

SENATE BILL No. 230

By Committee on Ways and Means

1-30

9 AN ACT concerning alcohol or substance abuse; relating to the care and
10 treatment act; definitions; amending K.S.A. 59-29b46 and repealing
11 the existing section.
12

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

14 Section 1. K.S.A. 59-29b46 is hereby amended to read as follows: 59-
15 29b46. When used in the care and treatment act for persons with an
16 alcohol or substance abuse problem:

17 (a) "Discharge" means the final and complete release from treat-
18 ment, by either the head of a treatment facility acting pursuant to K.S.A.
19 59-29b50 and amendments thereto or by an order of a court issued pur-
20 suant to K.S.A. 59-29b73 and amendments thereto.

21 (b) "Head of a treatment facility" means the administrative director
22 of a treatment facility or such person's designee.

23 (c) "Law enforcement officer" shall have the meaning ascribed to it
24 in K.S.A. 22-2202 and amendments thereto.

25 (d) "Other facility for care or treatment" means any mental health
26 clinic, medical care facility, nursing home, the detox units at either Osa-
27 watomie state hospital or Larned state hospital, any physician or any other
28 institution or individual authorized or licensed by law to give care or
29 treatment to any person.

30 (e) "Patient" means a person who is a voluntary patient, a proposed
31 patient or an involuntary patient.

32 (1) "Voluntary patient" means a person who is receiving treatment at
33 a treatment facility pursuant to K.S.A. 59-29b49 and amendments
34 thereto.

35 (2) "Proposed patient" means a person for whom a petition pursuant
36 to K.S.A. 59-29b52 or 59-29b57 and amendments thereto has been filed.

37 (3) "Involuntary patient" means a person who is receiving treatment
38 under order of a court or a person admitted and detained by a treatment
39 facility pursuant to an application filed pursuant to subsection (b) or (c)
40 of K.S.A. 59-29b54 and amendments thereto.

41 (f) "Person with an alcohol or substance abuse problem" means a
42 person who: (1) Lacks self-control as to the use of alcoholic beverages or
43 any substance as defined in subsection (k); or

- 1 (2) uses alcoholic beverages or any substance as defined in subsection
2 (k) to the extent that the person's health may be substantially impaired
3 or endangered without treatment.
- 4 (g) (1) "Person with an alcohol or substance abuse problem subject
5 to involuntary commitment for care and treatment" means a person with
6 an alcohol or substance abuse problem, as defined in subsection (f), who
7 also is incapacitated by alcohol or any substance and is likely to cause
8 harm to self or others.
- 9 (2) "Incapacitated by alcohol or any substance" means that the per-
10 son, as the result of the use of alcohol or any substance as defined in
11 subsection (k), has impaired judgment resulting in the person: (A) Being
12 incapable of realizing and making a rational decision with respect to the
13 need for treatment; or
- 14 (B) lacking sufficient understanding or capability to make or com-
15 municate responsible decisions concerning either the person's well-being
16 or estate.
- 17 (3) "Likely to cause harm to self or others" means that the person,
18 by reason of the person's use of alcohol or any substance: (A) Is likely, in
19 the reasonably foreseeable future, to cause substantial physical injury or
20 physical abuse to self or others or substantial damage to another's prop-
21 erty, as evidenced by behavior threatening, attempting or causing such
22 injury, abuse or damage; except that if the harm threatened, attempted
23 or caused is only harm to the property of another, the harm must be of
24 such a value and extent that the state's interest in protecting the property
25 from such harm outweighs the person's interest in personal liberty; or
- 26 (B) is substantially unable, except for reason of indigency, to provide
27 for any of the person's basic needs, such as food, clothing, shelter, health
28 or safety, causing a substantial deterioration of the person's ability to
29 function on the person's own.
- 30 (h) "Physician" means a person licensed to practice medicine and
31 surgery as provided for in the Kansas healing arts act or a person who is
32 employed by a state psychiatric hospital or by an agency of the United
33 States and who is authorized by law to practice medicine and surgery
34 within that hospital or agency.
- 35 (i) "Psychologist" means a licensed psychologist, as defined by K.S.A.
36 74-5302 and amendments thereto.
- 37 (j) "State certified alcohol and drug abuse counselor" means a person
38 approved by the secretary of social and rehabilitation services to perform
39 assessments using the American Society of Addiction Medicine criteria
40 and employed at a state funded and designated assessment center.
- 41 (k) "Substance" means: (1) The same as the term "controlled sub-
42 stance" as defined in K.S.A. 65-4101 and amendments thereto; or
- 43 (2) fluorocarbons, toluene or volatile hydrocarbon solvents.

1 (l) “Treatment” means the broad range of emergency, outpatient,
2 intermediate and inpatient services and care, including diagnostic evalu-
3 ation, medical, psychiatric, psychological and social service care, voca-
4 tional rehabilitation and career counseling, which may be extended to
5 persons with an alcohol or substance abuse problem.

6 (m) (1) “Treatment facility” means a *treatment program*, public or
7 private treatment facility, or any facility of the United States government
8 available to treat a person for an alcohol or other substance abuse prob-
9 lem, but such term shall not include a licensed medical care facility, a
10 licensed adult care home, a facility licensed under K.S.A. 75-3307b and
11 amendments thereto, a community-based alcohol and drug safety action
12 program certified under K.S.A. 8-1008 and amendments thereto, and
13 performing only those functions for which the program is certified to
14 perform under K.S.A. 8-1008 and amendments thereto, or a ~~psychologist~~
15 *professional licensed by the behavioral sciences regulatory board to di-*
16 *agnose and treat mental disorders at the independent level* or a physician,
17 who may treat in the usual course of the ~~psychologist’s behavioral sciences~~
18 *regulatory board licensee’s* or physician’s professional practice individuals
19 incapacitated by alcohol or other substances, but who are not ~~exclusively~~
20 *primarily* engaged in the usual course of the individual’s professional
21 practice in treating such individuals, or any state institution, even if de-
22 toxification services may have been obtained at such institution.

23 (2) “Private treatment facility” means a private agency providing fa-
24 cilities for the care and treatment or lodging of persons with either an
25 alcohol or other substance abuse problem and meeting the standards
26 prescribed in either K.S.A. 65-4013 or 65-4603 and amendments thereto,
27 and licensed under either K.S.A. 65-4014 or 65-4607 and amendments
28 thereto.

29 (3) “Public treatment facility” means a treatment facility owned and
30 operated by any political subdivision of the state of Kansas and licensed
31 under either K.S.A. 65-4014 or 65-4603 and amendments thereto, as an
32 appropriate place for the care and treatment or lodging of persons with
33 an alcohol or other substance abuse problem.

34 (n) The terms defined in K.S.A. 59-3051 and amendments thereto
35 shall have the meanings provided by that section.

36 Sec. 2. K.S.A. 59-29b46 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after its
38 publication in the statute book.