

HOUSE BILL No. 2498

By Committee on Corrections and Juvenile Justice

1-20

1 AN ACT concerning crimes, criminal procedure and punishment; relating
2 to mental health diversions for certain defendants.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) This act shall be known as the mental health diversion
6 program authorization act.

7 (b) There is hereby authorized a mental health diversion program for
8 certain offenders who are charged with a crime on or after July 1, 2012.

9 (c) Any county or district attorney, in coordination with a community
10 mental health center in such county or district attorney's jurisdiction, who
11 elects to establish a mental health diversion program, shall establish such
12 program pursuant to this act.

13 (d) This act shall be a part of and supplemental to the Kansas code for
14 criminal procedure.

15 Sec. 2. As used in this act:

16 (a) "Case manager" means an employee of, or contracted by, a
17 community mental health center who, at the direction of the mental health
18 diversion supervisor, administers, monitors and oversees a defendant's
19 participation in a mental health diversion program.

20 (b) "Community mental health center" means a community mental
21 health center organized pursuant to the provisions of K.S.A. 19-4001
22 through 19-4015, and amendments thereto.

23 (c) "Mental health diversion" means referral of a defendant charged
24 with a crime to a supervised mental health rehabilitation and performance
25 program implemented by a community mental health center, prior to
26 adjudication.

27 (d) "Mental health diversion agreement" means the specification of
28 formal terms and conditions which a defendant must fulfill in order to
29 have the criminal charges against them dismissed.

30 (e) "Mental health diversion coordinator" means an employee of, or
31 contracted by, the office of a county or district attorney to administer the
32 mental health diversion program of each such county or district attorney.

33 (f) "Mental health diversion supervisor" means a qualified mental
34 health professional designated to administer the mental health diversion
35 program of a community mental health center.

36 (g) "Qualified mental health professional" has the same meaning as

a qualified mental health professional who is

(a) "Advocate" means a person who is not an employee of, or contracted by, a community mental health center, who has personal experience with mental illness and sufficient training with recovery-oriented mental health services and supports to assist the defendant in the mental health diversion process.

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1 such defendant.

2 (d) Such program may include, but is not limited to, provisions
3 concerning:

4 (1) Residence in a specified facility;

5 (2) maintenance of gainful employment;

6 (3) continuation of prescribed medication or psychiatric or
7 psychological treatment; and

8 (4) participation in programs offering medical, educational,
9 vocational, social and psychological services, corrective and preventative
10 guidance and other rehabilitative services.

11 Sec. 6. (a) If the community mental health diversion supervisor
12 recommends mental health diversion pursuant to subsection (c) of section
13 5, and amendments thereto, the county or district attorney diversion
14 coordinator shall prepare a mental health diversion agreement, and may as
15 part of such agreement, require the defendant to pay any court costs,
16 restitution or fees as determined by the office of the county or district
17 attorney.

18 (b) The diversion coordinator or county or district attorney shall
19 present such diversion agreement to the defendant, and the defendant's
20 attorney, if the defendant is represented by an attorney, at a diversion
21 conference.

22 (c) No defendant shall be required to enter any plea to a criminal
23 charge as a condition for diversion. No statements made by the defendant
24 or counsel in any mental health diversion conference or in any other
25 discussion of a proposed mental health diversion agreement shall be
26 admissible as evidence in any criminal proceeding on crimes charged or
27 facts alleged in the complaint.

28 (d) Except for sentencing proceedings, the following shall not be
29 admissible as evidence in criminal proceedings which are resumed
30 pursuant to subsection (c)(2) of section 7, and amendments thereto: (1)
31 Participation in a diversion program; (2) the facts of such participation; (3)
32 the diversion agreement entered into; or (4) any written application or
33 statement made for the purpose of entering into a diversion agreement.

34 (e) The mental health diversion agreement shall include:

35 (1) The defendant's name, sex, race and date of birth;

36 (2) the date the complaint was filed and all crimes with which the
37 defendant is charged;

38 (3) the district court in which the agreement is to be filed;

39 (4) a statement that if the defendant fulfills the obligations of such
40 program, as reported by the community mental health diversion supervisor
41 and determined by the county or district attorney, all further criminal
42 charges shall be dismissed with prejudice;

43 (5) the waiver of all rights under the law or the constitution of Kansas

and the
defendant's
advocate, if
defendant has
elected an
advocate,