

An act concerning emergency observation and treatment of persons with mental illness, substance use disorders, and/or co-occurring conditions in communities with 24 hour state designated crisis receiving centers, hereinafter referred to as "designated receiving centers"; relating to applications for emergency observation and treatment (EOT) in communities with designated receiving centers; amending Chapter 59 to include direction for law enforcement, qualified addiction counselors, qualified mental health professionals, licensed mental health professionals, or other reliable persons in communities with designated receiving centers; and amending K.S.A. 59-2946 to include a new definition of state designated crisis receiving centers;

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

New Sec 1 of K.S.A. 59-2946. Definitions:

(1) **Definition of State Designated Crisis Receiving Center:** A "state designated crisis receiving center means any facility that is open 24 hours a day 365 days a year equipped to serve voluntary and involuntary individuals in crisis due to mental illness, substance abuse or a co-occurring condition. If an individual is brought to the designated crisis receiving center on an emergency application for observation and treatment, the designated receiving center shall observe and treat the person for a period not to exceed 72 hours.

(2) **Definition of Behavioral Health Professional:** To include a physician, psychologist, qualified mental health professional, licensed mental health professional or licensed addiction counselor.

New Sec 2. Public Policy Concerning Persons' with Mental Illness, Substance Use Disorders, and/or those Individuals with Co-occurring Conditions: It is the public policy of the State of Kansas to limit the trauma sustained by individuals with mental illness, substance use disorders and those with co-occurring conditions that occurs when the person is involuntarily committed through the state court and hospital procedure.

New Sec 3. Application for Emergency Observation and Treatment: A designated receiving center (as newly defined in new sec 1) may admit and detain any person presented for emergency observation and treatment upon written application of a law enforcement officer, behavioral health professional, or other reliable person having contact with that person as outlined below, except that a state psychiatric hospital shall not admit and detain any such person unless a written statement from a qualified mental health professional authorizing such admission to a state psychiatric hospital has been obtained. The emergency observation and treatment application shall state:

- (1) The name and address of the person to be admitted, if known;
- (2) The law enforcement officer, behavioral health professional, or other reliable person has reason to believe and does believe that:
 - (a) the person is mentally ill, has a substance use disorder or is a person with a co-occurring condition; and
 - (b) because of that mental illness, substance use disorder, or co-occurring condition there is a risk of harm to the person or to others unless the person is immediately transported for emergency observation and treatment; and includes

(c) a specific description of the risk of harm;

(d) a statement that the law enforcement officer, behavioral health professional or other reliable person has reason to believe and does believe that the risk of harm is imminent unless the person is immediately transported for emergency observation and treatment;

(e) a statement that the law enforcement officer, behavioral health professional or other reliable person's beliefs are derived from specific recent behavior, attempts or threats that were observed by or reliably reported to the person's listed above.

(f) An individual's psychiatric history should be considered as reported by or known to the law enforcement officer, behavioral health professional or other reliable person's;

(g) a detailed description of the specific behavior(s), acts, attempts or threats;

(h) the name and relationship to the person in need of emergency observation and treatment of any person who reported or observed the behavior(s), acts, attempts, or threats.

New Sec 4. Demonstrates a risk of harm to the person with Mental Illness, Substance Use Disorder, and/or Co-occurring Condition: A risk of harm to the person or others may be demonstrated by:

(a) the person's behavior observed by the law enforcement officer, behavioral health professional or other reliable person;

(b) evidence of severe emotional distress and deterioration in the person's condition to the extent that the person cannot remain at liberty;

New Sec 5. Facts and circumstances upon which the law enforcement officer, behavioral health professional or other reliable person may form the belief that the person meets the criteria for Emergency Observation and Treatment:

The law enforcement officer, behavioral health professional or other reliable person may form the belief that the person meets the criteria for emergency observation and treatment from:

(a) on the basis of the conduct of the identified person or the circumstances under which the identified person is found;

(b) the representation of a credible person.

New Sec 6. Transportation of person in need of emergency observation and treatment: A law enforcement officer who takes a person into custody pursuant to this section may immediately transport the person to the designated receiving center in their region. If no designated receiving center exists in their community, then the law enforcement officer must follow the procedure set out in K.S.A. 59-2953 *et seq.* A jail or similar detention facility is not deemed suitable pursuant to this statute.

New Sec 7. Discharge from a designated receiving center: The head of the designated receiving center, or other behavioral health professional associated with the receiving center shall discharge any person admitted pursuant to this section as soon as the individual is deemed appropriate to return to the community safely, but not later than 72 hours after admission. If such head of the designated receiving center determines that the person may be a mentally ill person subject to court ordered involuntary commitment proceedings and because of their mental illness is likely to cause harm to self or others if not detained longer than the 72 hours permitted under the EOT, nothing in this section shall prevent a

behavioral health professional associated with the designated receiving center from filing a formal involuntary commitment petition provided for in K.S.A. 59-2957 and amendments thereto.

New Sec 8. Application for Emergency Observation and Treatment Form to be used by Law Enforcement; The form set out below. The form used by law enforcement shall be this form or a locally developed form in substantial compliance with the form set out below. The original shall be kept in the regular course of business with the law enforcement agency and a copy provided to the designated receiving center.

New Sec 9. Application for Emergency Observation and Treatment Form to be used by Behavioral Health Professionals or other reliable persons; The form set out below, and the form used by behavioral health professionals or other reliable persons shall be this form or a locally developed form in substantial compliance with the form set out below. The form shall be notarized. The original shall be kept in the regular course of business with the designated crisis receiving center and a copy provided to the individual completing the form.

New Sec 10. Voluntary Admission: Nothing in this act shall be construed as to prohibit a person under an application for emergency observation and treatment from making an application for admission as a voluntary patient to a treatment facility at any time prior to or during the 72 hours permitted under this statute.

New Sec 11. Computation of Time. Computation of time under this section shall be in compliance with K.S.A 59-2947 concerning computation of time in involuntary commitment court proceedings.

New Sec 12. No District Court Involvement is Necessary for a law enforcement officer, behavioral health professional, or other reliable person to act; If the criteria has been met as set out in Sections 3, 4 and 5 then the law enforcement officer, behavioral health professional or other reliable person is not required to seek an ex parte order through the District Court. If the head of the designated receiving center, a physician, psychologist, qualified mental health professional, licensed mental health professional or licensed addiction counselor determines a petition pursuant to K.S.A. 59-2957 is required, it is the responsibility of the designated receiving center to file the petition and find appropriate placement for the individual-including but not limited to community hospitals equipped to take involuntary commitments and/or the designated state hospital.

New Sec 13. Civil and Criminal liability. Any person acting in good faith and without negligence shall be free from all liability, civil or criminal which might arise out of acting pursuant to this act. Any person who for a corrupt consideration or advantage, or through malice, shall make or join in making or advise the making of any false affidavit, report or order provided for in this act shall be guilty of a class A misdemeanor.

APPLICATION FOR EMERGENCY OBSERVATION AND TREATMENT FOR LAW ENFORCEMENT

The applicant _____

(Name of law enforcement officer)

Makes this application for the emergency observation and treatment of:

(NAME OF PERSON TO BE OBSERVED AND EVALUATED)

who was apprehended on the _____ day of _____ (MONTH), _____ (YEAR)

at _____ (TIME) ☐ A.M. ☐ P.M. at _____

(SITE OF APPREHENSION OR FACILITY)

Emergency observation and treatment is sought for the following reason(s);

1) I have reason to believe and do believe that the person evidences mental illness, substance use disorder, and/or a co-occurring condition; and

2) I have reason to believe and do believe that the person evidences a risk of serious harm to self or others which is described below:

3) I have reason to believe and do believe that the risk of harm is imminent unless the person is immediately observed and evaluated for treatment; and

4) My above-stated beliefs are based on the following specific recent behavior, over acts, attempts, and/or threats:

which were (check one or both) ☐ observed by me and/or ☐ reliably reported to me by _____

(NAME OF PERSON REPORTING BEHAVIOR)

who (check one) ☐ is not ☐ is related to the proposed patient as follows:

Known history of violence: Yes No Unknown _____

Known history of use of weapons: Yes No Unknown _____

Other LEO contacts pertaining to this application for EOT (dates and reasons for calls for service CFS):

Executed on the _____ day of _____, (MONTH) _____ (YEAR) at _____ (TIME) [CHECK ONE] ☐ A.M. ☐ P.M.

(SIGNATURE, DEPT AND BADGE NUMBER OF LAW ENFORCEMENT OFFICER)