

**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,  
12 psychologist, qualified mental health professional or licensed addiction  
13 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.

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

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

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

12 New Sec. 3. (a) The fact that a person has been detained for  
13 emergency observation and treatment under this act shall not be construed  
14 to mean that such person shall have lost any civil right such person would  
15 otherwise have as a resident or citizen, any property right or legal capacity,  
16 except as may be specified within any court order or as otherwise limited  
17 by the provisions of this act or the reasonable policies which the head of a  
18 crisis intervention center may, for good cause shown, find necessary to  
19 make for the orderly operations of that facility. No person held in custody  
20 under the provisions of this act shall be denied the right to apply for a writ  
21 of habeas corpus.

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

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

34 New Sec. 5. (a) Any law enforcement officer who takes a person into  
35 custody pursuant to K.S.A. 59-2953 or 59-29b53, and amendments  
36 thereto, may transport such person to a crisis intervention center if the  
37 officer is in a crisis intervention center service area. The crisis intervention  
38 center shall not refuse to accept any person for evaluation if such person is  
39 brought to the crisis intervention center by a law enforcement officer and  
40 such officer's jurisdiction is in the crisis intervention center's service area.  
41 If a law enforcement officer is not in a crisis intervention center service  
42 area or chooses not to transport the person to a crisis intervention center,  
43 then the officer shall follow the procedures set forth in the care and

1 treatment act for persons with an alcohol or substance abuse problem,  
2 K.S.A. 59-29b45 et seq., and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

42 (3) the applicant's belief that the person may be a mentally ill person  
43 subject to involuntary commitment as defined in K.S.A. 59-2956, and

1 amendments thereto, a person with an alcohol or substance abuse problem  
2 subject to involuntary commitment as defined in K.S.A. 59-29b46, and  
3 amendments thereto, or a person with co-occurring conditions, and  
4 because of such mental illness, alcohol or substance abuse problem or co-  
5 occurring conditions, is likely to cause harm to self or others if not  
6 immediately detained;

7 (4) the factual circumstances in support of that belief and the factual  
8 circumstances under which the person was presented to the crisis  
9 intervention center;

10 (5) any known pending criminal charges;

11 (6) any known prior psychiatric, medical or substance use history;  
12 and

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

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

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

34 (c) Not later than 48 hours after admission, if the head of the crisis  
35 intervention center determines that the person continues to meet the  
36 criteria described in subsection (a), then the head of the crisis intervention  
37 center shall file an affidavit to that effect for review by the district court in  
38 the county where the crisis intervention center is located. The affidavit  
39 shall include or be accompanied by the written application for emergency  
40 observation and treatment, information about the person's original  
41 admission to the crisis intervention center, the care and treatment provided  
42 to the person, and the factual circumstances in support of the evaluating  
43 professional's opinion that the person meets the criteria described in

1 subsection (a). After reviewing the affidavit and any accompanying  
2 documentation, the court shall order the release of the person or order that  
3 the person may continue to be detained and treated at the crisis  
4 intervention center, subject to subsections (d) and (e).

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

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

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

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

33 (2) provide notice of the person's involuntary admission including a  
34 copy of the documentation authorizing the involuntary admission to that  
35 person's attorney or legal guardian, immediately upon learning of the  
36 existence and whereabouts of such attorney or legal guardian, unless that  
37 attorney or legal guardian was the person who signed the application  
38 resulting in the patient's admission. If authorized by the patient pursuant to  
39 K.S.A. 65-5601 through 65-5605, and amendments thereto, the head of the  
40 crisis intervention center also shall provide notice to the patient's  
41 immediate family, as defined in subsection (b), immediately upon learning  
42 of the existence and whereabouts of such family, unless the family  
43 member to be notified was the person who signed the application resulting

1 in the patient's admission; and

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

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

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

16 (b) During the course of treatment, the responsible physician or  
17 psychologist or such person's designee shall reasonably consult with the  
18 patient or the patient's legal guardian and give consideration to the views  
19 the patient or legal guardian expresses concerning treatment and any  
20 alternatives, including views expressed in any wellness recovery action  
21 plan or psychiatric advance directive. No medication or other treatment  
22 may be administered to any voluntary patient without the patient's consent  
23 or the consent of such patient's legal guardian.

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

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

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

35 New Sec. 11. (a) Restraints or seclusion shall not be applied to a  
36 patient unless it is determined by the head of the crisis intervention center  
37 or a physician or psychologist to be necessary to prevent immediate  
38 substantial bodily injury to the patient or others and that other alternative  
39 methods to prevent such injury are not sufficient to accomplish this  
40 purpose. Restraints or seclusion shall never be used as a punishment or for  
41 the convenience of staff. The extent of the restraints or seclusion applied to  
42 the patient shall be the least restrictive measure necessary to prevent such  
43 injury to the patient or others, and the use of restraint or seclusion in a

1 crisis intervention center shall not exceed three hours without medical  
2 reevaluation, except that such medical reevaluation shall not be required,  
3 unless necessary, between the hours of 12:00 midnight and 8:00 a.m.  
4 When restraints or seclusion are applied, there shall be monitoring of the  
5 patient's condition at a frequency determined by the treating physician or  
6 psychologist, which shall be no less than once per each 15 minutes. The  
7 head of the crisis intervention center or a physician or psychologist shall  
8 sign a statement explaining the treatment necessity for the use of any  
9 restraint or seclusion and shall make such statement a part of the  
10 permanent treatment record of the patient.

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

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

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

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

21 (c) As used in this section:

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

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

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

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

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

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

43 (4) to receive visitors in reasonable numbers and at reasonable times

1 each day;

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

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

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

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

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

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

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

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

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



1 any restriction of a patient's rights shall be communicated to the patient in  
2 a timely manner.

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

7 New Sec. 13. Any district court records and any treatment records or  
8 medical records of any person who has been admitted to a crisis  
9 intervention center pursuant to this act that are in the possession of any  
10 district court or crisis intervention center treatment facility shall be  
11 privileged and shall be not disclosed except as provided under K.S.A. 59-  
12 2979, and amendments thereto.

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

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

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

31 (b) for the construction, maintenance or operation, or any  
32 combination thereof, of facilities, hospitals, centers and providers of  
33 services that will promote safe and adequate accommodation, care and  
34 treatment of such individuals.

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

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

40 (b) "Community mental health center" means a center organized  
41 pursuant to article 40 of chapter 19 of the Kansas Statutes Annotated, and  
42 amendments thereto, or a mental health clinic organized pursuant to article  
43 2 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

39 ~~(m)~~ (n) "Residential care facility" means any place or facility, or a  
40 contiguous portion of a place or facility, providing services for two or  
41 more individuals not related within the third degree of relationship to the  
42 administrator, provider or owner by blood or marriage and who, by choice  
43 or due to functional impairments, may need personal care and supervised

1 nursing care to compensate for activities of daily living limitations, and  
2 which place or facility includes individual living units and provides or  
3 coordinates personal care or supervised nursing care available on a 24-  
4 hour, seven-days-a-week basis for the support of an individual's  
5 independence, including crisis residential care facilities.

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (b) Notwithstanding the existence or pursuit of any other remedy, the  
24 secretary for aging and disability services, as the licensing agency, in the  
25 manner provided by the Kansas judicial review act, may maintain an  
26 action in the name of the state of Kansas for an injunction against any  
27 person or facility to restrain or prevent the operation of a residential care  
28 facility, crisis residential care facility, private or public psychiatric  
29 hospital, psychiatric residential treatment facility, provider of services,  
30 community mental health center, *crisis intervention center* or any other  
31 facility providing services to individuals without a license.

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

38 Sec. 18. K.S.A. 59-2953 is hereby amended to read as follows: 59-  
39 2953. (a) Any law enforcement officer who has a reasonable belief formed  
40 upon investigation that a person is a mentally ill person and because of  
41 such person's mental illness is likely to cause harm to self or others if  
42 allowed to remain at liberty may take the person into custody without a  
43 warrant. *If the officer is in a crisis intervention center service area, as*

1 *defined in section 2, and amendments thereto, the officer may transport*  
2 *the person to such crisis intervention center. If the officer is not in a crisis*  
3 *intervention service area, as defined in section 2, and amendments thereto,*  
4 *or does not choose to transport the person to such crisis intervention*  
5 *center; then the officer shall transport the person to a treatment facility*  
6 *where the person shall be examined by a physician or psychologist on duty*  
7 *at the treatment facility, except that no person shall be transported to a*  
8 *state psychiatric hospital for examination, unless a written statement from*  
9 *a qualified mental health professional authorizing such an evaluation at a*  
10 *state psychiatric hospital has been obtained. If no physician or*  
11 *psychologist is on duty at the time the person is transported to the*  
12 *treatment facility, the person shall be examined within a reasonable time*  
13 *not to exceed 17 hours. If a written statement is made by the physician or*  
14 *psychologist at the treatment facility that after preliminary examination the*  
15 *physician or psychologist believes the person likely to be a mentally ill*  
16 *person subject to involuntary commitment for care and treatment and*  
17 *because of the person's mental illness is likely to cause harm to self or*  
18 *others if allowed to remain at liberty, and if the treatment facility is willing*  
19 *to admit the person, the law enforcement officer shall present to the*  
20 *treatment facility the application provided for in ~~subsection (b) of K.S.A.~~*  
21 *59-2954(b), and amendments thereto. If the physician or psychologist on*  
22 *duty at the treatment facility does not believe the person likely to be a*  
23 *mentally ill person subject to involuntary commitment for care and*  
24 *treatment the law enforcement officer shall return the person to the place*  
25 *where the person was taken into custody and release the person at that*  
26 *place or at another place in the same community as requested by the*  
27 *person or if the law enforcement officer believes that it is not in the best*  
28 *interests of the person or the person's family or the general public for the*  
29 *person to be returned to the place the person was taken into custody, then*  
30 *the person shall be released at another place the law enforcement officer*  
31 *believes to be appropriate under the circumstances. The person may*  
32 *request to be released immediately after the examination, in which case the*  
33 *law enforcement officer shall immediately release the person, unless the*  
34 *law enforcement officer believes it is in the best interests of the person or*  
35 *the person's family or the general public that the person be taken elsewhere*  
36 *for release.*

37 (b) If the physician or psychologist on duty at the treatment facility  
38 states that, in the physician's or psychologist's opinion, the person is likely  
39 to be a mentally ill person subject to involuntary commitment for care and  
40 treatment but the treatment facility is unwilling to admit the person, the  
41 treatment facility shall nevertheless provide a suitable place at which the  
42 person may be detained by the law enforcement officer. If a law  
43 enforcement officer detains a person pursuant to this subsection, the law

1 enforcement officer shall file the petition provided for in ~~subsection (a)~~ of  
2 K.S.A. 59-2957(a), and amendments thereto, by the close of business of  
3 the first day that the district court is open for the transaction of business or  
4 shall release the person. No person shall be detained by a law enforcement  
5 officer pursuant to this subsection in a nonmedical facility used for the  
6 detention of persons charged with or convicted of a crime.

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

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

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

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

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

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

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

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

40 (8) to communicate by letter with the secretary for aging and  
41 disability services, the head of the treatment facility and any court,  
42 attorney, physician, psychologist, *qualified mental health professional* or  
43 minister of religion, including a Christian Science practitioner. All such

1 communications shall be forwarded at once to the addressee without  
2 examination and communications from such persons shall be delivered to  
3 the patient without examination;

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

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

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

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

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

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

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

37 Sec. 20. K.S.A. 59-2980 is hereby amended to read as follows: 59-  
38 2980. Any person *or law enforcement agency, governing body, community*  
39 *mental health center or personnel* acting in good faith and without  
40 negligence shall be free from all liability, civil or criminal, ~~which that~~  
41 might arise out of acting *or declining to act* pursuant to this act. Any  
42 person who for a corrupt consideration or advantage, or through malice,  
43 shall make or join in making or advise the making of any false petition,

1 report or order provided for in this act shall be guilty of a class A  
2 misdemeanor.

3 Sec. 21. K.S.A. 59-29b53 is hereby amended to read as follows: 59-  
4 29b53. (a) Any law enforcement officer who has a reasonable belief  
5 formed upon investigation that a person may be a person with an alcohol  
6 or substance abuse problem subject to involuntary commitment and is  
7 likely to cause harm to self or others if allowed to remain at liberty may  
8 take the person into custody without a warrant. *If the officer is in a crisis  
9 intervention center service area, as defined in section 2, and amendments  
10 thereto, the officer may transport the person to such crisis intervention  
11 center. If the officer is not in a crisis intervention center service area, as  
12 defined in section 2, and amendments thereto, or does not choose to  
13 transport the person to such crisis intervention center; then the officer  
14 shall transport the person to a treatment facility or other facility for care or  
15 treatment where the person shall be examined by a physician or  
16 psychologist on duty at the facility. If no physician or psychologist is on  
17 duty at the time the person is transported to the facility, the person shall be  
18 examined within a reasonable time not to exceed 17 hours. If a written  
19 statement is made by the physician or psychologist at the facility that after  
20 preliminary examination the physician or psychologist believes the person  
21 likely to be a person with an alcohol or substance abuse problem subject to  
22 involuntary commitment for care and treatment and is likely to cause harm  
23 to self or others if allowed to remain at liberty, and if the facility is a  
24 treatment facility and is willing to admit the person, the law enforcement  
25 officer shall present to that treatment facility the application provided for  
26 in ~~subsection (b) of~~ K.S.A. 59-29b54(b), and amendments thereto. If the  
27 physician or psychologist on duty at the facility does not believe the  
28 person likely to be a person with an alcohol or substance abuse problem  
29 subject to involuntary commitment for care and treatment, the law  
30 enforcement officer shall return the person to the place where the person  
31 was taken into custody and release the person at that place or at another  
32 place in the same community as requested by the person or if the law  
33 enforcement officer believes that it is not in the best interests of the person  
34 or the person's family or the general public for the person to be returned to  
35 the place the person was taken into custody, then the person shall be  
36 released at another place the law enforcement officer believes to be  
37 appropriate under the circumstances. The person may request to be  
38 released immediately after the examination, in which case the law  
39 enforcement officer shall immediately release the person, unless the law  
40 enforcement officer believes it is in the best interests of the person or the  
41 person's family or the general public that the person be taken elsewhere for  
42 release.*

43 (b) If the physician or psychologist on duty at the facility states that,



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

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

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

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

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

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

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

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

1 guardianship following a hearing held for that purpose;

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

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

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

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

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

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

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

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

42 Sec. 23. K.S.A. 59-29b80 is hereby amended to read as follows: 59-  
43 29b80. Any person *or law enforcement agency, governing body,*

1 *community mental health center or personnel* acting in good faith and  
2 without negligence shall be free from all liability, civil or criminal, ~~which~~  
3 *that* might arise out of acting *or declining to act* pursuant to this act. Any  
4 person who for a corrupt consideration or advantage, or through malice,  
5 shall make or join in making or advise the making of any false petition,  
6 report or order provided for in this act shall be guilty of a class A  
7 misdemeanor.

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

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