

*As Amended by Senate Committee*

*Session of 2020*

**SENATE BILL No. 333**

By Committee on Judiciary

1-28

1 AN ACT concerning criminal procedure; relating to a defendant's  
2 competency or incompetency to stand trial; involuntary commitment;  
3 amending K.S.A. 22-3301 and K.S.A. 2019 Supp. 22-3302, 22-3303,  
4 22-3305 and 59-2946 and repealing the existing sections.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 22-3301 is hereby amended to read as follows: 22-  
8 3301. (a) (1) For the purpose of this article, a person is "incompetent to  
9 stand trial" when ~~he~~ *such person* is charged with a crime and, because of  
10 mental illness or defect, is unable:

11 ~~(a)~~ (A) To understand the nature and purpose of the proceedings  
12 against ~~him~~ *such person*; or

13 ~~(b)~~ (B) to make or assist in making ~~his~~ *such person's* defense.

14 (2) Whenever the words "competent," "competency," "incompetent"  
15 and "incompetency" are used without qualification in this article, they  
16 shall refer to the defendant's competency or incompetency to stand trial, as  
17 defined in ~~subsection (1) of this section~~ *paragraph (1)*.

18 (b) *As used in this article, "likely to cause harm to self or others" and*  
19 *"mentally ill person" mean the same as in K.S.A. 59-2946, and*  
20 *amendments thereto.*

21 Sec. 2. K.S.A. 2019 Supp. 22-3302 is hereby amended to read as  
22 follows: 22-3302. ~~(+)~~ (a) At any time after the defendant has been charged  
23 with a crime and before pronouncement of sentence, the defendant, the  
24 defendant's counsel or the prosecuting attorney may request a  
25 determination of the defendant's competency to stand trial. If, upon the  
26 request of either party or upon the judge's own knowledge and  
27 observation, the judge before whom the case is pending finds that there is  
28 reason to believe that the defendant is incompetent to stand trial the  
29 proceedings shall be suspended and a hearing conducted to determine the  
30 competency of the defendant.

31 ~~(2)~~ (b) If the defendant is charged with a felony, the hearing to  
32 determine the competency of the defendant shall be conducted by a district  
33 judge.

34 ~~(3)~~ ~~(A)~~ (c) (1) The court shall determine the issue of competency and  
35 may impanel a jury of six persons to assist in making the determination.  
36 The court may order a psychiatric or psychological examination of the

1 defendant. To facilitate the examination, the court may: ~~(a)~~ (A) Commit the  
2 defendant to the state security hospital or any appropriate state, county,  
3 private institution or facility for examination and report to the court,  
4 except that the court shall not commit the defendant to the state security  
5 hospital or any other state institution unless, prior to such commitment, the  
6 director of a local county or private institution recommends to the court  
7 and to the secretary for aging and disability services that examination of  
8 the defendant should be performed at a state institution; ~~(b)~~ (B) designate  
9 any appropriate psychiatric or psychological clinic, mental health center or  
10 other psychiatric or psychological facility to conduct the examination  
11 while the defendant is in jail or on pretrial release; or ~~(c)~~ (C) appoint two  
12 qualified licensed physicians or licensed psychologists, or one of each, to  
13 examine the defendant and report to the court.

14 ~~(B)~~ (2) If the court commits the defendant to an institution or facility  
15 for the examination, the commitment shall be for a period not to exceed 60  
16 days or until the examination is completed, whichever is the shorter period  
17 of time. No statement made by the defendant in the course of any  
18 examination provided for by this section, whether or not the defendant  
19 consents to the examination, shall be admitted in evidence against the  
20 defendant in any criminal proceeding.

21 ~~(C)~~ (3) Upon notification of the court that a defendant committed for  
22 psychiatric or psychological examination under this subsection has been  
23 found competent to stand trial, the court shall order that the defendant be  
24 returned no later than seven days after receipt of the notice for proceedings  
25 under this section. If the defendant is not returned within that time, the  
26 county in which the proceedings will be held shall pay the costs of  
27 maintaining the defendant at the institution or facility for the period of  
28 time the defendant remains at the institution or facility in excess of the  
29 seven-day period.

30 ~~(4)~~ (d) If the defendant is found to be competent, the proceedings  
31 ~~which~~ that have been suspended shall be resumed. If the proceedings were  
32 suspended before or during the preliminary examination, the judge who  
33 conducted the competency hearing may conduct a preliminary  
34 examination or, if a district magistrate judge was conducting the  
35 proceedings prior to the competency hearing, the judge who conducted the  
36 competency hearing may order the preliminary examination to be heard by  
37 a district magistrate judge.

38 ~~(5)~~ (e) If the defendant is found to be incompetent to stand trial, the  
39 court shall proceed in accordance with K.S.A. 22-3303, and amendments  
40 thereto, *except if the court finds by clear and convincing evidence that the*  
41 *defendant is not likely to attain competency to stand trial within six*  
42 *months and is a mentally ill person solely because of alcohol or chemical*  
43 *substance abuse, antisocial personality disorder, intellectual disability,*

1 *traumatic or acquired brain injury, organic personality syndrome or an*  
2 *organic disorder, the court shall proceed in accordance with section 4, and*  
3 *amendments thereto.*

4 ~~(6)~~ (f) If proceedings are suspended and a hearing to determine the  
5 defendant's competency is ordered after the defendant is in jeopardy, the  
6 court may either order a recess or declare a mistrial.

7 ~~(7)~~ (g) The defendant shall be present personally at all proceedings  
8 under this section.

9 Sec. 3. K.S.A. 2019 Supp. 22-3303 is hereby amended to read as  
10 follows: 22-3303. ~~(4)~~ (a) A defendant who is charged with a crime and is  
11 found to be incompetent to stand trial shall be committed for evaluation  
12 and treatment to any appropriate state, county, private institution or  
13 facility. At the time of such commitment the institution of commitment  
14 shall notify the county or district attorney of the county in which the  
15 criminal proceedings are pending for the purpose of providing victim  
16 notification. Any such commitment shall be for a period not to exceed 90  
17 days. Within 90 days after the defendant's commitment to such institution,  
18 the chief medical officer of such institution shall certify to the court  
19 whether the defendant has a substantial probability of attaining  
20 competency to stand trial in the foreseeable future. If such probability does  
21 exist, the court shall order the defendant to remain in an appropriate state,  
22 county, private institution or facility until the defendant attains competency  
23 to stand trial or for a period of six months from the date of the original  
24 commitment, whichever occurs first. If such probability does not exist, the  
25 court shall order the secretary for aging and disability services to  
26 commence involuntary commitment proceedings pursuant to article 29 of  
27 chapter 59 of the Kansas Statutes Annotated, and amendments thereto.  
28 ~~When a defendant is charged with any off-grid felony, any nondrug~~  
29 ~~severity level 1 through 3 felony, or a violation of K.S.A. 21-3504, 21-~~  
30 ~~3511, 21-3518, 21-3603 or 21-3719, prior to their repeal, or K.S.A. 2019~~  
31 ~~Supp. 21-5505(b), 21-5506(b), 21-5508(b), 21-5604(b) or 21-5812(b), and~~  
32 ~~amendments thereto, and commitment proceedings have commenced, for~~  
33 ~~such proceeding, "mentally ill person subject to involuntary commitment~~  
34 ~~for care and treatment" means a mentally ill person, as defined in K.S.A.~~  
35 ~~59-2946(e), and amendments thereto, who is likely to cause harm to self~~  
36 ~~and others, as defined in K.S.A. 59-2946(f)(3), and amendments thereto.~~  
37 ~~The other provisions of K.S.A. 59-2946(f), and amendments thereto, shall~~  
38 ~~not apply, except if the defendant is a mentally ill person solely because of~~  
39 ~~alcohol or chemical substance abuse, antisocial personality disorder,~~  
40 ~~intellectual disability, traumatic or acquired brain injury, organic~~  
41 ~~personality syndrome or an organic disorder, in which case section 4, and~~  
42 ~~amendments thereto, shall apply.~~

43 ~~(2)~~ (b) If a defendant who was found to have had a substantial

1 probability of attaining competency to stand trial, as provided in  
2 subsection ~~(1)~~ (a), has not attained competency to stand trial within six  
3 months from the date of the original commitment, the court shall order the  
4 secretary for aging and disability services to commence involuntary  
5 commitment proceedings pursuant to article 29 of chapter 59 of the Kansas  
6 Statutes Annotated, and amendments thereto. ~~When a defendant is charged~~  
7 ~~with any off-grid felony, any nondrug severity level 1 through 3 felony, or~~  
8 ~~a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719,~~  
9 ~~prior to their repeal, K.S.A. 2019 Supp. 21-5505(b), 21-5506(b), 21-~~  
10 ~~5508(b), 21-5604(b) or 21-5812(b), and amendments thereto, and~~  
11 ~~commitment proceedings have commenced, for such proceeding,~~  
12 ~~"mentally ill person subject to involuntary commitment for care and~~  
13 ~~treatment" means a mentally ill person, as defined in K.S.A. 59-2946(e),~~  
14 ~~and amendments thereto, who is likely to cause harm to self and others, as~~  
15 ~~defined in K.S.A. 59-2946(f)(3), and amendments thereto. The other~~  
16 ~~provisions of K.S.A. 59-2946(f), and amendments thereto, shall not apply,~~  
17 ~~except if the defendant is a mentally ill person solely because of alcohol or~~  
18 ~~chemical substance abuse, antisocial personality disorder, intellectual~~  
19 ~~disability, traumatic or acquired brain injury, organic personality~~  
20 ~~syndrome or an organic disorder, in which case section 4, and~~  
21 ~~amendments thereto, shall apply.~~

22 ~~(3)~~ (c) When reasonable grounds exist to believe that a defendant  
23 who has been adjudged incompetent to stand trial is competent, the court  
24 in which the criminal case is pending shall conduct a hearing in  
25 accordance with K.S.A. 22-3302, and amendments thereto, to determine  
26 the person's present mental condition. Such court shall give reasonable  
27 notice of such hearings to the prosecuting attorney, the defendant and the  
28 defendant's attorney of record, if any. The prosecuting attorney shall  
29 provide victim notification. If the court, following such hearing, finds the  
30 defendant to be competent, the proceedings pending against the defendant  
31 shall be resumed.

32 ~~(4)~~ (d) A defendant committed to a public institution under the  
33 provisions of this section who is thereafter sentenced for the crime charged  
34 at the time of commitment may be credited with all or any part of the time  
35 during which the defendant was committed and confined in such public  
36 institution.

37 New Sec. 4. (a) If the defendant is found incompetent to stand trial  
38 and the court is required to proceed under this section, the court shall  
39 review the nature of the charges. If the defendant is charged with a  
40 misdemeanor offense or nonperson felony offense, the court shall dismiss  
41 the criminal proceedings without prejudice and the county or district  
42 attorney shall provide victim notification. If the defendant is charged with  
43 a person felony offense, the court shall commit the defendant to the

1 custody of the secretary for aging and disability services.

2 (b) Within 90 days after the defendant's commitment to the secretary  
3 for aging and disability services under subsection (a), the secretary shall  
4 send to the court a written evaluation report. The report to the court shall  
5 contain an opinion as to: (1) Whether the defendant is likely to cause harm  
6 to self or others; and (2) recommendations of a placement, program or  
7 community service plan involving the least restrictive setting appropriate  
8 to meet the needs of the defendant and consistent with public safety. Upon  
9 receipt of the report, the court shall set a hearing on the secretary's report.  
10 The hearing shall be held within 30 days after the court receives the report.

11 (c) If the court finds by clear and convincing evidence that the  
12 defendant is likely to cause harm to self or others, the court shall order the  
13 least restrictive placement or conditions possible as necessary to protect  
14 the public, which may include:

15 (1) Placing the defendant on conditional release in accordance with  
16 section 6, and amendments thereto; or

17 (2) committing the defendant to the state security hospital or another  
18 appropriate secure facility for treatment and safekeeping.

19 (d) If the court does not find that the defendant is likely to cause harm  
20 to self or others, the court shall dismiss the criminal proceeding without  
21 prejudice and discharge the defendant. The county or district attorney shall  
22 provide victim notification regarding the outcome of the hearing.

23 (e) This section shall be a part of and supplemental to article 33 of  
24 chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

25 New Sec. 5. (a) Whenever it appears to the secretary for aging and  
26 disability services or the secretary's designee that a defendant placed  
27 pursuant to section 4(c), and amendments thereto, is not likely to cause  
28 harm to self or others in a less restrictive environment, the secretary or  
29 secretary's designee may request that the district court order placement in a  
30 less secure setting or discharge the defendant. Whenever it appears to the  
31 secretary for aging and disability services or the secretary's designee that a  
32 more restrictive setting is necessary, the secretary or secretary's designee  
33 may request that the district court order placement in a more secure  
34 setting.

35 (b) Before a change in placement, conditional release or discharge of  
36 a defendant pursuant to subsection (a), the secretary or secretary's designee  
37 shall submit a report to the court that includes:

38 (1) A description of the defendant's current course of treatment;

39 (2) a current assessment of the defendant's mental status or condition;

40 (3) recommendations for future treatment, if any; and

41 (4) recommendations regarding the requested change in placement,  
42 conditional release or discharge.

43 (c) Upon receiving the report from the secretary or secretary's

1 designee, the district court shall order that a hearing be held on the  
2 proposed change in placement, conditional release or discharge. The court  
3 shall give notice of the hearing to the facility where the defendant is  
4 placed, to the district or county attorney and to the defendant or the  
5 defendant's attorney. The county or district attorney shall provide victim  
6 notification regarding the hearing. The court may order the defendant to  
7 undergo an evaluation by a person designated by the court. If the court  
8 orders an evaluation, copies of the report shall be given to the district or  
9 county attorney and to the defendant or the defendant's attorney at least  
10 seven days prior to the hearing.

11 (d) At the hearing, the court shall receive all relevant evidence,  
12 including the written findings and recommendations of the secretary or  
13 secretary's designee, and shall determine whether the defendant's  
14 placement shall be changed to a more or less restrictive setting or whether  
15 the defendant shall be conditionally released pursuant to section 6, and  
16 amendments thereto, or discharged pursuant to section 7, and amendments  
17 thereto. The defendant shall have the right to present evidence at the  
18 hearing and to cross-examine any witnesses called by the district or county  
19 attorney. The county or district attorney shall notify any victims of the  
20 outcome of the hearing.

21 New Sec. 6. (a)(1) If the court orders conditional release, the court  
22 may order the defendant be placed in an appropriate facility or community  
23 services program. ~~A defendant on conditional release shall be supervised~~  
24 ~~by the district court probation and parole services.~~ The court may set  
25 conditions to the release to ensure the defendant's well-being and the  
26 public's safety.

27 ***(2) A defendant on conditional release shall be supervised by an***  
28 ***individual appointed by the court who monitors the defendant's***  
29 ***compliance with conditions imposed on the defendant's release, if any,***  
30 ***and reports to the court as the court directs. The individual appointed by***  
31 ***the court shall not be a court services officer.***

32 (b) In order to ensure the safety and welfare of a defendant who is to  
33 be conditionally released and the citizenry of the state, the court may allow  
34 the defendant to remain in custody at a facility under the supervision of the  
35 secretary for aging and disability services for a period of time not to  
36 exceed 45 days in order to permit sufficient time for the secretary or the  
37 secretary's designee to prepare recommendations to the court for a suitable  
38 reentry program for the defendant and allow adequate time for the county  
39 or district attorney to provide victim notification. The reentry program  
40 shall be specifically designed to facilitate the return of the defendant to the  
41 community as a functioning, self-supporting citizen, and may include  
42 appropriate supportive provisions for assistance in establishing residency,  
43 securing gainful employment, undergoing needed vocational rehabilitation,

1 receiving marital and family counseling, and any other outpatient services  
2 that appear beneficial.

3 (c) At any time during the conditional release period, a conditionally  
4 released defendant, through the defendant's attorney, or the county or  
5 district attorney may file a motion for modification of the conditions of  
6 release, and the court shall hold an evidentiary hearing on the motion  
7 within 14 days of its filing. The court shall give notice of the time for the  
8 hearing to the defendant or the defendant's attorney and the county or  
9 district attorney. If the court finds from the evidence presented at the  
10 hearing that the conditional provisions of release should be modified or  
11 vacated, the court shall so order.

12 (d) If at any time during the conditional release, the court is informed  
13 that the defendant is not satisfactorily complying with the provisions of the  
14 conditional release, the court, after a hearing for which notice has been  
15 given to the county or district attorney and the defendant or the defendant's  
16 attorney, may make orders:

17 (1) For additional conditions of release; or

18 (2) ordering that the defendant be placed in a more restrictive setting.

19 (e) This section shall be a part of and supplemental to article 33 of  
20 chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

21 New Sec. 7. (a) Placement under section 4(c), and amendments  
22 thereto, shall not exceed 24 months unless the court determines that the  
23 defendant remains likely to cause harm to self or others.

24 (b) At least annually, or more frequently as the court deems  
25 appropriate, the court shall conduct a hearing to review the status and  
26 placement of the defendant. A hearing under section 5 or 6, and  
27 amendments thereto, shall satisfy this requirement. The court may order  
28 that the defendant undergo an evaluation by a person designated by the  
29 court. If the court orders an evaluation, copies of the report shall be given  
30 to the district or county attorney and to the defendant or the defendant's  
31 attorney at least seven days prior to the hearing. If the court determines  
32 that the defendant remains likely to cause harm to self or others, the court  
33 shall determine whether the defendant's current placement and conditions  
34 remain the least restrictive as necessary to protect the public. The court  
35 may order such changes in placement and conditions as are in the  
36 defendant's best interests and consistent with public safety.

37 (c) If at any time the court finds that the defendant is no longer a  
38 mentally ill person or is no longer likely to cause harm to self or others,  
39 the court shall dismiss the criminal case without prejudice unless the court  
40 determines that the defendant has attained competency. The county or  
41 district attorney shall provide victim notification. Before dismissal, the  
42 court may order the defendant to undergo an evaluation to determine  
43 whether the defendant has attained competency.

1 (d) This section shall be a part of and supplemental to article 33 of  
2 chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

3 New Sec. 8. (a) When a criminal case is dismissed without prejudice  
4 under this article, the period of limitation for the prosecution for the crime  
5 charged shall not continue to run until the defendant has been determined  
6 to have attained competency in accordance with K.S.A. 22-3302, and  
7 amendments thereto.

8 (b) This section shall be a part of and supplemental to article 33 of  
9 chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

10 Sec. 9. K.S.A. 2019 Supp. 22-3305 is hereby amended to read as  
11 follows: 22-3305. (†) (a) Whenever involuntary commitment proceedings  
12 have been commenced by the secretary for aging and disability services as  
13 required by K.S.A. 22-3303, and amendments thereto, and the defendant is  
14 not committed to a treatment facility as a patient, the defendant shall  
15 remain in the institution where committed pursuant to K.S.A. 22-3303, and  
16 amendments thereto. The secretary for aging and disability services shall  
17 promptly notify the court and the county or district attorney of the county  
18 in which the criminal proceedings are pending for the purpose of providing  
19 victim notification, of the result of the involuntary commitment  
20 proceeding.

21 (‡) (b) Whenever involuntary commitment proceedings have been  
22 commenced by the secretary for aging and disability services as required  
23 by K.S.A. 22-3303, and amendments thereto, and the defendant is  
24 committed to a treatment facility as a patient but thereafter is to be  
25 discharged pursuant to the care and treatment act for mentally ill persons,  
26 the defendant shall remain in the institution where committed pursuant to  
27 K.S.A. 22-3303, and amendments thereto, and the head of the treatment  
28 facility shall promptly notify the court and the county or district attorney  
29 of the county in which the criminal proceedings are pending for the  
30 purpose of providing victim notification, that the defendant is to be  
31 discharged.

32 (c) When giving notification to the court and the county or district  
33 attorney pursuant to ~~subsection (1) or (2) this section~~, the treatment facility  
34 shall include in such notification an opinion from the head of the treatment  
35 facility as to whether or not the defendant is now competent to stand trial.  
36 Upon request of the county or district attorney, the court may set a hearing  
37 on the issue of whether or not the defendant has been restored to  
38 competency. If such hearing request is granted, the county or district  
39 attorney shall provide victim notification regarding the hearing date. If no  
40 such request is made within 14 days after receipt of notice pursuant to  
41 ~~subsection (1) or (2) this section~~, the court shall order the defendant to be  
42 discharged from commitment and shall dismiss without prejudice the  
43 charges against the defendant, ~~and the period of limitation for the~~

1 prosecution for the crime charged shall not continue to run until the  
2 defendant has been determined to have attained competency in accordance  
3 with K.S.A. 22-3302, and amendments thereto. The county or district  
4 attorney shall provide victim notification regarding the discharge order.

5 Sec. 10. K.S.A. 2019 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" means the same as defined in K.S.A.  
15 22-2202, and amendments thereto.

16 (d) (1) "Mental health center" means any community mental health  
17 center as defined in K.S.A. 2019 Supp. 39-2002, and amendments thereto,  
18 or a mental health clinic organized as a not-for-profit or a for-profit  
19 corporation pursuant to K.S.A. 17-1701 through 17-1775, and  
20 amendments thereto, or K.S.A. 17-6001 through 17-6010, and  
21 amendments thereto, and licensed in accordance with the provisions of  
22 K.S.A. 2019 Supp. 39-2001 et seq., and amendments thereto.

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

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

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

41 (2) "Lacks capacity to make an informed decision concerning  
42 treatment" means that the person, by reason of the person's mental  
43 disorder, is unable, despite conscientious efforts at explanation, to

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

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

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

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

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

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

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

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

1 within that hospital or agency.

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

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

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

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

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

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

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

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

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

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

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

42 (o) The terms defined in K.S.A. 59-3051, and amendments thereto,  
43 shall have the meanings provided by that section.

1       Sec. 11. K.S.A. 22-3301 and K.S.A. 2019 Supp. 22-3302, 22-3303,  
2 22-3305 and 59-2946 are hereby repealed.

3       Sec. 12. This act shall take effect and be in force from and after its  
4 publication in the statute book.