

[As Amended by House Committee of the Whole]

As Amended by House Committee

Session of 2004

## HOUSE BILL No. 2595

By Representative Reitz

1-26

12 AN ACT concerning ~~the civil commitment of sexually violent predators~~  
13 **[criminal offenders; relating to global positioning systems on**  
14 **motor vehicles]**; relating to the costs thereof **[of civil commitment**  
15 **of sexually violent predators]**; amending **[K.S.A. 8-255 and]** K.S.A.  
16 2003 Supp. 59-29a04 and repealing the existing ~~section~~ **[sections]**.  
17

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

19 Section 1. K.S.A. 2003 Supp. 59-29a04 is hereby amended to read  
20 as follows: 59-29a04. (a) When it appears that the person presently con-  
21 fined may be a sexually violent predator and the prosecutor's review com-  
22 mittee appointed as provided in subsection (e) of K.S.A. 59-29a03 and  
23 amendments thereto has determined that the person meets the definition  
24 of a sexually violent predator, the attorney general, within 75 days of the  
25 date the attorney general received the written notice by the agency of  
26 jurisdiction as provided in subsection (a) of K.S.A. 59-29a03 and amend-  
27 ments thereto, may file a petition in the county where the person was  
28 convicted of or charged with a sexually violent offense alleging that the  
29 person is a sexually violent predator and stating sufficient facts to support  
30 such allegation.

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

35 (c) ~~All~~ **Subject to appropriations therefor, all costs incurred, in-**  
36 **cluding but not limited to the costs of the investigation, litigation, defense**  
37 **attorney fees, jury fees, fees and mileage for the attendance of witnesses,**  
38 **qualified experts and professional persons, appeals, annual examinations,**  
39 **and any other services, to determine whether a person is a sexually violent**  
40 **predator shall be the responsibility of and paid by the state from any**  
41 **funds which are available for such purposes.**

42 **[New Sec. 2. (a) Any person required to register as an offender**  
43 **under K.S.A. 22-4901 et seq., and amendments thereto, shall also**

1 be required to be monitored by a global positioning systems unit  
2 to the fullest extent possible that such unit and supporting tech-  
3 nology continuously tracks and provides data on the person's  
4 movement and conduct. Such unit shall be provided at the expense  
5 of the person.

6 [(b) Prior to a person being monitored by a global positioning  
7 systems unit, such person shall provide written notification to the  
8 sheriff and district or county attorney of the county in which the  
9 person is being monitored and to the chief law enforcement officer  
10 of any incorporated city or town in which the person is being mon-  
11 itored of the placement of the person being monitored within the  
12 county or incorporated city or town.

13 [(c) Any person subject to the requirements under subsection  
14 (a) shall do so for the same period of time that the person is re-  
15 quired to be registered under K.S.A. 22-4906, and amendments  
16 thereto.

17 [(d) Any person who violates any of the provisions of this sec-  
18 tion, upon conviction, shall have such person's driving privileges  
19 suspended for a period of 10 years.

20 [(e) This section shall be part of and supplemental to the Kan-  
21 sas offender registration act.

22 [Sec. 3. K.S.A. 8-255 is hereby amended to read as follows: 8-  
23 255. (a) The division is authorized to restrict, suspend or revoke a  
24 person's driving privileges upon a showing by its records or other  
25 sufficient evidence the person:

26 [(1) Has been convicted with such frequency of serious of-  
27 fenses against traffic regulations governing the movement of ve-  
28 hicles as to indicate a disrespect for traffic laws and a disregard  
29 for the safety of other persons on the highways;

30 [(2) has been convicted of three or more moving traffic viola-  
31 tions committed on separate occasions within a 12-month period;

32 [(3) is incompetent to drive a motor vehicle;

33 [(4) has been convicted of a moving traffic violation, committed  
34 at a time when the person's driving privileges were restricted, sus-  
35 pended or revoked; or

36 [(5) is a member of the armed forces of the United States sta-  
37 tioned at a military installation located in the state of Kansas, and  
38 the authorities of the military establishment certify that such per-  
39 son's on-base driving privileges have been suspended, by action of  
40 the proper military authorities, for violating the rules and regu-  
41 lations of the military installation governing the movement of ve-  
42 hicular traffic or for any other reason relating to the person's in-  
43 ability to exercise ordinary and reasonable control in the operation

1 of a motor vehicle.

2 [(b) The division shall suspend a person's driving privileges  
3 when required by K.S.A. 8-262, 8-1014 or 41-727, and amendments  
4 thereto, and K.S.A. ~~2000~~ 2003 Supp. 21-3765, and amendments  
5 thereto, *section 2, and amendments thereto*, and shall disqualify a per-  
6 son's privilege to drive commercial motor vehicles when required  
7 by K.S.A. 8-2,142, and amendments thereto.

8 [(c) When the action by the division restricting, suspending,  
9 revoking or disqualifying a person's driving privileges is based  
10 upon a report of a conviction or convictions from a convicting  
11 court, the person may not request a hearing but, within 30 days  
12 after notice of restriction, suspension, revocation or disqualifica-  
13 tion is mailed, may submit a written request for administrative  
14 review and provide evidence to the division to show the person  
15 whose driving privileges have been restricted, suspended, revoked  
16 or disqualified by the division was not convicted of the offense  
17 upon which the restriction, suspension, revocation or disqualifi-  
18 cation is based. Within 30 days of its receipt of the request for  
19 administrative review, the division shall notify the person whether  
20 the restriction, suspension, revocation or disqualification has been  
21 affirmed or set aside. The request for administrative review shall  
22 not stay any action taken by the division.

23 [(d) Upon restricting, suspending, revoking or disqualifying  
24 the driving privileges of any person as authorized by this act, the  
25 division shall immediately notify the person in writing. Except as  
26 provided by K.S.A. 8-1002 and 8-2,145, and amendments thereto,  
27 and subsection (c) of this section, if the person makes a written  
28 request for hearing within 30 days after such notice of restriction,  
29 suspension or revocation is mailed, the division shall afford the  
30 person an opportunity for a hearing as early as practical not sooner  
31 than five days nor more than 30 days after such request is mailed.  
32 If the division has not revoked or suspended the person's driving  
33 privileges or vehicle registration prior to the hearing, the hearing  
34 may be held within not to exceed 45 days. Except as provided by  
35 K.S.A. 8-1002 and 8-2,145, and amendments thereto, the hearing  
36 shall be held in the person's county of residence or a county ad-  
37 jacent thereto, unless the division and the person agree that the  
38 hearing may be held in some other county. Upon the hearing, the  
39 director or the director's duly authorized agent may administer  
40 oaths and may issue subpoenas for the attendance of witnesses and  
41 the production of relevant books and papers and may require an  
42 examination or reexamination of the person. When the action pro-  
43 posed or taken by the division is authorized but not required, the

1 **division, upon the hearing, shall either rescind or affirm its order**  
2 **of restriction, suspension or revocation or, good cause appearing**  
3 **therefor, extend the restriction or suspension of the person's driv-**  
4 **ing privileges, modify the terms of the restriction or suspension or**  
5 **revoke the person's driving privileges. When the action proposed**  
6 **or taken by the division is required, the division, upon the hearing,**  
7 **shall either affirm its order of restriction, suspension, revocation**  
8 **or disqualification, or, good cause appearing therefor, dismiss the**  
9 **administrative action. If the person fails to request a hearing**  
10 **within the time prescribed or if, after a hearing, the order of re-**  
11 **striction, suspension, revocation or disqualification is upheld, the**  
12 **person shall surrender to the division, upon proper demand, any**  
13 **driver's license in the person's possession.**

14 **[(e) In case of failure on the part of any person to comply with**  
15 **any subpoena issued in behalf of the division or the refusal of any**  
16 **witness to testify to any matters regarding which the witness may**  
17 **be lawfully interrogated, the district court of any county, on ap-**  
18 **plication of the division, may compel obedience by proceedings**  
19 **for contempt, as in the case of disobedience of the requirements**  
20 **of a subpoena issued from the court or a refusal to testify in the**  
21 **court. Each witness who appears before the director or the direc-**  
22 **tor's duly authorized agent by order or subpoena, other than an**  
23 **officer or employee of the state or of a political subdivision of the**  
24 **state, shall receive for the witness' attendance the fees and mileage**  
25 **provided for witnesses in civil cases in courts of record, which shall**  
26 **be audited and paid upon the presentation of proper vouchers**  
27 **sworn to by the witness.**

28 **[(f) The division, in the interest of traffic and safety, may es-**  
29 **tablish driver improvement clinics throughout the state and, upon**  
30 **reviewing the driving record of a person whose driving privileges**  
31 **are subject to suspension under subsection (a)(2), may permit the**  
32 **person to retain such person's driving privileges by attending a**  
33 **driver improvement clinic. A person who is required to attend a**  
34 **driver improvement clinic shall pay a fee of \$15. Amounts received**  
35 **under this subsection shall be remitted to the state treasurer in**  
36 **accordance with the provisions of K.S.A. 75-4215, and amend-**  
37 **ments thereto. Upon receipt of each such remittance, the state**  
38 **treasurer shall deposit the same in the state treasury to the credit**  
39 **of the division of vehicles operating fund.]**

40 **Sec. ~~2~~ [4.] K.S.A. [8-255 and K.S.A.] 2003 Supp. 59-29a04 is [are]**  
41 **hereby repealed.**

42 **Sec. ~~3~~ [5.] This act shall take effect and be in force from and after**  
43 **its publication in the statute book.**