

Kansas Sexually Violent Predator Act Amendments; SB 266

SB 266 amends various provisions within the Kansas Sexually Violent Predator Act (Act).

Definitions

The bill amends the definition of “sexually violent predator” to specify such person “has serious difficulty in controlling such person’s dangerous behavior.”

The bill defines “conditional release” to mean approved placement in the community for a minimum of five years while under the supervision of the person’s court of original commitment and monitored by the Secretary for Aging and Disability Services (Secretary).

The bill defines “conditional release monitor” to mean an individual appointed by the court to monitor the person’s compliance with the treatment plan while placed on conditional release and who reports to the court. The bill specifies the monitor shall not be a court services officer.

The bill defines “progress review panel” to mean individuals appointed by the Secretary to evaluate a person’s progress in the sexually violent predator treatment program.

Secure Confinement

The bill amends a provision requiring committed persons be kept in a secure facility to clarify the language of the provision and to specify it shall not apply to any reintegration, transitional release, or conditional release facility or building.

Annual Review and Petition for Final Discharge

The bill amends provisions related to the annual examination of and report regarding each committed person to require the court to forward the file-stamped copy of the annual report, notice, and waiver form to the Attorney General, and to require the Attorney General to forward a file-stamped copy of the annual written notice and report to the Secretary upon receipt.

A provision regarding petition for final discharge is amended to add a reference to a continuing, separate statutory provision requiring a minimum of five years pass in which the person petitioning has been free of violations of conditions of the person’s treatment plan.

Conditional Release

The bill removes a prohibition on placement of more than 16 sexually violent predators on conditional release in any one county.

A provision requiring the plan of treatment established by the court for conditional release be based upon the recommendation of the treatment staff is amended also to include the recommendation of the progress review panel.

The non-exclusive list of provisions that may be included in the plan of treatment is amended to add “any other type of treatment,” travel restrictions, searches, home visits, substance abuse testing, and registration requirements. The list is also amended to replace provisions prohibiting frequenting locations where children are likely to be present or engaging in activities in which contact with children is likely with a provision prohibiting “direct contact with individuals that match the person’s victim template.”

Provisions regarding procedures upon violation of a material condition of the conditional release treatment plan or for final discharge are reorganized. [Note: The amendments to these provisions remove four entire subsections and add five new subsections. However, much of the substantive language remains the same and is only reorganized. Substantive changes to these provisions are discussed beginning in the next paragraph of this summary.]

Provisions related to monitoring by a professional person are changed to monitoring by a conditional release monitor. Provisions regarding a request by such monitor to the court for an emergency *ex parte* order directing law enforcement to take a person who has violated a material condition of the treatment plan into custody are amended to replace provisions allowing for a verbal request followed by a written form with a requirement that such request be by sworn affidavit setting forth with specificity the grounds for the entry of such emergency *ex parte* order, provided to the court by personal delivery, telefacsimile communication, or electronic means prior to the entry of such order, with notice given to the person’s counsel or to the person, if unrepresented.

The provision for examination to determine whether the person should be considered for final discharge is amended to adjust the applicable standard from the person’s mental abnormality or personality having “changed” to having “significantly changed.”

In addition, references to “transitional release program” are changed to “transitional release.”

The bill adds a provision requiring a current examination of the person’s mental condition be made and submitted to the court and the Secretary once each year.

Individual Person Management Plans and Appeals

The bill amends the statute governing rights and rules of conduct for various persons in the custody of the Secretary, including sexually violent predators, to clarify that the continuing provision allowing use of an individual person management plan as needed for safety and security purposes in various situations may be used for behavioral management in such situations and that the list of situations is non-exclusive. The wording of the list of situations is amended to provide grammatical consistency and to add “disruption of the therapeutic environment on the unit” to the list of situations.

The provision in this statute governing appeals from a final agency determination is amended to require all documentation submitted through Larned State Hospital and all agency

responses accompany a request for hearing. The bill requires a request for hearing be dismissed if the appellant fails to demonstrate exhaustion.