AN ACT concerning the care and treatment of certain persons; enacting
the crisis intervention act; amending K.S.A. 59-2953, 59-2980, 59-
2003, 59-2978 and 59-29b78 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:
New Section 1. The provisions of sections 1 through 14, and
amendments thereto, shall be known and may be cited as the crisis
intervention act.
New Sec. 2. When used in the crisis intervention act:
(a) "Behavioral health professional" includes a physician, physician
assistant, psychologist, qualified mental health professional or licensed
addiction counselor.
(b) "Head of a crisis intervention center" means the administrative
director of a crisis intervention center or a behavioral health professional
designated by such person.
(c) "Law enforcement officer" shall have the meaning ascribed to it in
K.S.A. 22-2202, and amendments thereto.
(d) "Licensed addiction counselor" shall have the meaning ascribed to
it in K.S.A. 59-29b46(d), (e) or (f), and amendments thereto.
(e) "Crisis intervention center" means any entity licensed by the
Kansas department for aging and disability services that is open 24 hours a
day, 365 days a year, equipped to serve voluntary and involuntary
individuals in crisis due to mental illness, substance abuse or a co-
occurring condition, and that uses certified peer specialists.
(f) "Crisis intervention center service area" means the counties to
which the crisis intervention center has agreed to provide service.
(g) "Physician" means a person licensed to practice medicine and
surgery as provided for in the Kansas healing arts act or a person who is
employed by a state psychiatric hospital or by an agency of the United
States and who is authorized by law to practice medicine and surgery
within such hospital or agency.
(h) "Psychologist" means a licensed psychologist, as defined by
K.S.A. 74-5302, and amendments thereto.
(i) "Qualified mental health professional" shall have the meaning ascribed to it in K.S.A. 59-2946(j), and amendments thereto.

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

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

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

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

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

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

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

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

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

(1) The name and address of the person sought to be admitted, if
known;
(2) the name and address of the person's spouse, domestic partner or
nearest relative, if known;
(3) the applicant's belief that the person may be a mentally ill person
subject to involuntary commitment as defined in K.S.A. 59-2946, and
amendments thereto, a person with an alcohol or substance abuse problem
subject to involuntary commitment as defined in K.S.A. 59-29b46, and
amendments thereto, or a person with co-occurring conditions, and
because of such mental illness, alcohol or substance abuse problem or co-
occurring conditions, is likely to cause harm to self or others if not
immediately detained;
(4) the factual circumstances in support of that belief and the factual
circumstances under which the person was taken into custody, including
any known pending criminal charges; and
(5) whether the person has a wellness recovery action plan or
psychiatric advance directive, if known.

New Sec. 7. (a) A crisis intervention center may evaluate, admit and
detain any person 18 years of age or older who is presented for emergency
observation and treatment upon the written application of any adult.

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

(1) The name and address of the person sought to be admitted, if known;
(2) the name and address of the person's spouse, domestic partner or nearest relative, if known;
(3) the applicant's belief that the person may be a mentally ill person subject to involuntary commitment as defined in K.S.A. 59-2956, and amendments thereto, a person with an alcohol or substance abuse problem subject to involuntary commitment as defined in K.S.A. 59-29b46, and amendments thereto, or a person with co-occurring conditions, and because of such mental illness, alcohol or substance abuse problem or co-occurring conditions, is likely to cause harm to self or others if not immediately detained;
(4) the factual circumstances in support of that belief and the factual circumstances under which the person was presented to the crisis intervention center;
(5) any known pending criminal charges;
(6) any known prior psychiatric, medical or substance use history; and
(7) whether the person has a wellness recovery action plan or psychiatric advance directive, if known.

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

(b) A behavioral health professional shall evaluate a person admitted pursuant to this act not later than 23 hours after admission and again not later than 48 hours after admission to determine if the person continues to meet the criteria described in subsection (a). The 23-hour evaluation must be performed by a different behavioral health professional from the one who conducted the initial evaluation under subsection (a).

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

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

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

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

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

(2) provide notice of the person's involuntary admission including a
copy of the documentation authorizing the involuntary admission to that
person's attorney or legal guardian, immediately upon learning of the
existence and whereabouts of such attorney or legal guardian, unless that
attorney or legal guardian was the person who signed the application
resulting in the patient's admission. If authorized by the patient pursuant to
K.S.A. 65-5601 through 65-5605, and amendments thereto, the head of the
crisis intervention center also shall provide notice to the patient's
immediate family, as defined in subsection (b), immediately upon learning
of the existence and whereabouts of such family, unless the family
member to be notified was the person who signed the application resulting
in the patient's admission; and
(3) immediately advise the person in custody of such person's rights
provided for in section 14, and amendments thereto.
(b) "Immediate family" means the spouse, domestic partner, adult
children or children, parent or parents, and sibling or siblings, or any
combination thereof.
New Sec. 10. (a) Medications and other treatments shall be
prescribed, ordered and administered only in conformity with accepted
clinical practice. Medication shall be administered only upon the written
order of a physician or upon a verbal order noted in the patient's medical
records and subsequently signed by the physician. The attending physician
shall review regularly the drug regimen of each patient under the
physician's care and shall monitor any symptoms or harmful side effects.
Prescriptions for psychotropic medications shall be written with a
termination date not exceeding 30 days thereafter, but may be renewed.
(b) During the course of treatment, the responsible physician or
psychologist or such person's designee shall reasonably consult with the
patient or the patient's legal guardian and give consideration to the views
the patient or legal guardian expresses concerning treatment and any
alternatives, including views expressed in any wellness recovery action
plan or psychiatric advance directive. No medication or other treatment
may be administered to any voluntary patient without the patient's consent
or the consent of such patient's legal guardian.
(c) Consent for medical or surgical treatments not intended primarily
to treat a patient's mental disorder shall be obtained in accordance with
applicable law.
(d) Whenever a patient receiving treatment pursuant to this act
objects to taking any medication prescribed for psychiatric treatment, and
after full explanation of the benefits and risks of such medication such
objection continues, the medication may be administered over the patient's
objection. Such objection shall be recorded in the patient's medical record.
(e) In no case shall experimental medication be administered without
the patient's consent, which consent shall be obtained in accordance with
section 12(a)(6), and amendments thereto.
New Sec. 11. (a) Restraints or seclusion shall not be applied to a patient unless it is determined by the head of the crisis intervention center or a physician or psychologist to be necessary to prevent immediate substantial bodily injury to the patient or others and that other alternative methods to prevent such injury are not sufficient to accomplish this purpose. Restraints or seclusion shall never be used as a punishment or for the convenience of staff. The extent of the restraints or seclusion applied to the patient shall be the least restrictive measure necessary to prevent such injury to the patient or others, and the use of restraint or seclusion in a crisis intervention center shall not exceed three hours without medical reevaluation, except that such medical reevaluation shall not be required, unless necessary, between the hours of 12:00 midnight and 8:00 a.m. When restraints or seclusion are applied, there shall be monitoring of the patient's condition at a frequency determined by the treating physician or psychologist, which shall be no less than once per each 15 minutes. The head of the crisis intervention center or a physician or psychologist shall sign a statement explaining the treatment necessity for the use of any restraint or seclusion and shall make such statement a part of the permanent treatment record of the patient.

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

1. The use of such restraints as necessary for a patient who is likely to cause physical injury to self or others without the use of such restraints;
2. The use of restraints when needed primarily for examination or treatment or to ensure the healing process; or
3. The use of seclusion as part of a treatment methodology that calls for time out when the patient is refusing to participate in treatment or has become disruptive of a treatment process.

(c) As used in this section:

1. "Restraints" means the application of any device, other than human force alone, to any part of the body of the patient for the purpose of preventing the patient from causing injury to self or others; and
2. "seclusion" means the placement of a patient, alone, in a room, where the patient's freedom to leave is restricted and where the patient is not under continuous observation.

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

1. To wear the patient's own clothes, keep and use the patient's own personal possessions, including toilet articles, and keep and be allowed to spend the patient's own money;
2. To communicate by all reasonable means with a reasonable
number of persons at reasonable hours of the day and night, including both to make and receive confidential telephone calls and by letter, both to mail and receive unopened correspondence, except that if the head of the crisis intervention center denies a patient's right to mail or to receive unopened correspondence under the provisions of subsection (b), such correspondence shall be opened and examined in the presence of the patient;

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

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

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

(6) not to be subject to such procedures as psychosurgery, electroshock therapy, experimental medication, aversion therapy or hazardous treatment procedures without the written consent of the patient;

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

(8) to communicate by letter with the secretary for aging and disability services, the head of the crisis intervention center and any court, attorney, physician, psychologist, qualified mental health professional, licensed addiction counselor or minister of religion, including a Christian Science practitioner. All such communications shall be forwarded at once to the addressee without examination and communications from such persons shall be delivered to the patient without examination;

(9) to contact and consult privately with the patient's physician, psychologist, qualified mental health professional, licensed addiction counselor, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time;

(10) to be visited by the patient's physician, psychologist, qualified mental health professional, licensed addiction counselor, minister of religion, including a Christian Science practitioner, legal guardian or attorney at any time;

(11) to be informed orally and in writing of such patient's rights under this section upon admission to a crisis intervention center; and

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

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

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

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

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

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

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

(b) for the construction, maintenance or operation, or any combination thereof, of facilities, hospitals, centers and providers of services that will promote safe and adequate accommodation, care and treatment of such individuals.
Sec. 16. K.S.A. 2016 Supp. 39-2002 is hereby amended to read as follows: 39-2002. As used in this act, the following terms shall have the meanings ascribed to them in this section:

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

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

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

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

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

(f) "Hospital" means a psychiatric hospital.

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

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

(i) "Licensing agency" means the secretary for aging and disability services.

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

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

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

(m) "Psychiatric residential treatment facility" means any non-hospital facility with a provider agreement with the licensing agency to
provide the inpatient services for individuals under the age of 21 who will receive highly structured, intensive treatment for which the licensee meets the requirements as set forth by regulations created and adopted by the secretary.

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

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

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

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

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

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

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

(4) Set standards for, inspect and license all providers and facilities for individuals with mental illness, intellectual disabilities, developmental
disabilities or other disabilities receiving assistance through the Kansas
department for aging and disability services which receive or have
received after June 30, 1967, any state or federal funds, or facilities where
individuals with mental illness, intellectual disabilities or developmental
disabilities reside who require supervision or require limited assistance
with the taking of medication. The secretary may adopt rules and
regulations that allow the facility to assist an individual with the taking of
medication when the medication is in a labeled container dispensed by a
pharmacist.

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

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

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

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

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

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

(11) Notwithstanding the existence or pursuit of any other remedy, the
secretary for aging and disability services, as the licensing agency, may maintain an
action in the name of the state of Kansas for an injunction against any
person or facility to restrain or prevent the operation of a residential care
facility, crisis residential care facility, private or public psychiatric
hospital, psychiatric residential treatment facility, provider of services,
community mental health center, crisis intervention center or any other
facility providing services to individuals without a license.

(c) Reports and information shall be furnished to the secretary by the
superintendents, executive or other administrative officers of all
psychiatric hospitals, community mental health centers, crisis intervention
centers or facilities serving individuals with intellectual disabilities or
developmental disabilities and facilities serving other disabilities receiving
assistance through the Kansas department for aging and disability services.

Sec. 18. K.S.A. 59-2953 is hereby amended to read as follows: 59-
2953. (a) Any law enforcement officer who has a reasonable belief formed
upon investigation that a person is a mentally ill person and because of
such person's mental illness is likely to cause harm to self or others if
allowed to remain at liberty may take the person into custody without a
warrant. If the officer is in a crisis intervention center service area, as
defined in section 2, and amendments thereto, the officer may transport
the person to such crisis intervention center. If the officer is not in a crisis
intervention service area, as defined in section 2, and amendments thereto,
or does not choose to transport the person to such crisis intervention
center, then the officer shall transport the person to a treatment facility
where the person shall be examined by a physician or psychologist on duty
at the treatment facility, except that no person shall be transported to a
state psychiatric hospital for examination, unless a written statement from
a qualified mental health professional authorizing such an evaluation at a
state psychiatric hospital has been obtained. If no physician or
psychologist is on duty at the time the person is transported to the
treatment facility, the person shall be examined within a reasonable time
not to exceed 17 hours. If a written statement is made by the physician or
psychologist at the treatment facility that after preliminary examination the
physician or psychologist believes the person likely to be a mentally ill
person subject to involuntary commitment for care and treatment and
because of the person's mental illness is likely to cause harm to self or
others if allowed to remain at liberty, and if the treatment facility is willing
to admit the person, the law enforcement officer shall present to the
treatment facility the application provided for in subsection (b) of K.S.A.
59-2954(b), and amendments thereto. If the physician or psychologist on
duty at the treatment facility does not believe the person likely to be a
mentally ill person subject to involuntary commitment for care and
treatment the law enforcement officer shall return the person to the place
where the person was taken into custody and release the person at that
place or at another place in the same community as requested by the
person or if the law enforcement officer believes that it is not in the best
interests of the person or the person's family or the general public for the
person to be returned to the place the person was taken into custody, then
the person shall be released at another place the law enforcement officer
believes to be appropriate under the circumstances. The person may
request to be released immediately after the examination, in which case the
law enforcement officer shall immediately release the person, unless the
law enforcement officer believes it is in the best interests of the person or
the person's family or the general public that the person be taken elsewhere for release.

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

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

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

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

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

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

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

(6) not to be subject to such procedures as psychosurgery, electroshock therapy, experimental medication, aversion therapy or hazardous treatment procedures without the written consent of the patient or the written consent of a parent or legal guardian, if such patient is a minor or has a legal guardian provided that the guardian has obtained
authority to consent to such from the court which has venue over the
guardianship following a hearing held for that purpose;
(7) to have explained, the nature of all medications prescribed, the
reason for the prescription and the most common side effects and, if
requested, the nature of any other treatments ordered;
(8) to communicate by letter with the secretary for aging and
disability services, the head of the treatment facility and any court,
attorney, physician, psychologist, qualified mental health professional or
minister of religion, including a Christian Science practitioner. All such
communications shall be forwarded at once to the addressee without
examination and communications from such persons shall be delivered to
the patient without examination;
(9) to contact or consult privately with the patient's physician or
psychologist, qualified mental health professional minister of religion,
including a Christian Science practitioner, legal guardian or attorney at any
time and if the patient is a minor, their parent;
(10) to be visited by the patient's physician, psychologist, qualified
mental health professional, minister of religion, including a Christian
Science practitioner, legal guardian or attorney at any time and if the
patient is a minor, their parent;
(11) to be informed orally and in writing of their rights under this
section upon admission to a treatment facility; and
(12) to be treated humanely consistent with generally accepted ethics
and practices.

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

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

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

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

Sec. 21. K.S.A. 59-29b53 is hereby amended to read as follows: 59-
29b53. (a) Any law enforcement officer who has a reasonable belief
formed upon investigation that a person may be a person with an alcohol
or substance abuse problem subject to involuntary commitment and is
likely to cause harm to self or others if allowed to remain at liberty may
take the person into custody without a warrant. If the officer is in a crisis
intervention center service area, as defined in section 2, and amendments
thereto, the officer may transport the person to such crisis intervention
center. If the officer is not in a crisis intervention center service area, as
defined in section 2, and amendments thereto, or does not choose to
transport the person to such crisis intervention center, then the officer
shall transport the person to a treatment facility or other facility for care or
treatment where the person shall be examined by a physician or
psychologist on duty at the facility. If no physician or psychologist is on
duty at the time the person is transported to the facility, the person shall be
examined within a reasonable time not to exceed 17 hours. If a written
statement is made by the physician or psychologist at the facility that after
preliminary examination the physician or psychologist believes the person
likely to be a person with an alcohol or substance abuse problem subject to
involuntary commitment for care and treatment and is likely to cause harm
to self or others if allowed to remain at liberty, and if the facility is a
treatment facility and is willing to admit the person, the law enforcement
officer shall present to that treatment facility the application provided for
in subsection (b) of K.S.A. 59-29b54(b), and amendments thereto. If the
physician or psychologist on duty at the facility does not believe the
person likely to be a person with an alcohol or substance abuse problem
subject to involuntary commitment for care and treatment, the law
enforcement officer shall return the person to the place where the person
was taken into custody and release the person at that place or at another
place in the same community as requested by the person or if the law
enforcement officer believes that it is not in the best interests of the person
or the person's family or the general public for the person to be returned to
the place the person was taken into custody, then the person shall be
released at another place the law enforcement officer believes to be
appropriate under the circumstances. The person may request to be
released immediately after the examination, in which case the law
enforcement officer shall immediately release the person, unless the law
enforcement officer believes it is in the best interests of the person or the
person's family or the general public that the person be taken elsewhere for
release.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The head of the treatment facility may, for good cause only, restrict a patient's rights under this section, except that the rights enumerated in subsections (a)(5) through (a)(12), and the right to mail any correspondence which does not violate postal regulations, shall not be restricted by the head of the treatment facility under any circumstances. Each treatment facility shall adopt regulations governing the conduct of all patients being treated in such treatment facility, which regulations shall be consistent with the provisions of this section. A statement explaining the reasons for any restriction of a patient's rights shall be immediately entered on such patient's medical record and copies of such statement shall be made available to the patient or to the parent, or legal guardian if such
patient is a minor or has a legal guardian, and to the patient's attorney. In
addition, notice of any restriction of a patient's rights shall be
communicated to the patient in a timely fashion.
(c) Any person willfully depriving any patient of the rights protected
by this section, except for the restriction of such rights in accordance with
the provisions of subsection (b) or in accordance with a properly obtained
court order, shall be guilty of a class C misdemeanor.
Sec. 23. K.S.A. 59-29b80 is hereby amended to read as follows: 59-
29b80. Any person or law enforcement agency, governing body,
community mental health center or personnel acting in good faith and
without negligence shall be free from all liability, civil or criminal, which
that might arise out of acting or declining to act pursuant to this act. Any
person who for a corrupt consideration or advantage, or through malice,
shall make or join in making or advise the making of any false petition,
report or order provided for in this act shall be guilty of a class A
misdemeanor.
Sec. 24. K.S.A. 59-2953, 59-2980, 59-29b53 and 59-29b80 and
hereby repealed.
Sec. 25. This act shall take effect and be in force from and after its
publication in the statute book.