

SENATE BILL No. 221

By Committee on Judiciary

2-8

10 AN ACT concerning mentally ill persons subject to involuntary commit-
11 ment for care and treatment; unlawful acts; restoration of certain
12 rights; *docket fee*; amending K.S.A. ~~2004 59-104, 59-2948, 59-2966~~
13 *and 59-2974 and K.S.A. 2005* Supp. 21-4203; *and* 21-4204, ~~59-2948,~~
14 ~~59-2966 and 59-2974~~ and repealing the existing sections.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section. 1. (a) On or before September 1, ~~2005~~ **2006**, every
18 district court shall review all files dated on or after July 1, 1998, concern-
19 ing mentally ill persons subject to involuntary commitment for care and
20 treatment as defined in K.S.A. ~~2004 Supp.~~ 59-2946, and amendments
21 thereto.

22 (b) If the court ordered treatment pursuant to K.S.A. ~~2004 Supp.~~ 59-
23 2966, and amendments thereto, the clerk of the court shall report such
24 order to the Kansas bureau of investigation.

25 (c) A copy of such orders shall be delivered by the clerk of the court
26 to the Kansas bureau of investigation on or before September 1, ~~2005~~
27 **2006**. The Kansas bureau of investigation shall immediately enter the
28 order into the national criminal information center and other appropriate
29 databases.

30 (d) The Kansas bureau of investigation shall ensure the accuracy of
31 the entries and the court shall ensure the validity of the orders.

32 (e) ~~The clerk of the court shall notify by first class mail the mentally~~
33 ~~ill person's legal counsel of record, at the address listed in the file or the~~
34 ~~current address of the legal counsel of record listed in such court's re-~~
35 ~~ords, of the compliance with this section. No notice shall be required to~~
36 ~~the involuntary patient. **Upon a finding that the mentally ill person is**~~
37 ~~**a danger to self or others, the court shall notify the mentally ill**~~
38 ~~**person subject to involuntary commitment for care and treatment**~~
39 ~~**that it is a violation of the law to possess a firearm. Upon release,**~~
40 ~~**the state hospital shall notify the patient that it is a violation of the**~~
41 ~~**law for the patient to possess a firearm and provide information to**~~
42 ~~**the patient regarding the restoration procedure.**~~

43 New Sec. 2. *On and after July 1, 2007*, (a) A person who has been

1 discharged pursuant to K.S.A. ~~2004 Supp.~~ 59-2973, and amendments
2 thereto, may file a petition in the court where treatment was ordered
3 pursuant to K.S.A. ~~2004 Supp.~~ 59-2966, and amendments thereto, for the
4 restoration of the ability to legally possess a firearm.

5 (b) Notice of the filing of such petition shall be served on the peti-
6 tioner who originally filed the action pursuant to K.S.A. ~~2004 Supp.~~ 59-
7 2952 or 59-2957, and amendments thereto, or the petitioner's attorney
8 and the county or district attorney as appropriate.

9 (c) If the court finds the person is no longer likely to cause harm to
10 such person's self or others, the court shall issue a certificate of restoration
11 to the person. Such restoration shall have the effect of restoring the per-
12 son's ability to legally possess a firearm, and the certification of restoration
13 shall so state.

14 (d) The certificate of registration issued pursuant to this section shall
15 only apply to the possession of a firearm for the purposes of an alleged
16 violation of subsection (a)(7) of K.S.A. 21-4204, and amendments thereto.

17 Sec. 3. ***On and after January 1, 2007***, K.S.A. ~~2004~~ **2005** Supp. 21-
18 4203 is hereby amended to read as follows: 21-4203. (a) Criminal disposal
19 of firearms is knowingly:

20 (1) Selling, giving or otherwise transferring any firearm with a barrel
21 less than 12 inches long to any person under 18 years of age;

22 (2) selling, giving or otherwise transferring any firearms to any person
23 who is both addicted to and an unlawful user of a controlled substance;

24 (3) selling, giving or otherwise transferring any firearm to any person
25 who, within the preceding five years, has been convicted of a felony, other
26 than those specified in subsection (b), under the laws of this or any other
27 jurisdiction or has been released from imprisonment for a felony and was
28 found not to have been in possession of a firearm at the time of the
29 commission of the offense;

30 (4) selling, giving or otherwise transferring any firearm to any person
31 who, within the preceding 10 years, has been convicted of a felony to
32 which this subsection applies, but was not found to have been in the
33 possession of a firearm at the time of the commission of the offense, or
34 has been released from imprisonment for such a crime, and has not had
35 the conviction of such crime expunged or been pardoned for such crime;

36 ~~or~~
37 (5) selling, giving or otherwise transferring any firearm to any person
38 who has been convicted of a felony under the laws of this or any other
39 jurisdiction and was found to have been in possession of a firearm at the
40 time of the commission of the offense; *or*

41 (6) *selling, giving or otherwise transferring any firearm to any person*
42 *who is or has been a mentally ill person subject to involuntary commit-*
43 *ment for care and treatment, as defined in K.S.A. ~~2004 Supp.~~ 59-2946,*

1 *and amendments thereto, and such person has not received a certificate*
2 *of restoration pursuant to section 2, and amendments thereto.*

3 (b) Subsection (a)(4) shall apply to a felony under K.S.A. 21-3401,
4 21-3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-
5 3419, 21-3420, 21-3421, 21-3427, 21-3502, 21-3506, 21-3518, 21-3716,
6 65-4127a or 65-4127b, or 65-4160 through 65-4164 or K.S.A. ~~2004~~ **2005**
7 Supp. 21-3442, and amendments thereto, or a crime under a law of an-
8 other jurisdiction which is substantially the same as such felony.

9 (c) Criminal disposal of firearms is a class A nonperson misdemeanor.

10 Sec. 4. ***On and after January 1, 2007***, K.S.A. ~~2004~~ **2005** Supp. 21-
11 4204 is hereby amended to read as follows: 21-4204. (a) Criminal pos-
12 session of a firearm is:

13 (1) Possession of any firearm by a person who is both addicted to and
14 an unlawful user of a controlled substance;

15 (2) possession of any firearm by a person who has been convicted of
16 a person felony or a violation of any provision of the uniform controlled
17 substances act under the laws of Kansas or a crime under a law of another
18 jurisdiction which is substantially the same as such felony or violation, or
19 was adjudicated a juvenile offender because of the commission of an act
20 which if done by an adult would constitute the commission of a person
21 felony or a violation of any provision of the uniform controlled substances
22 act, and was found to have been in possession of a firearm at the time of
23 the commission of the offense;

24 (3) possession of any firearm by a person who, within the preceding
25 five years has been convicted of a felony, other than those specified in
26 subsection (a)(4)(A), under the laws of Kansas or a crime under a law of
27 another jurisdiction which is substantially the same as such felony, has
28 been released from imprisonment for a felony or was adjudicated as a
29 juvenile offender because of the commission of an act which if done by
30 an adult would constitute the commission of a felony, and was found not
31 to have been in possession of a firearm at the time of the commission of
32 the offense;

33 (4) possession of any firearm by a person who, within the preceding
34 10 years, has been convicted of: (A) A felony under K.S.A. 21-3401, 21-
35 3402, 21-3403, 21-3404, 21-3410, 21-3411, 21-3414, 21-3415, 21-3419,
36 21-3420, 21-3421, 21-3427, 21-3502, 21-3506, 21-3518, 21-3716, 65-
37 4127a or 65-4127b, or 65-4160 through 65-4164 or K.S.A. ~~2004~~ **2005**
38 Supp. 21-3442, and amendments thereto, or a crime under a law of an-
39 other jurisdiction which is substantially the same as such felony, has been
40 released from imprisonment for such felony, or was adjudicated as a ju-
41 venile offender because of the commission of an act which if done by an
42 adult would constitute the commission of such felony, was found not to
43 have been in possession of a firearm at the time of the commission of the

1 offense, and has not had the conviction of such crime expunged or been
2 pardoned for such crime; or (B) a nonperson felony under the laws of
3 Kansas or a crime under the laws of another jurisdiction which is sub-
4 stantially the same as such nonperson felony, has been released from
5 imprisonment for such nonperson felony or was adjudicated as a juvenile
6 offender because of the commission of an act which if done by an adult
7 would constitute the commission of a nonperson felony, and was found
8 to have been in possession of a firearm at the time of the commission of
9 the offense;

10 (5) possession of any firearm by any person, other than a law enforce-
11 ment officer, in or on any school property or grounds upon which is
12 located a building or structure used by a unified school district or an
13 accredited nonpublic school for student instruction or attendance or ex-
14 tracurricular activities of pupils enrolled in kindergarten or any of the
15 grades 1 through 12 or at any regularly scheduled school sponsored ac-
16 tivity or event; ~~or~~

17 (6) refusal to surrender or immediately remove from school property
18 or grounds or at any regularly scheduled school sponsored activity or
19 event any firearm in the possession of any person, other than a law en-
20 forcement officer, when so requested or directed by any duly authorized
21 school employee or any law enforcement officer; *or*

22 (7) *possession of any firearm by a person who is or has been a men-*
23 *tally ill person subject to involuntary commitment for care and treatment,*
24 *as defined in K.S.A. ~~2004 Supp.~~ 59-2946, and amendments thereto.*

25 (b) Subsection (a)(5) shall not apply to:

26 (1) Possession of any firearm in connection with a firearms safety
27 course of instruction or firearms education course approved and author-
28 ized by the school;

29 (2) any possession of any firearm specifically authorized in writing by
30 the superintendent of any unified school district or the chief administrator
31 of any accredited nonpublic school;

32 (3) possession of a firearm secured in a motor vehicle by a parent,
33 guardian, custodian or someone authorized to act in such person's behalf
34 who is delivering or collecting a student; or

35 (4) possession of a firearm secured in a motor vehicle by a registered
36 voter who is on the school grounds, which contain a polling place for the
37 purpose of voting during polling hours on an election day.

38 (c) *Subsection (a)(7) shall not apply to a person who has received a*
39 *certificate of restoration pursuant to section 2, and amendments thereto.*

40 (d) Violation of subsection (a)(1) or (a)(5) is a class B nonperson select
41 misdemeanor; violation of subsection (a)(2), (a)(3) ~~or~~, (a)(4) *or* (a)(7) is a
42 severity level 8, nonperson felony; violation of subsection (a)(6) is a class
43 A nonperson misdemeanor.

1 Sec. 5 **On and after July 1, 2007**, K.S.A. ~~2004 Supp.~~ 59-2948 is
2 hereby amended to read as follows: 59-2948. (a) The fact that a person
3 may have voluntarily accepted any form of psychiatric treatment, or be-
4 come subject to a court order entered under authority of this act, shall
5 not be construed to mean that such person shall have lost any civil right
6 they otherwise would have as a resident or citizen, any property right or
7 their legal capacity, except as may be specified within any court order or
8 as otherwise limited by the provisions of this act or the reasonable rules
9 and regulations which the head of a treatment facility may for good cause
10 find necessary to make for the orderly operations of that facility. No per-
11 son held in custody under the provisions of this act shall be denied the
12 right to apply for a writ of habeas corpus.

13 (b) There shall be no implication or presumption that a patient within
14 the terms of this act is for that reason alone a person in need of a guardian
15 or a conservator as provided for in K.S.A. ~~2004 Supp.~~ 59-3050 through
16 59-3095, and amendments thereto.

17 (c) *A person who is a mentally ill person subject to involuntary com-*
18 *mitment for care and treatment shall be subject to K.S.A. 21-4204, and*
19 *amendments thereto.*

20 Sec. 6. **On and after July 1, 2007**, K.S.A. ~~2004 Supp.~~ 59-2966 is
21 hereby amended to read as follows: 59-2966. (a) Upon the completion of
22 the trial, if the court or jury finds by clear and convincing evidence that
23 the proposed patient is a mentally ill person subject to involuntary com-
24 mitment for care and treatment under this act, the court shall order treat-
25 ment for such person for a specified period of time not to exceed three
26 months from the date of the trial at a treatment facility, except that the
27 court shall not order treatment at a state psychiatric hospital, unless a
28 written statement from a qualified mental health professional authorizing
29 such treatment at a state psychiatric hospital has been filed with the court.
30 *Whenever an involuntary patient is ordered to receive treatment, the clerk*
31 *of the district court shall send a copy of the order to the Kansas bureau*
32 *of investigation within five days after receipt of the order. The Kansas*
33 *bureau of investigation shall immediately enter the order into the national*
34 *criminal information center and other appropriate databases.* An order
35 for treatment in a treatment facility other than a state psychiatric hospital
36 shall be conditioned upon the consent of the head of that treatment fa-
37 cility to accepting the patient. In the event no other appropriate treatment
38 facility has agreed to provide treatment for the patient, and no qualified
39 mental health professional has authorized treatment at a state psychiatric
40 hospital, the participating mental health center for the county in which
41 the patient resides shall be given responsibility for providing or securing
42 treatment for the patient or if no county of residence can be determined
43 for the patient, then the participating mental health center for the county

1 in which the patient was taken into custody or in which the petition was
2 filed shall be given responsibility for providing or securing treatment for
3 the patient.

4 (b) A copy of the order for treatment shall be provided to the head
5 of the treatment facility.

6 (c) When the court orders treatment, it shall retain jurisdiction to
7 modify, change or terminate such order, unless venue has been changed
8 pursuant to K.S.A. ~~2004 Supp.~~ 59-2971 and amendments thereto and then
9 the receiving court shall have continuing jurisdiction.

10 (d) If the court finds from the evidence that the proposed patient has
11 not been shown to be a mentally ill person subject to involuntary com-
12 mitment for care and treatment under this act the court shall release the
13 person and terminate the proceedings.

14 Sec. 7. **On and after July 1, 2007**, K.S.A. ~~2004 Supp.~~ 59-2974 is
15 hereby amended to read as follows: 59-2974. The head of the treatment
16 facility shall notify, in writing, the patient, the patient’s attorney, the pe-
17 titioner or the petitioner’s attorney, the county or district attorney as
18 appropriate, and the district court which has jurisdiction over the patient
19 of the patient’s discharge pursuant to K.S.A. ~~2004 Supp.~~ 59-2973 and
20 amendments thereto. When a notice of discharge is received, the court
21 shall file the same which shall terminate the proceedings, unless there
22 has been issued a superseding inpatient or outpatient treatment order not
23 being discharged by the notice. *Whenever a person who is involuntarily*
24 *committed to a state psychiatric hospital is released by order of the court*
25 *or termination of the case, the court shall review the case upon request*
26 *of the patient, and may order the issuance of the certificate of restoration*
27 *pursuant to section 2, and amendments thereto. If the court issues such*
28 *release or termination and certificate, the court shall order the clerk of*
29 *the district court to report the release or termination of the case and the*
30 *certificate of restoration to the Kansas bureau of investigation within five*
31 *days after the order.*

32 ~~Sec. 8. K.S.A. 2004 Supp. 21-4203, 21-4204, 59-2948, 59-2966 and~~
33 ~~59-2974 are hereby repealed.~~

34 **Sec. 8. On and after July 1, 2007, K.S.A. 59-104 is hereby**
35 **amended to read as follows: 59-104. (a) Docket fee. Except as oth-**
36 **erwise provided by law, no case shall be filed or docketed in the**
37 **district court under the provisions of chapter 59 of the Kansas Stat-**
38 **utes Annotated or of articles 40 and 52 of chapter 65 of the Kansas**
39 **Statutes Annotated without payment of an appropriate docket fee**
40 **as follows:**

41	<i>Treatment of mentally ill</i>	\$25.50 50.00
42	<i>Treatment of alcoholism or drug abuse</i>	25.50
43	<i>Determination of descent of property</i>	40.50

1	<i>Termination of life estate</i>	39.50
2	<i>Termination of joint tenancy</i>	39.50
3	<i>Refusal to grant letters of administration</i>	39.50
4	<i>Adoption</i>	39.50
5	<i>Filing a will and affidavit under K.S.A. 59-618a</i>	39.50
6	<i>Guardianship</i>	60.50
7	<i>Conservatorship</i>	60.50
8	<i>Trusteeship</i>	60.50
9	<i>Combined guardianship and conservatorship</i>	60.50
10	<i>Certified probate proceedings under K.S.A. 59-213, and amend-</i>	
11	<i>ments thereto</i>	14.50
12	<i>Decrees in probate from another state</i>	99.50
13	<i>Probate of an estate or of a will</i>	100.50
14	<i>Civil commitment under K.S.A. 59-29a01 et seq.</i>	24.50
15	<i>(b) Poverty affidavit in lieu of docket fee and exemptions. The provisions of subsection (b) of K.S.A. 60-2001 and K.S.A. 60-2005, and amendments thereto, shall apply to probate docket fees prescribed by this section.</i>	
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19	<i>(c) Disposition of docket fee. Statutory charges for the law library and for the prosecuting attorneys' training fund shall be paid from the docket fee. The remainder of the docket fee shall be paid to the state treasurer in accordance with K.S.A. 20-362, and amendments thereto.</i>	
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24	<i>(d) Additional court costs. Other fees and expenses to be assessed as additional court costs shall be approved by the court, unless specifically fixed by statute. Other fees shall include, but not be limited to, witness fees, appraiser fees, fees for service of process outside the state, fees for depositions, transcripts and publication of legal notice, executor or administrator fees, attorney fees, court costs from other courts and any other fees and expenses required by statute. All additional court costs shall be taxed and billed against the parties or estate as directed by the court. No sheriff in this state shall charge any district court in this state a fee or mileage for serving any paper or process.</i>	
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35	<i>Sec. 9. On and after January 1, 2007, K.S.A. 2005 Supp. 21-4203 and 21-4204 are hereby repealed.</i>	
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37	<i>Sec. 10. On and after July 1, 2007, K.S.A. 59-104, 59-2948, 59-2966 and 59-2974 are hereby repealed.</i>	
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39	<i>Sec. 9 11. This act shall take effect and be in force from and after its publication in the statute book.</i>	
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