

SENATE BILL No. 455

By Committee on Judiciary

1-26

9 AN ACT concerning the civil commitment of sexually violent predators;
10 relating to expert testimony; amending K.S.A. 59-29a03 and 60-456
11 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 59-29a03 is hereby amended to read as follows: 59-
15 29a03. (a) When it appears that a person may meet the criteria of a sex-
16 ually violent predator as defined in K.S.A. 59-29a02 and amendments
17 thereto, the agency with jurisdiction shall give written notice of such to
18 the attorney general and the multidisciplinary team established in sub-
19 section (d), 90 days prior to:

20 (1) The anticipated release from total confinement of a person who
21 has been convicted of a sexually violent offense, except that in the case
22 of persons who are returned to prison for no more than 90 days as a result
23 of revocation of postrelease supervision, written notice shall be given as
24 soon as practicable following the person's readmission to prison;

25 (2) release of a person who has been charged with a sexually violent
26 offense and who has been determined to be incompetent to stand trial
27 pursuant to K.S.A. 22-3305 and amendments thereto;

28 (3) release of a person who has been found not guilty by reason of
29 insanity of a sexually violent offense pursuant to K.S.A. 22-3428 and
30 amendments thereto; or

31 (4) release of a person who has been found not guilty of a sexually
32 violent offense pursuant to K.S.A. 22-3428, and amendments thereto, and
33 the jury who returned the verdict of not guilty answers in the affirmative
34 to the special question asked pursuant to K.S.A. 22-3221 and amendments
35 thereto.

36 (b) The agency with jurisdiction shall inform the attorney general and
37 the multidisciplinary team established in subsection (d) of the following:

38 (1) The person's name, identifying factors, anticipated future resi-
39 dence and offense history; and

40 (2) documentation of institutional adjustment and any treatment
41 received.

42 (c) The agency with jurisdiction, its employees, officials, members of
43 the multidisciplinary team established in subsection (d), members of the

1 prosecutor's review committee appointed as provided in subsection (e)
2 and individuals contracting, appointed or volunteering to perform services
3 hereunder shall be immune from liability for any good-faith conduct un-
4 der this section.

5 (d) The secretary of corrections shall establish a multidisciplinary
6 team which may include individuals from other state agencies to review
7 available records of each person referred to such team pursuant to sub-
8 section (a). The team, within 30 days of receiving notice, shall assess
9 whether or not the person meets the definition of a sexually violent pred-
10 ator, as established in K.S.A. 59-29a02 and amendments thereto. The
11 team shall notify the attorney general of its assessment.

12 (e) The attorney general shall appoint a prosecutor's review commit-
13 tee to review the records of each person referred to the attorney general
14 pursuant to subsection (a). The prosecutor's review committee shall assist
15 the attorney general in the determination of whether or not the person
16 meets the definition of a sexually violent predator. The assessment of the
17 multidisciplinary team shall be made available to the attorney general and
18 the prosecutor's review committee.

19 (f) *At any hearing held pursuant to K.S.A. 59-29a01 et seq., and*
20 *amendments thereto, including, but not limited to, probable cause hear-*
21 *ings, trials, annual reviews, petitions for transitional release and petitions*
22 *for final discharge, the facts or data in the particular case upon which an*
23 *expert bases an opinion or inference may be those perceived by or made*
24 *known to the expert at or before the hearing. If of a type reasonably relied*
25 *upon by experts in the particular field in forming opinions or inferences*
26 *upon the subject, the facts or data need not be admissible in evidence in*
27 *order for the opinion or inference to be admitted. Facts or data that are*
28 *otherwise inadmissible shall not be disclosed to the jury by the proponent*
29 *of the opinion or inference unless the court determines that their probative*
30 *value in assisting the jury to evaluate the expert's opinion substantially*
31 *outweighs their prejudicial effect.*

32 (g) The provisions of this section are not jurisdictional, and failure to
33 comply with such provisions in no way prevents the attorney general from
34 proceeding against a person otherwise subject to the provision of K.S.A.
35 59-29a01 et seq., and amendments thereto.

36 Sec. 2. K.S.A. 60-456 is hereby amended to read as follows: 60-456.
37 *Except as provided in K.S.A. 59-29a03, and amendments thereto:* (a) If
38 the witness is not testifying as an expert ~~his or her~~ *such witness's* testimony
39 in the form of opinions or inferences is limited to such opinions or infer-
40 ences as the judge finds ~~(a)~~: (1) May be rationally based on the perception
41 of the witness; and

42 ~~(b)~~ (2) are helpful to a clearer understanding of ~~his or her~~ *such wit-*
43 *ness's* testimony.

- 1 (b) If the witness is testifying as an expert, testimony of the witness
2 in the form of opinions or inferences is limited to such opinions as the
3 judge finds are:
- 4 (1) Based on facts or data perceived by or personally known or made
5 known to the witness at the hearing; and
6 (2) within the scope of the special knowledge, skill, experience or
7 training possessed by the witness.
- 8 (c) Unless the judge excludes the testimony ~~he or she~~, *the judge* shall
9 be deemed to have made the finding requisite to its admission.
- 10 (d) Testimony in the form of opinions or inferences otherwise ad-
11 missible under this article is not objectionable because it embraces the
12 ultimate issue or issues to be decided by the trier of the fact.
- 13 Sec. 3. K.S.A. 59-29a03 and 60-456 are hereby repealed.
- 14 Sec. 4. This act shall take effect and be in force from and after its
15 publication in the statute book.