crisis intervention center; and
- 43 (12) to be treated humanely, consistent with generally accepted ethics

1 and practices.

2 (b) The head of the crisis intervention center may, for good cause
3 only, restrict a patient's rights under this section, except that the rights
4 enumerated in subsection (a)(5) through (12), and the right to mail any
5 correspondence that does not violate postal regulations, shall not be
6 restricted by the head of the crisis intervention center under any
7 circumstances. Each crisis intervention center shall adopt policies
8 governing the conduct of all patients being treated in such crisis
9 intervention center, which regulations shall be consistent with the
10 provisions of this section. A statement explaining the reasons for any
11 restriction of a patient's rights shall be immediately entered on such
12 patient's medical record and copies of such statement shall be made
13 available to the patient, and to the patient's attorney. In addition, notice of
14 any restriction of a patient's rights shall be communicated to the patient in
15 a timely manner.

16 (c) Any person willfully depriving any patient of the rights protected
17 by this section, except for the restriction of such rights in accordance with
18 the provisions of subsection (b) or in accordance with a properly obtained
19 court order, shall be guilty of a class C misdemeanor.

20 New Sec. 13. Any district court records and any treatment records or
21 medical records of any person who has been admitted to a crisis
22 intervention center pursuant to this act that are in the possession of any
23 district court or crisis intervention center treatment facility shall be
24 privileged and shall be not disclosed except as provided under K.S.A. 59-
25 2979, and amendments thereto.

26 New Sec. 14. Any person or law enforcement agency, governing
27 body, crisis intervention center, community mental health center or
28 personnel acting in good faith and without negligence shall be free from
29 all liability, civil or criminal, that might arise out of acting or declining to
30 act pursuant to the crisis intervention act. Any person who, for a corrupt
31 consideration or advantage, or through malice, shall make or join in
32 making or advise the making of any false petition, report or order provided
33 for in the crisis intervention act, shall be guilty of a class A misdemeanor.

34 ***New Sec. 15. (a) On or before January 1, 2018, the department for***
35 ***aging and disability services shall adopt rules and regulations requiring***
36 ***reporting of information from each crisis intervention center. The***
37 ***information required shall include, but not be limited to, the following:***

38 ***(1) The total number of people detained pursuant to the crisis***
39 ***intervention act:***

40 ***(A) By law enforcement;***

41 ***(B) by written application of an adult; and***

42 ***(C) that were detained more than one time in the reporting period,***
43 ***including the total number of times each person was detained.***

1 **(2) The total number of people released:**
2 **(A) Immediately following the evaluation by the behavioral health**
3 **professional;**
4 **(B) between four and 24 hours after admission;**
5 **(C) between 24 and 48 hours after admission;**
6 **(D) between 48 and 72 hours after admission; and**
7 **(E) more than 72 hours after admission and before a commitment**
8 **proceeding filed pursuant to K.S.A. 59-2957 or 59-29b57, and**
9 **amendments thereto, was completed. This number shall include the total**
10 **number of hours each person was detained if such person was detained**
11 **for more than 72 hours.**

12 **(3) The total number of people detained who were the subject of a**
13 **commitment proceeding filed pursuant to K.S.A. 59-2957 or 59-29b57,**
14 **and amendments thereto, who filed such petition and the result of such**
15 **petition.**

16 **(4) The total number of people detained who accessed peer supports**
17 **during such detention.**

18 **(5) The total number of serious injuries to or deaths of people**
19 **detained pursuant to the crisis intervention act.**

20 **(b) The department for aging and disability services shall prepare a**
21 **report, beginning in 2019, that compiles the information reported by**
22 **each crisis intervention center. The department shall provide such report**
23 **to the governor and the standing committees on judiciary in the senate**
24 **and the house of representatives annually, before the beginning of the**
25 **regular legislative session. The department shall also publish such**
26 **report on its website annually, before the beginning of the regular**
27 **legislative session.**

28 Sec. ~~15~~ **16.** K.S.A. 2016 Supp. 39-2001 is hereby amended to read as
29 follows: 39-2001. The purpose of this act is the development,
30 establishment and enforcement of standards:

31 (a) For the care, treatment, health, safety, welfare and comfort of
32 individuals residing in or receiving treatment or services provided by
33 residential care facilities, residential and day support facilities, private and
34 public psychiatric hospitals, psychiatric residential treatment facilities,
35 community mental health centers, *crisis intervention centers* and providers
36 of other disability services licensed by the secretary for aging and
37 disability services; and

38 (b) for the construction, maintenance or operation, or any
39 combination thereof, of facilities, hospitals, centers and providers of
40 services that will promote safe and adequate accommodation, care and
41 treatment of such individuals.

42 Sec. ~~16~~ **17.** K.S.A. 2016 Supp. 39-2002 is hereby amended to read as
43 follows: 39-2002. As used in this act, the following terms shall have the

1 meanings ascribed to them in this section:

2 (a) "Center" means a community mental health center *or crisis*
3 *intervention center.*

4 (b) "Community mental health center" means a center organized
5 pursuant to article 40 of chapter 19 of the Kansas Statutes Annotated, and
6 amendments thereto, or a mental health clinic organized pursuant to article
7 2 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

8 (c) "*Crisis intervention center*" means an entity that is open 24 hours
9 a day, 365 days a year, equipped to serve voluntary and involuntary
10 individuals in crisis due to mental illness, substance abuse or co-
11 occurring conditions, and that uses certified specialists.

12 (d) "Department" means the department for aging and disability
13 services.

14 ~~(d)~~ (e) "Facility" means any place other than a center or hospital that
15 meets the requirements as set forth by regulations created and adopted by
16 the secretary, where individuals reside and receive treatment or services
17 provided by a person or entity licensed under this act.

18 ~~(e)~~ (f) "Hospital" means a psychiatric hospital.

19 ~~(f)~~ (g) "Individual" means a person who is the recipient of behavioral
20 health, intellectual disabilities, developmental disabilities or other
21 disability services as set forth in this act.

22 ~~(g)~~ (h) "Licensee" means one or more persons or entities licensed by
23 the secretary under this act.

24 ~~(h)~~ (i) "Licensing agency" means the secretary for aging and
25 disability services.

26 ~~(i)~~ (j) "Other disabilities" means any condition for which individuals
27 receive home and community based waiver services.

28 ~~(j)~~ (k) "Provider" means a person, partnership or corporation
29 employing or contracting with appropriately credentialed persons that
30 provide behavioral health, excluding substance use disorder services for
31 purposes of this act, intellectual disability, developmental disability or
32 other disability services in accordance with the requirements as set forth
33 by rules and regulations created and adopted by the secretary.

34 ~~(k)~~ (l) "Psychiatric hospital" means an institution, excluding state
35 institutions as defined in K.S.A. 76-12a01, and amendments thereto, that is
36 primarily engaged in providing services, by and under the supervision of
37 qualified professionals, for the diagnosis and treatment of mentally ill
38 individuals, and the institution meets the licensing requirements as set
39 forth by rules and regulations created and adopted by the secretary.

40 ~~(l)~~ (m) "Psychiatric residential treatment facility" means any non-
41 hospital facility with a provider agreement with the licensing agency to
42 provide the inpatient services for individuals under the age of 21 who will
43 receive highly structured, intensive treatment for which the licensee meets

1 the requirements as set forth by regulations created and adopted by the
2 secretary.

3 ~~(m)~~ (n) "Residential care facility" means any place or facility, or a
4 contiguous portion of a place or facility, providing services for two or
5 more individuals not related within the third degree of relationship to the
6 administrator, provider or owner by blood or marriage and who, by choice
7 or due to functional impairments, may need personal care and supervised
8 nursing care to compensate for activities of daily living limitations, and
9 which place or facility includes individual living units and provides or
10 coordinates personal care or supervised nursing care available on a 24-
11 hour, seven-days-a-week basis for the support of an individual's
12 independence, including crisis residential care facilities.

13 ~~(n)~~ (o) "Secretary" means the secretary for aging and disability
14 services.

15 ~~(o)~~ (p) "Services" means the following types of behavioral health,
16 intellectual disability, developmental disability and other disability
17 services, including, but not limited to: Residential supports, day supports,
18 care coordination, case management, workshops, sheltered domiciles,
19 education, therapeutic services, assessments and evaluations, diagnostic
20 care, medicinal support and rehabilitative services.

21 Sec. ~~17~~ **18**. K.S.A. 2016 Supp. 39-2003 is hereby amended to read as
22 follows: 39-2003. (a) In addition to the authority, powers and duties
23 otherwise provided by law, the secretary shall have the following authority,
24 powers and duties to:

25 (1) Enforce the laws relating to the hospitalization of mentally ill
26 individuals of this state in a psychiatric hospital and the diagnosis, care,
27 training or treatment of individuals receiving services through community
28 mental health centers, *crisis intervention centers*, psychiatric residential
29 treatment facilities for individuals with mental illness, residential care
30 facilities or other facilities and services for individuals with mental illness,
31 intellectual disabilities, developmental disabilities or other disabilities.

32 (2) Inspect, license, certify or accredit centers, facilities, hospitals and
33 providers for individuals with mental illness, intellectual disabilities,
34 developmental disabilities or other disabilities pursuant to federal
35 legislation, and to deny, suspend or revoke a license granted for causes
36 shown.

37 (3) Set standards for centers, facilities, hospitals and providers for
38 individuals with mental illness, intellectual disabilities, developmental
39 disabilities or other disabilities pursuant to federal legislation.

40 (4) Set standards for, inspect and license all providers and facilities
41 for individuals with mental illness, intellectual disabilities, developmental
42 disabilities or other disabilities receiving assistance through the Kansas
43 department for aging and disability services which receive or have

1 received after June 30, 1967, any state or federal funds, or facilities where
2 individuals with mental illness, intellectual disabilities or developmental
3 disabilities reside who require supervision or require limited assistance
4 with the taking of medication. The secretary may adopt rules and
5 regulations that allow the facility to assist an individual with the taking of
6 medication when the medication is in a labeled container dispensed by a
7 pharmacist.

8 (5) Enter into contracts necessary or incidental to the performance of
9 the secretary's duties and the execution of the secretary's powers.

10 (6) Solicit and accept for use any gift of money or property, real or
11 personal, made by will or otherwise, and any grant of money, services or
12 property from the federal government, the state or any political subdivision
13 thereof or any private source and do all things necessary to cooperate with
14 the federal government or any of its agencies in making an application for
15 any grant.

16 (7) Administer or supervise the administration of the provisions
17 relating to individuals with mental illness, intellectual disabilities,
18 developmental disabilities or other disabilities pursuant to federal
19 legislation and regulations.

20 (8) Coordinate activities and cooperate with treatment providers or
21 other facilities for those with mental illness, intellectual disabilities,
22 developmental disabilities or other disabilities pursuant to federal
23 legislation and regulations in this and other states for the treatment of such
24 individuals and for the common advancement of these programs and
25 facilities.

26 (9) Keep records, gather relevant statistics, and make and disseminate
27 analyses of the same.

28 (10) Do other acts and things necessary to execute the authority
29 expressly granted to the secretary.

30 (b) Notwithstanding the existence or pursuit of any other remedy, the
31 secretary for aging and disability services, as the licensing agency, in the
32 manner provided by the Kansas judicial review act, may maintain an
33 action in the name of the state of Kansas for an injunction against any
34 person or facility to restrain or prevent the operation of a residential care
35 facility, crisis residential care facility, private or public psychiatric
36 hospital, psychiatric residential treatment facility, provider of services,
37 community mental health center, *crisis intervention center* or any other
38 facility providing services to individuals without a license.

39 (c) Reports and information shall be furnished to the secretary by the
40 superintendents, executive or other administrative officers of all
41 psychiatric hospitals, community mental health centers, *crisis intervention*
42 *centers* or facilities serving individuals with intellectual disabilities or
43 developmental disabilities and facilities serving other disabilities receiving

1 assistance through the Kansas department for aging and disability services.

2 Sec. ~~18~~ **19**. K.S.A. 59-2953 is hereby amended to read as follows:

3 59-2953. (a) Any law enforcement officer who has a reasonable belief
4 formed upon investigation that a person is a mentally ill person and
5 because of such person's mental illness is likely to cause harm to self or
6 others if allowed to remain at liberty may take the person into custody
7 without a warrant. *If the officer is in a crisis intervention center service*
8 *area, as defined in section 2, and amendments thereto, the officer may*
9 *transport the person to such crisis intervention center. If the officer is not*
10 *in a crisis intervention service area, as defined in section 2, and*
11 *amendments thereto, or does not choose to transport the person to such*
12 *crisis intervention center, then the officer shall transport the person to a*
13 *treatment facility where the person shall be examined by a physician or*
14 *psychologist on duty at the treatment facility, except that no person shall*
15 *be transported to a state psychiatric hospital for examination, unless a*
16 *written statement from a qualified mental health professional authorizing*
17 *such an evaluation at a state psychiatric hospital has been obtained. If no*
18 *physician or psychologist is on duty at the time the person is transported to*
19 *the treatment facility, the person shall be examined within a reasonable*
20 *time not to exceed 17 hours. If a written statement is made by the*
21 *physician or psychologist at the treatment facility that after preliminary*
22 *examination the physician or psychologist believes the person likely to be*
23 *a mentally ill person subject to involuntary commitment for care and*
24 *treatment and because of the person's mental illness is likely to cause harm*
25 *to self or others if allowed to remain at liberty, and if the treatment facility*
26 *is willing to admit the person, the law enforcement officer shall present to*
27 *the treatment facility the application provided for in ~~subsection (b) of~~*
28 *K.S.A. 59-2954(b), and amendments thereto. If the physician or*
29 *psychologist on duty at the treatment facility does not believe the person*
30 *likely to be a mentally ill person subject to involuntary commitment for*
31 *care and treatment the law enforcement officer shall return the person to*
32 *the place where the person was taken into custody and release the person*
33 *at that place or at another place in the same community as requested by the*
34 *person or if the law enforcement officer believes that it is not in the best*
35 *interests of the person or the person's family or the general public for the*
36 *person to be returned to the place the person was taken into custody, then*
37 *the person shall be released at another place the law enforcement officer*
38 *believes to be appropriate under the circumstances. The person may*
39 *request to be released immediately after the examination, in which case the*
40 *law enforcement officer shall immediately release the person, unless the*
41 *law enforcement officer believes it is in the best interests of the person or*
42 *the person's family or the general public that the person be taken elsewhere*
43 *for release.*

1 (b) If the physician or psychologist on duty at the treatment facility
2 states that, in the physician's or psychologist's opinion, the person is likely
3 to be a mentally ill person subject to involuntary commitment for care and
4 treatment but the treatment facility is unwilling to admit the person, the
5 treatment facility shall nevertheless provide a suitable place at which the
6 person may be detained by the law enforcement officer. If a law
7 enforcement officer detains a person pursuant to this subsection, the law
8 enforcement officer shall file the petition provided for in ~~subsection (a) of~~
9 K.S.A. 59-2957(a), and amendments thereto, by the close of business of
10 the first day that the district court is open for the transaction of business or
11 shall release the person. No person shall be detained by a law enforcement
12 officer pursuant to this subsection in a nonmedical facility used for the
13 detention of persons charged with or convicted of a crime.

14 Sec. ~~19~~ **20**. K.S.A. 2016 Supp. 59-2978 is hereby amended to read as
15 follows: 59-2978. (a) Every patient being treated in any treatment facility,
16 in addition to all other rights preserved by the provisions of this act, shall
17 have the following rights:

18 (1) To wear the patient's own clothes, keep and use the patient's own
19 personal possessions including toilet articles and keep and be allowed to
20 spend the patient's own money;

21 (2) to communicate by all reasonable means with a reasonable
22 number of persons at reasonable hours of the day and night, including both
23 to make and receive confidential telephone calls, and by letter, both to mail
24 and receive unopened correspondence, except that if the head of the
25 treatment facility should deny a patient's right to mail or to receive
26 unopened correspondence under the provisions of subsection (b), such
27 correspondence shall be opened and examined in the presence of the
28 patient;

29 (3) to conjugal visits if facilities are available for such visits;

30 (4) to receive visitors in reasonable numbers and at reasonable times
31 each day;

32 (5) to refuse involuntary labor other than the housekeeping of the
33 patient's own bedroom and bathroom, provided that nothing herein shall be
34 construed so as to prohibit a patient from performing labor as a part of a
35 therapeutic program to which the patient has given their written consent
36 and for which the patient receives reasonable compensation;

37 (6) not to be subject to such procedures as psychosurgery,
38 electroshock therapy, experimental medication, aversion therapy or
39 hazardous treatment procedures without the written consent of the patient
40 or the written consent of a parent or legal guardian, if such patient is a
41 minor or has a legal guardian provided that the guardian has obtained
42 authority to consent to such from the court which has venue over the
43 guardianship following a hearing held for that purpose;

1 (7) to have explained, the nature of all medications prescribed, the
2 reason for the prescription and the most common side effects and, if
3 requested, the nature of any other treatments ordered;

4 (8) to communicate by letter with the secretary for aging and
5 disability services, the head of the treatment facility and any court,
6 attorney, physician, psychologist, *qualified mental health professional* or
7 minister of religion, including a Christian Science practitioner. All such
8 communications shall be forwarded at once to the addressee without
9 examination and communications from such persons shall be delivered to
10 the patient without examination;

11 (9) to contact or consult privately with the patient's physician or
12 psychologist, *qualified mental health professional*, minister of religion,
13 including a Christian Science practitioner, legal guardian or attorney at any
14 time and if the patient is a minor, their parent;

15 (10) to be visited by the patient's physician, psychologist, *qualified*
16 *mental health professional*, minister of religion, including a Christian
17 Science practitioner, legal guardian or attorney at any time and if the
18 patient is a minor, their parent;

19 (11) to be informed orally and in writing of their rights under this
20 section upon admission to a treatment facility; and

21 (12) to be treated humanely consistent with generally accepted ethics
22 and practices.

23 (b) The head of the treatment facility may, for good cause only,
24 restrict a patient's rights under this section, except that the rights
25 enumerated in subsections (a)(5) through (a)(12), and the right to mail any
26 correspondence which does not violate postal regulations, shall not be
27 restricted by the head of the treatment facility under any circumstances.
28 Each treatment facility shall adopt regulations governing the conduct of all
29 patients being treated in such treatment facility, which regulations shall be
30 consistent with the provisions of this section. A statement explaining the
31 reasons for any restriction of a patient's rights shall be immediately entered
32 on such patient's medical record and copies of such statement shall be
33 made available to the patient or to the parent, or legal guardian if such
34 patient is a minor or has a legal guardian, and to the patient's attorney. In
35 addition, notice of any restriction of a patient's rights shall be
36 communicated to the patient in a timely fashion.

37 (c) Any person willfully depriving any patient of the rights protected
38 by this section, except for the restriction of such rights in accordance with
39 the provisions of subsection (b) or in accordance with a properly obtained
40 court order, shall be guilty of a class C misdemeanor.

41 (d) The provisions of this section do not apply to persons civilly
42 committed to a treatment facility as a sexually violent predator pursuant to
43 K.S.A. 59-29a01 et seq., and amendments thereto.

1 Sec. ~~20~~ 21. K.S.A. 59-2980 is hereby amended to read as follows:
2 59-2980. Any person or law enforcement agency, governing body,
3 community mental health center or personnel acting in good faith and
4 without negligence shall be free from all liability, civil or criminal, ~~which~~
5 that might arise out of acting or declining to act pursuant to this act. Any
6 person who for a corrupt consideration or advantage, or through malice,
7 shall make or join in making or advise the making of any false petition,
8 report or order provided for in this act shall be guilty of a class A
9 misdemeanor.

10 Sec. ~~21~~ 22. K.S.A. 59-29b53 is hereby amended to read as follows:
11 59-29b53. (a) Any law enforcement officer who has a reasonable belief
12 formed upon investigation that a person may be a person with an alcohol
13 or substance abuse problem subject to involuntary commitment and is
14 likely to cause harm to self or others if allowed to remain at liberty may
15 take the person into custody without a warrant. *If the officer is in a crisis*
16 *intervention center service area, as defined in section 2, and amendments*
17 *thereto, the officer may transport the person to such crisis intervention*
18 *center. If the officer is not in a crisis intervention center service area, as*
19 *defined in section 2, and amendments thereto, or does not choose to*
20 *transport the person to such crisis intervention center, then the officer*
21 *shall transport the person to a treatment facility or other facility for care or*
22 *treatment where the person shall be examined by a physician or*
23 *psychologist on duty at the facility. If no physician or psychologist is on*
24 *duty at the time the person is transported to the facility, the person shall be*
25 *examined within a reasonable time not to exceed 17 hours. If a written*
26 *statement is made by the physician or psychologist at the facility that after*
27 *preliminary examination the physician or psychologist believes the person*
28 *likely to be a person with an alcohol or substance abuse problem subject to*
29 *involuntary commitment for care and treatment and is likely to cause harm*
30 *to self or others if allowed to remain at liberty, and if the facility is a*
31 *treatment facility and is willing to admit the person, the law enforcement*
32 *officer shall present to that treatment facility the application provided for*
33 *in ~~subsection (b) of K.S.A. 59-29b54(b), and amendments thereto. If the~~*
34 *physician or psychologist on duty at the facility does not believe the*
35 *person likely to be a person with an alcohol or substance abuse problem*
36 *subject to involuntary commitment for care and treatment, the law*
37 *enforcement officer shall return the person to the place where the person*
38 *was taken into custody and release the person at that place or at another*
39 *place in the same community as requested by the person or if the law*
40 *enforcement officer believes that it is not in the best interests of the person*
41 *or the person's family or the general public for the person to be returned to*
42 *the place the person was taken into custody, then the person shall be*
43 *released at another place the law enforcement officer believes to be*

1 appropriate under the circumstances. The person may request to be
2 released immediately after the examination, in which case the law
3 enforcement officer shall immediately release the person, unless the law
4 enforcement officer believes it is in the best interests of the person or the
5 person's family or the general public that the person be taken elsewhere for
6 release.

7 (b) If the physician or psychologist on duty at the facility states that,
8 in the physician's or psychologist's opinion, the person is likely to be a
9 person with an alcohol or substance abuse problem subject to involuntary
10 commitment for care and treatment but the facility is unwilling or is an
11 inappropriate place to which to admit the person, the facility shall
12 nevertheless provide a suitable place at which the person may be detained
13 by the law enforcement officer. If a law enforcement officer detains a
14 person pursuant to this subsection, the law enforcement officer shall file
15 the petition provided for in ~~subsection (a) of K.S.A. 59-29b57(a)~~, and
16 amendments thereto, by the close of business of the first day that the
17 district court is open for the transaction of business or shall release the
18 person. No person shall be detained by a law enforcement officer pursuant
19 to this subsection in a nonmedical facility used for the detention of persons
20 charged with or convicted of a crime unless no other suitable facility at
21 which such person may be detained is willing to accept the person.

22 ~~Sec. 22.~~ **23.** K.S.A. 2016 Supp. 59-29b78 is hereby amended to read
23 as follows: 59-29b78. (a) Every patient being treated in any treatment
24 facility, in addition to all other rights preserved by the provisions of this
25 act, shall have the following rights:

26 (1) To wear the patient's own clothes, keep and use the patient's own
27 personal possessions including toilet articles and keep and be allowed to
28 spend the patient's own money;

29 (2) to communicate by all reasonable means with a reasonable
30 number of persons at reasonable hours of the day and night, including both
31 to make and receive confidential telephone calls, and by letter, both to mail
32 and receive unopened correspondence, except that if the head of the
33 treatment facility should deny a patient's right to mail or to receive
34 unopened correspondence under the provisions of subsection (b), such
35 correspondence shall be opened and examined in the presence of the
36 patient;

37 (3) to conjugal visits if facilities are available for such visits;

38 (4) to receive visitors in reasonable numbers and at reasonable times
39 each day;

40 (5) to refuse involuntary labor other than the housekeeping of the
41 patient's own bedroom and bathroom, provided that nothing herein shall be
42 construed so as to prohibit a patient from performing labor as a part of a
43 therapeutic program to which the patient has given their written consent

1 and for which the patient receives reasonable compensation;

2 (6) not to be subject to such procedures as psychosurgery,
3 electroshock therapy, experimental medication, aversion therapy or
4 hazardous treatment procedures without the written consent of the patient
5 or the written consent of a parent or legal guardian, if such patient is a
6 minor or has a legal guardian provided that the guardian has obtained
7 authority to consent to such from the court which has venue over the
8 guardianship following a hearing held for that purpose;

9 (7) to have explained, the nature of all medications prescribed, the
10 reason for the prescription and the most common side effects and, if
11 requested, the nature of any other treatments ordered;

12 (8) to communicate by letter with the secretary for aging and
13 disability services, the head of the treatment facility and any court,
14 attorney, physician, psychologist, *licensed addiction counselor* or minister
15 of religion, including a Christian Science practitioner. All such
16 communications shall be forwarded at once to the addressee without
17 examination and communications from such persons shall be delivered to
18 the patient without examination;

19 (9) to contact or consult privately with the patient's physician or
20 psychologist, *licensed addiction counselor*, minister of religion, including
21 a Christian Science practitioner, legal guardian or attorney at any time and
22 if the patient is a minor, their parent;

23 (10) to be visited by the patient's physician, psychologist, *licensed*
24 *addiction counselor*, minister of religion, including a Christian Science
25 practitioner, legal guardian or attorney at any time and if the patient is a
26 minor, their parent;

27 (11) to be informed orally and in writing of their rights under this
28 section upon admission to a treatment facility; and

29 (12) to be treated humanely consistent with generally accepted ethics
30 and practices.

31 (b) The head of the treatment facility may, for good cause only,
32 restrict a patient's rights under this section, except that the rights
33 enumerated in subsections (a)(5) through (a)(12), and the right to mail any
34 correspondence which does not violate postal regulations, shall not be
35 restricted by the head of the treatment facility under any circumstances.
36 Each treatment facility shall adopt regulations governing the conduct of all
37 patients being treated in such treatment facility, which regulations shall be
38 consistent with the provisions of this section. A statement explaining the
39 reasons for any restriction of a patient's rights shall be immediately entered
40 on such patient's medical record and copies of such statement shall be
41 made available to the patient or to the parent, or legal guardian if such
42 patient is a minor or has a legal guardian, and to the patient's attorney. In
43 addition, notice of any restriction of a patient's rights shall be

1 communicated to the patient in a timely fashion.

2 (c) Any person willfully depriving any patient of the rights protected
3 by this section, except for the restriction of such rights in accordance with
4 the provisions of subsection (b) or in accordance with a properly obtained
5 court order, shall be guilty of a class C misdemeanor.

6 ~~Sec. 23.~~ **24.** K.S.A. 59-29b80 is hereby amended to read as follows:
7 59-29b80. Any person *or law enforcement agency, governing body,*
8 *community mental health center or personnel* acting in good faith and
9 without negligence shall be free from all liability, civil or criminal, ~~which~~
10 *that* might arise out of acting *or declining to act* pursuant to this act. Any
11 person who for a corrupt consideration or advantage, or through malice,
12 shall make or join in making or advise the making of any false petition,
13 report or order provided for in this act shall be guilty of a class A
14 misdemeanor.

15 ~~Sec. 24.~~ **25.** K.S.A. 59-2953, 59-2980, 59-29b53 and 59-29b80 and
16 K.S.A. 2016 Supp. 39-2001, 39-2002, 39-2003, 59-2978 and 59-29b78 are
17 hereby repealed.

18 ~~Sec. 25.~~ **26.** This act shall take effect and be in force from and after
19 its publication in the statute book.