

HOUSE BILL No. 2240

By Committee on Judiciary

2-1

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 New Sec. 5. (a) Any law enforcement officer who takes a person into  
42 custody pursuant to K.S.A. 59-2953 or 59-29b53, and amendments  
43 thereto, may transport such person to a crisis intervention center if the

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

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

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

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

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

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

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

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

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

42 (b) An emergency observation and treatment application shall be  
43 made on a form set forth by the secretary for aging and disability services

1 or a locally developed form approved by the secretary. The original  
2 application shall be kept by the applicant, and a copy shall be provided to  
3 the crisis intervention center and to the patient. The application shall state:

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

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

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

16 (4) the factual circumstances in support of that belief and the factual  
17 circumstances under which the person was presented to the crisis  
18 intervention center;

19 (5) any known pending criminal charges;

20 (6) any known prior psychiatric, medical or substance use history;  
21 and

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

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

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

43 (c) Not later than 48 hours after admission, if the head of the crisis

1 intervention center determines that the person continues to meet the  
2 criteria described in subsection (a), then the head of the crisis intervention  
3 center shall file an affidavit to that effect for review by the district court in  
4 the county where the crisis intervention center is located. The affidavit  
5 shall include or be accompanied by the written application for emergency  
6 observation and treatment, information about the person's original  
7 admission to the crisis intervention center, the care and treatment provided  
8 to the person, and the factual circumstances in support of the evaluating  
9 professional's opinion that the person meets the criteria described in  
10 subsection (a). After reviewing the affidavit and any accompanying  
11 documentation, the court shall order the release of the person or order that  
12 the person may continue to be detained and treated at the crisis  
13 intervention center, subject to subsections (d) and (e).

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

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

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

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

42 (2) provide notice of the person's involuntary admission including a  
43 copy of the documentation authorizing the involuntary admission to that

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

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

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

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

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

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

36 (d) Whenever a patient receiving treatment pursuant to this act  
37 objects to taking any medication prescribed for psychiatric treatment, and  
38 after full explanation of the benefits and risks of such medication such  
39 objection continues, the medication may be administered over the patient's  
40 objection. Such objection shall be recorded in the patient's medical record.

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

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

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

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

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

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

30 (c) As used in this section:

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

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

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

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

43 (2) to communicate by all reasonable means with a reasonable

1 number of persons at reasonable hours of the day and night, including both  
2 to make and receive confidential telephone calls and by letter, both to mail  
3 and receive unopened correspondence, except that if the head of the crisis  
4 intervention center denies a patient's right to mail or to receive unopened  
5 correspondence under the provisions of subsection (b), such  
6 correspondence shall be opened and examined in the presence of the  
7 patient;

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

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

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

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

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

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

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

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

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

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

41 (b) The head of the crisis intervention center may, for good cause  
42 only, restrict a patient's rights under this section, except that the rights  
43 enumerated in subsection (a)(5) through (12), and the right to mail any



1 correspondence that does not violate postal regulations, shall not be  
2 restricted by the head of the crisis intervention center under any  
3 circumstances. Each crisis intervention center shall adopt policies  
4 governing the conduct of all patients being treated in such crisis  
5 intervention center, which regulations shall be consistent with the  
6 provisions of this section. A statement explaining the reasons for any  
7 restriction of a patient's rights shall be immediately entered on such  
8 patient's medical record and copies of such statement shall be made  
9 available to the patient, and to the patient's attorney. In addition, notice of  
10 any restriction of a patient's rights shall be communicated to the patient in  
11 a timely manner.

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

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

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

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

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

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

1       Sec. 16. K.S.A. 2016 Supp. 39-2002 is hereby amended to read as  
2 follows: 39-2002. As used in this act, the following terms shall have the  
3 meanings ascribed to them in this section:

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

6       (b) "Community mental health center" means a center organized  
7 pursuant to article 40 of chapter 19 of the Kansas Statutes Annotated, and  
8 amendments thereto, or a mental health clinic organized pursuant to article  
9 2 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

42       ~~(l)~~ (m) "Psychiatric residential treatment facility" means any non-  
43 hospital facility with a provider agreement with the licensing agency to

1 provide the inpatient services for individuals under the age of 21 who will  
2 receive highly structured, intensive treatment for which the licensee meets  
3 the requirements as set forth by regulations created and adopted by the  
4 secretary.

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

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

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

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

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

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

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

42 (4) Set standards for, inspect and license all providers and facilities  
43 for individuals with mental illness, intellectual disabilities, developmental

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

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

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

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

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

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

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

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

41 (c) Reports and information shall be furnished to the secretary by the  
42 superintendents, executive or other administrative officers of all  
43 psychiatric hospitals, community mental health centers, *crisis intervention*

1 centers or facilities serving individuals with intellectual disabilities or  
2 developmental disabilities and facilities serving other disabilities receiving  
3 assistance through the Kansas department for aging and disability services.

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

1 the person's family or the general public that the person be taken elsewhere  
2 for release.

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

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

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

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

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

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

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

39 (6) not to be subject to such procedures as psychosurgery,  
40 electroshock therapy, experimental medication, aversion therapy or  
41 hazardous treatment procedures without the written consent of the patient  
42 or the written consent of a parent or legal guardian, if such patient is a  
43 minor or has a legal guardian provided that the guardian has obtained

1 authority to consent to such from the court which has venue over the  
2 guardianship following a hearing held for that purpose;

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

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

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

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

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

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

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

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

43 (d) The provisions of this section do not apply to persons civilly

1 committed to a treatment facility as a sexually violent predator pursuant to  
2 K.S.A. 59-29a01 et seq., and amendments thereto.

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

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



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

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

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

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

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

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

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

42 (5) to refuse involuntary labor other than the housekeeping of the  
43 patient's own bedroom and bathroom, provided that nothing herein shall be

1 construed so as to prohibit a patient from performing labor as a part of a  
2 therapeutic program to which the patient has given their written consent  
3 and for which the patient receives reasonable compensation;

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

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

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

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

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

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

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

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

1 patient is a minor or has a legal guardian, and to the patient's attorney. In  
2 addition, notice of any restriction of a patient's rights shall be  
3 communicated to the patient in a timely fashion.

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

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

17 Sec. 24. K.S.A. 59-2953, 59-2980, 59-29b53 and 59-29b80 and  
18 K.S.A. 2016 Supp. 39-2001, 39-2002, 39-2003, 59-2978 and 59-29b78 are  
19 hereby repealed.

20 Sec. 25. This act shall take effect and be in force from and after its  
21 publication in the statute book.