

Approved 4-2-90
Date

MINUTES OF THE House COMMITTEE ON Appropriations

The meeting was called to order by Bill Bunten at
Chairperson

12:15 ~~am~~/p.m. on March 5, 1990 in room 514-S of the Capit

All members were present except: All present.

Committee staff present: Ellen Piekalkiewicz, Debra Duncan, Laura Howard, Scott Rothe
Kansas Legislative Research Department
Jim Wilson, Revisor of Statutes
Sharon Schwartz, Administrative Aide
Sue Krische, Committee Secretary

Conferees appearing before the committee:

Charles Dodson, KAPE

Others attending: See attached list.

HB 2618 - Appropriations for FY91, for State mental health and
mental retardation institutions.

WINFIELD STATE HOSPITAL

Representative Vancrum reviewed the subcommittee report for FY90 and FY91 (Attachment 1). In response to a question, staff advised that last year the agency spent \$1.3 million on nursing contracts and this year \$250,000. Representative Shriver opposes the plan to close a unit at Winfield stating professionals at Winfield he has spoken with say the clients at Winfield could not survive in the community. Representative Shriver urged that before this plan is adopted, the Commissioner at SRS have a public meeting with the Patients' Family Organization at Winfield.

Several members stated they could support a net reduction of 50 clients at Winfield with the understanding that perhaps some of the clients at Winfield might be moved to one of the other institutions if they are unable to function in the community. The Subcommittee believes the Administration has the flexibility to make this kind of adjustment and would concur.

Representative Vancrum moved to amend the FY91 Winfield subcommittee report by adding the language in the first paragraph stating "...to transfer 50 clients from any of the three institutions and make such other inter-institutional transfers to reduce the census of Winfield by 50 clients...", and to amend the last paragraph in item #1 stating "...the cost of serving 50 additional presently institutionalized individuals in the community...". Representative Turnquist seconded. Motion carried.

Representative Chronister moved to further amend the FY91 subcommittee report on Winfield State Hospital to state before this plan is implemented, the Mental Health and Retardation Services division of SRS hold public hearings in all three areas where families are affected by this proposal. Representative Helgerson seconded. In response to a question, Representative Vancrum stated this plan was submitted to the subcommittee at their request by SRS on the basis of having additional funds available in the community and the fact that 58 clients in institutions have been identified for placement in the community. In discussion on Representative Chronister's motion, Representative Shriver feels this budget should not be approved by the Committee until public hearings are held and he opposes the motion. On a voice vote on Representative

CONTINUATION SHEET

MINUTES OF THE Hosue COMMITTEE ON Appropriations,
room 514-S, Statehouse, at 12:15 ~~am~~/p.m. on March 5, 1990.

Chronister's motion, the motion carried.

The meeting was recessed at 2:00 p.m. The Committee will reconvene upon adjournment of the House.

Chairman Bunten reconvened the meeting at 4:25 p.m. Representative Vancrum moved adoption of the subcommittee report on Winfield State Hospital for FY90 and FY91, as amended. Representative Turnquist seconded. Motion carried.

KANSAS NEUROLOGICAL INSTITUTE

Representative Turnquist reviewed the subcommittee report for FY90 and FY91 (Attachment 2). Representative Moomaw asked if new vehicles were requested for FY91 for the special oil overcharge funds. Representative Vancrum stated all three mental retardation institutions requested vehicles this year. Representative Turnquist moved adoption of the subcommittee report for FY90 and FY91. Representative Vancrum seconded. Motion carried.

PARSONS STATE HOSPITAL

Representative Solbach reviewed the subcommittee report for FY90 and FY91 (Attachment 3). Representative Vancrum moved to amend the budgets of all the mental health and mental retardation institutions to limit the authority to spend oil overcharge funds for the purchase of vehicles to just those vehicles specified in their C-level budget request. Representative Heinemann seconded. Motion carried. Representative Solbach moved adoption of the subcommittee report on Parsons for FY90 and FY91, as amended. Representative Vancrum seconded. Motion carried.

Representative Vancrum moved to amend HB 2618 by removing the SRS Department and to recommend a substitute bill consisting of mental health and mental retardation institutions according to the subcommittee reports as adopted. Representative Hoy seconded. Motion carried. Representative Heinemann moved that Substitute for HB 2618 be recommended favorably for passage. Representative Hoy seconded. Motion carried. Representative Wisdom is recorded as voting "no."

HB 2729 - Appropriations for FY90, supplemental appropriations for various state agencies.

Representative Teagarden moved to delete appropriations for the Department of Social and Rehabilitation Services from SB 2729. Representative Heinemann seconded. Motion carried.

Representative Wisdom expressed his concern for the 22 county health departments that lost their matching funds per the ruling of the Department of Health and Environment regarding maintenance of effort. Representative Wisdom proposed an amendment to HB 2729 striking K.S.A. 65-246 to restore the aid to local units for FY90 (Attachment 4). Representative Wisdom moved to amend HB 2729 to restore in Section 5 on the Department of Health and Environment the aid to local units funding for public health departments. Representative Mead seconded. Motion carried.

Representative Widsom made a motion to amend HB 2729 by limiting expenditure for administration in the WIC program to 20 percent of the total amount of the program. Representative Hamm seconded. The effect of this motion would be to automatically move \$250,000 from administration into the WIC voucher program (Attachment 5). Representative Teagarden offered a substitute motion to limit expenditures for administration in the WIC program to 10 percent of the total amount of the program. Representative Brady seconded.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Appropriations

room 514-S, Statehouse, at 12:15 ~~am~~/p.m. on March 5, 1990.

After consideration that this motion applies to fiscal year 1990 which is half over, Representative Teagarden withdrew his substitute motion with the agreement of his second, Representative Brady. On Representative Wisdom's original motion to amend, the motion carried.

Representative Heinemann moved that HB 2729, as amended, be recommended favorably for passage. Representative Wisdom seconded. Motion carried.

Chairman Bunten turned to final action on HB 2586--Mental Health Reform. Representative Helgerson moved to amend HB 2586 by adopting the amendments noted in the balloon (Attachment 6). Representative Heinemann seconded. Motion carried. Representative Helgerson distributed a copy of three additional proposed amendments to HB 2586 (Attachment 7). Representative Helgerson moved adoption of the three amendments. Representative Hoy seconded. Motion carried. Representative Heinemann made a motion that HB 2586 be amended by introduction of a substitute bill and the substitute bill be passed. Representative Helgerson seconded. Motion carried.

HB 2718 - Longevity pay for state executive agency employees in the unclassified service.

Representative Hensley explained that HB 2718 extends longevity pay to include unclassified officers and employees in the executive branch of state government, except for those in the Board of Regents and Regents' institutions.

Charles Dodson, KAPE, appeared in support of HB 2718 and stated this bill would apply to approximately 500-600 employees. He would like to see the longevity pay program continue uninterrupted when a person moves from classified service to unclassified service due to a promotion.

Representative Vancrum noted the bill includes elected state officials and Mr. Dodson stated that was not the intent. The intent was that the bill include only unclassified employees in the executive branch.

The Chairman stated the Committee may vote on HB 2718 tomorrow. The meeting was adjourned at 5:40 p.m.

GUEST LIST

COMMITTEE: HOUSE APPROPRIATIONS

DATE: 3-5-90

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
George D. Vega	Topeka	SRS/MHRS
Robert Day	Topeka	: KNI
M. Bohmoff	Topeka	Div of Budget
Bob Clawson	Topeka	SRS
FL HERBERT	TOPEKA	KNI
Larry Hinton	Topeka	SRS
WAYNE K WIAWECKI	TOPEKA	AFSCME
Tom Day	TOPEKA	KCC
James A Weaver	Topeka	AFSCME
Paul M. Kloib	TOPEKA	ACMICK, INC.
Bob Hardin	Topeka	Mc Gill / Mental Health
Jo Bestgen	Topeka	KARF
Don Miller	"	SRS/ADAs
Randy Swinton	"	SRS/MHRS
Tom Kohmetscher	WELLINGTON	EMERGENCY WELINGTON/KARF
Bill Brotton	Wichita	StarKey Dev. Center
Roz Underdahl	Topeka	SRS/MHRS
Linda Zeleny	Topeka	SRS/MHRS
Rick Smith	Topeka	SRS/MHRS
Lewis Allen	TOPEKA	Ks Health CARE ASSN
Arthur Johnson	TOPEKA	KDHE
Mari Lee	TOPEKA	SRS/MHRS
Al Damer	"	"
Lori Class	Topeka	Mental Health Assn KS
Jerry Larson	Topeka	Ks. Alliance for the Mentally Ill

C-pan Stubble Manhattan

KAPS

SUBCOMMITTEE REPORT

Agency: Winfield State Hospital
and Training Center

Bill No. 2729

Bill Sec. 31

Analyst: Duncan

Analysis Pg. No. 655

Budget Pg. No. 612

<u>Expenditure Summary</u>	<u>Agency Req. FY 90</u>	<u>Governor's Rec. FY 90</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 13,264,171	\$ 12,227,291	\$ --
General Fees Fund	935,173	935,173	--
Medicaid	16,815,400	16,829,065	--
Title I	61,162	61,162	--
Foster Grandparents	180,197	180,197	--
Subtotal	<u>\$ 31,256,103</u>	<u>\$ 30,232,888</u>	<u>\$ --</u>
Capital Improvements:			
State Institutions			
Building Fund	89,521	79,974	--
Total	<u>\$ 31,345,624</u>	<u>\$ 30,312,862</u>	<u>\$ --</u>
Average Daily Census	400	400	--
FTE Positions	1,002.5	1,002.5	--

Agency Request/Governor's Recommendation

Until recently, Winfield has labored to retain Medicaid certification, with deficiencies particularly occurring in the areas of nursing care, protection from harm, and active treatment. Since the first visit of the Health Care Finance Administration (HCFA) in 1984, the Legislature has added a total of 272.5 positions through FY 1990. At the same time, the population of Winfield has declined from 502 clients in 1984 to 400 clients in 1989. Ninety-eight percent of Winfield's client population consists of severely and profoundly retarded individuals. A recent study by the institution indicates that 58 percent of the residents cannot walk without assistance, 68 percent cannot eat without assistance, 82 percent are not toilet trained, and 76 percent have multiple handicaps in addition to mental retardation. The average daily cost has risen from approximately \$82 in FY 1984 to an estimated \$214 in FY 1990.

Winfield's most recent certification problems began two years ago. Winfield was surveyed by HCFA in early 1987 and was found to be out of compliance on February 18, 1987. As a result, certification was lost until August 19, 1988. According to the agency, recertification was accomplished at Winfield by adding additional nursing and active treatment staff. Although addition of these positions allowed Winfield to regain certification, many professional positions remain vacant due to recruiting difficulties. At the time of the decertification, Winfield had a 42 percent compliance rate with federal regulations. By the time recertification was accomplished, the compliance rate was 96 percent. Winfield's most recent survey was in July, 1989. The agency was recertified by the Kansas Department of Health and Environment, with no major deficiencies.

HA
3-5-90
Attachment 1

FY 1990 estimated operating expenditures total \$31,256,103, an amount \$22,481 below the budget approved by the 1989 Legislature. Major expenditures include \$25,444,942 for salaries and wages, \$2,525,147 for fees and professional contracts, \$799,795 for utilities, \$538,771 for food, and \$461,592 for prescription drugs and medical supplies.


The Governor recommends \$30,232,888 for state operations in FY 1990, a decrease of \$1,023,215 from the agency estimate. Adjustments consist of reductions in salaries and wages (\$669,424); rents (\$2,751); repairing and servicing (\$37,100); fees-other services (\$6,377); professional services (\$78,337); utilities (\$85,857); clothing (\$26,938); maintenance materials (\$22,650); professional supplies (\$62,787); office supplies (\$21,849); and housekeeping supplies (\$9,145).

House Subcommittee Recommendation

The House Subcommittee concurs with the Governor's recommendation and makes the following comment:

1. The Subcommittee recognizes that the Governor's FY 1990 recommendation for state operating expenditures is \$1,023,215 below the approved FY 1990 budget. Based on this recommendation (after applying cost containment measures) the agency projects shortfalls of \$286,687 for salaries and wages; \$116,184 for contractual services, and \$125,344 for commodities. The agency anticipates savings of \$5,000 bringing the total projected shortfall to \$523,215. The Subcommittee elected to concur with the Governor based on a review of expenditures-to-date. The Subcommittee suggests that the Senate Subcommittee reevaluate this issue utilizing the latest available data.
2. The Subcommittee notes with concern that the Governor's recommendation reduced state operating expenditures for FY 1990 but did not reduce corresponding Title XIX receipts. The Subcommittee directs Mental Health and Retardation Services to reevaluate projected FY 1990 Medicaid receipts for ~~KN~~ and to provide this information to the Senate Committee.

Winfield



 Representative Robert J. Vancrum
 Subcommittee Chairman



 Representative John M. Solbach, III

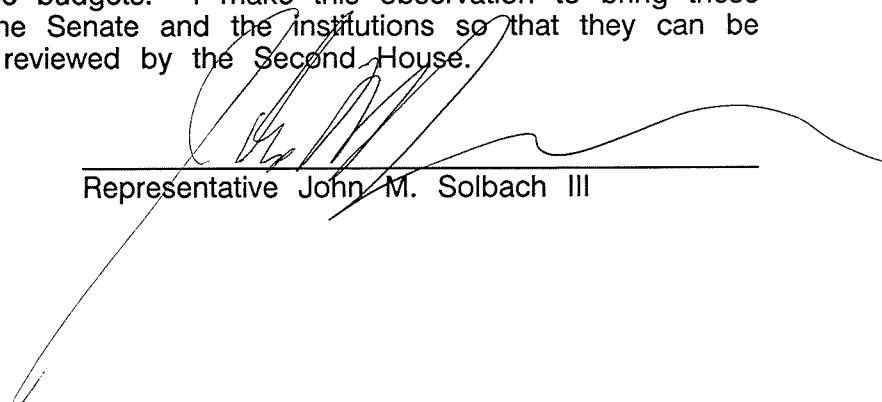


 Representative Larry F. Turnquist

MINORITY REPORT

I concur with the Subcommittee but make the following observation:

All three of the mental retardation hospitals are projecting significant shortfalls for both FY 1990 and FY 1991 based on the Governor's recommendations. This Subcommittee evaluated these projections and elected to reinstate for FY 1990 only 42.9 percent of KNI's shortfall, none of Winfield's shortfall and 59.2 percent of Parsons' shortfall, even though Parsons is currently facing a potential certification crisis which could result in a loss of \$360,000 during the next year and \$8 million annually if the agency is not brought into compliance by January, 1991. The Subcommittee again chose in FY 1991 to fund only 39.3 percent of KNI's request, 11.0 percent of Winfield's request and 57.8 of Parsons' request. Although I realize that State General Fund dollars are not abundantly available during this budget cycle, I believe that we need to be mindful of our obligations for adequate state support to allow these agencies to comply with HCFA regulations. We also need to keep in mind the relationship of trust between the Legislature and the institutions. Unless there is evidence that the state hospitals are misapplying funds or are using state and federal funds inappropriately, the Governor and the Legislature should not make across-the-board cuts which will undoubtedly assure that the agencies have a shortfall or run on a less than adequate budget. I believe that it is important for the agencies to be honest with us and that we be no less honest with ourselves in adequately funding these budgets. I make this observation to bring these concerns to the attention of both the Senate and the institutions so that they can be addressed when these budgets are reviewed by the Second House.



Representative John M. Solbach III

SUBCOMMITTEE REPORT

Agency: Winfield State Hospital
and Training Center

Bill No. 2618

Bill Sec. 2

Analyst: Duncan

Analysis Pg. No. 655

Budget Pg. No. 612

<u>Expenditure Summary</u>	<u>Agency Req. FY 91</u>	<u>Governor's Rec. FY 91</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 15,534,245	\$ 14,012,490	\$ (949,086)
General Fees Fund	1,308,314	1,308,314	--
Medicaid	15,916,892	15,760,982	(1,079,123)
Title I	50,410	50,410	--
Foster Grandparents	183,899	183,899	--
Subtotal	<u>\$ 32,993,760</u>	<u>\$ 31,316,095</u>	<u>\$ (2,028,209)</u>
Capital Improvements:			
State Institutions			
Building Fund	\$ 667,300	\$ --	\$ --
TOTAL	<u>\$ 33,661,060</u>	<u>\$ 31,316,095</u>	<u>\$ (2,028,209)</u>
FTE Positions	1,007.5	1,002.5	(117.5)
Average Daily Census	390	390	(50)

Agency Request/Governor's Recommendation

FY 1991. Winfield's FY 1991 budget request is \$32,993,760 for operating expenditures. For FY 1991 the agency requests 5.0 FTE additional Mental Retardation Technician I positions.

The Governor recommends \$31,316,095 for operating expenditures in FY 1991, a decrease of \$1,677,665 from the agency request. The recommendation provides for reductions in salaries and wages (\$645,805); communications (\$95,173); rents (\$2,872); travel and subsistence (\$38,733); fees -- other services (\$6,657); professional services (\$48,757); utilities (\$85,921); contractual services (\$5,000); clothing (\$78,826); maintenance materials (\$73,141); motor vehicle parts (\$10,012); professional supplies (\$97,056); office supplies (\$42,851); housekeeping supplies (\$84,670); and capital outlay (\$362,192). The Governor does not recommend any new positions during FY 1991.

House Subcommittee Recommendation

The House Subcommittee concurs with the Governor's recommendations with the following adjustments:

1. Delete \$2,158,246 (one-half Title XIX, one-half State General Fund) from state operations. The Subcommittee concurs with a proposal by Mental Health and Retardation Services (MHRS) to transfer 50 clients from either Unit A or B at Winfield to the Home and Community-Based Services (HCBS) program.

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The HCBS program was established in 1981 when the State of Kansas applied to the Health Care Financing Administration (HCFA) for Medicaid funding to divert, or discharge, clients who would otherwise be in an intermediate care facility (ICF), intermediate care facility for the mentally retarded (ICF/MR), or skilled nursing facility (SNF). Services available to eligible recipients under the HCBS program include: nonmedical attendant, medical attendant, adult family home, night support, homemaker, habilitation, case management, wellness monitoring, home health aide, adult day health, medical alert, respite care, and hospice care. Approximately one-half of the clients involved in the program are elderly, with the remainder split nearly evenly between the mentally retarded and physically disabled.

The Medicaid waiver limits the number of clients who may participate in the HCBS program. The primary factor which determines the number of clients served by the program relates to the total number of certified ICF/MR beds in the state. HCFA uses a formula which states that the number of occupied ICF/MR beds plus the number of HCBS recipients may not exceed the total number of certified ICF/MR beds in the state. There are currently 417 HCBS slots for the mentally retarded and SRS has obtained federal approval for 105 more slots for the next year of the waiver.

At the Subcommittee's request, MHRS presented a proposal identifying two separate plans to increase community MR/DD placements. The Subcommittee recommends Plan II which would establish 100 new slots, 50 of which would be specifically designated for institutional clients. A copy of the plan is attached. The Subcommittee heard testimony from MHRS concerning the availability of HCBS beds and learned that beds will be available as of July 1, 1990. The Subcommittee understands that the transfer of clients will be phased over approximately five months. Projected savings for Winfield are prorated on this basis.

The Subcommittee was informed that savings for reducing the census of Winfield State Hospital by 50 clients and the cost of serving these same 50 individuals in the community amounts to \$585,473 in State General Fund dollars for FY 1990 and \$965,743 for FY 1991. The proposal developed by MHRS to increase community placements is attached to this report.

2. Delete 117.5 FTE positions as a result of the transfer of 50 individuals. The positions designated by MHRS for deletion are as follows:

Unit Director	1
QMRP	4
Unit Secretary	1
Office Assistant IV	1
Activity Therapist I	1.5
Speech Therapist I	1
Social Worker	1
Psychologist	2

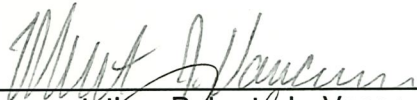
RN	2
Physician	1
Dietician	0.5
MRS	10
MRT I	52
MRT II	8
Med Aid	7
MR Trainees (no FTE)	12
Custodial Supervisor	1
Custodial Worker	5
Activity Therapy Technician	4
Unallocated Positions	14.5

3. The Subcommittee notes that the Governor's FY 1991 budget recommendation for state operations is \$1,177,665 below the agency's adjusted C level request. Winfield based both their cost containment measures and their projected needs on their C level budget. The other hospitals used their B level budget as a starting point. Based on the C level budget, Winfield projects additional needs above the Governor's recommendation of \$318,364 for salaries and wages; \$353,511 for other contractual services; \$285,099 for commodities; and \$220,691 for capital outlay for a total of \$1,177,665. The Subcommittee notes that Winfield's B level budget is \$366,673 below their C level request.
4. Decrease shrinkage from the 7.0 percent recommended by the Governor to 6.75 percent, an increase of \$87,651 in salaries and wages. The Subcommittee intends through this appropriation to provide the agency some flexibility in salaries and wages noting that the increase could be used as needed for overtime or to fund contractual nursing services.
5. Add \$42,386 for pharmaceuticals to restore the agency to the level recommended by the Governor for FY 1990.
6. The Subcommittee notes that the agency indicated a need for an additional appropriation for FY 1991 for contractual nursing services. The Subcommittee was advised that the agency intends to phase out contract nurses if possible. The Subcommittee withheld action on this request pending a Governor's Budget Amendment.
7. The Subcommittee concurs with the Governor's recommendation which increases nurse salaries to range 18 and establishes a senior class of LPNs at range 20. The Subcommittee notes that funding totaling \$465,000 was originally included in the Department of Administration's budget for LPN salary increases, however, this appropriation was deleted by the full Committee. The Subcommittee did not receive any information concerning distribution of funds for the mental health and mental retardation institutions, and recommends this issue be reviewed by the Second House.
8. Establish a no-limit appropriation for special oil overcharge funds to purchase vehicles for the hospital. The Subcommittee was informed that the U.S. Department of Energy is administering a "second state" oil

stage

overcharge refund program, and that funds are available to the state for energy conservation-related projects and equipment purchases. The Subcommittee notes that the hospital has applied for second-stage oil overcharge funds to purchase vehicles to be utilized for patient transportation.

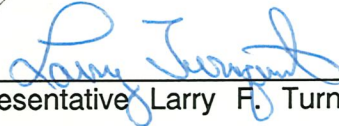
9. Make technical adjustments as needed to add the appropriate transfer language from the canteen fund to the patient benefit fund and restore the line item and proviso for the patient activity therapy fund.
10. The Subcommittee notes that the three mental retardation agencies are incorporated into H.B. 2618, the SRS bill. The bill allocated 8,049 FTE positions to SRS and does not itemize individual FTE positions for the three hospitals. The Subcommittee recommends that the FY 1990 bill format be used for these three agencies.



Representative Robert J. Vancrum
Subcommittee Chairperson



Representative John M. Solbach, III



Representative Larry F. Turnquist

2/27/90
Revised

Possible Plans to Increase Community MR/DD Placements
and to Reduce Census at Winfield State Hospital

	Governor's Budget Recommendation				Amount Increase (Decrease) Needed to Fund the Attached Plans				Total Amount Needed to Fund Attached Plans and the GBR			
	TOTAL	Federal Funds	SGF	Total # Served	TOTAL	Federal Funds	SGF	Increased # Served	TOTAL	Federal Funds	SGF	Total # Served
PLAN I												
FY 1990												
Special Purpose	\$7,174,217	\$0	\$7,174,217	505	\$551,625	\$0	\$551,625	150	\$7,725,842	\$0	\$7,725,842	655
TOTAL	\$7,174,217	\$0	\$7,174,217		\$551,625	\$0	\$551,625		\$7,725,842	\$0	\$7,725,842	
FY 1991												
Special Purpose	\$8,420,355	\$0	\$8,420,355	505	\$2,831,154	\$0	\$2,831,154	150	\$11,251,509		\$11,251,509	655
HCBS (2)	\$7,448,777	\$4,224,946	\$3,223,831	522	\$2,315,224	\$1,313,195	\$1,002,029	(1)0	\$9,764,001	\$5,538,141	\$4,225,860	522
WSH (3)	\$31,316,095	\$15,658,048	\$15,658,048		(\$2,158,246)	(\$1,079,123)	(\$1,079,123)	-50	\$29,157,849	\$14,578,925	\$14,578,925	-50
TOTAL	\$47,185,227	\$19,882,994	\$27,302,234		\$2,988,132	\$234,072	\$2,754,060		\$50,173,359	\$20,117,066	\$30,056,294	
PLAN II												
FY 1990												
Special Purpose	\$7,174,217	\$0	\$7,174,217	505	\$317,250	\$0	\$317,250	100	\$7,491,467	\$0	\$7,491,467	555
TOTAL	\$7,174,217	\$0	\$7,174,217		\$317,250	\$0	\$317,250		\$7,491,467	\$0	\$7,491,467	
FY 1991												
Special Purpose	\$8,420,355	\$0	\$8,420,355	505	\$1,934,500	\$0	\$1,934,500	100	\$10,354,855		\$10,354,855	555
HCBS (2)	\$7,448,777	\$4,224,946	\$3,223,831	522	\$2,315,224	\$1,313,195	\$1,002,029	(1)0	\$9,764,001	\$5,538,141	\$4,225,860	522
WSH (3)	\$31,316,095	\$15,658,048	\$15,658,048		(\$2,158,246)	(\$1,079,123)	(\$1,079,123)	-50	\$29,157,849	\$14,578,925	\$14,578,925	-50
TOTAL	\$47,185,227	\$19,882,994	\$27,302,234		\$2,091,478	\$234,072	\$1,857,406		\$49,276,705	\$20,117,066	\$29,159,640	

(1) There is no increase in the number of slots being requested in HCBS-MR. The 522 HCBS slots in the GBR includes an increase of 105 slots in FY 1991. The increase funds indicated on this sheet are for an increase in HCBS-MR per diems necessary to serve the WSH clients and all other comparably handicapped HCBS-MR clients.

(2) Expansion of rates in this program assumes that there will be increased staff to properly administer the HCBS-MR program as identified in MH&RS's "C-level" budget request. The cost for these staff would be \$207,000 in all funds (\$103,500 SGF).

(3) The savings for reducing the census of WSH by 50 and the cost of serving these same 50 individuals in the community are as follows:

FY 1991 (partial year)	Total	Fed. Funds	SGF	FY 1992 (Full year)	Total	Fed. Fund	SGF
WSH Savings	\$2,158,246	\$1,079,123	\$1,079,123	WSH Savings	\$3,245,487	\$1,622,744	\$1,622,743
HCBS-MR Expense	\$1,097,000	\$603,350	\$493,650	HCBS-MR Expense	\$1,460,000	\$803,000	\$657,000
Total Savings	\$1,061,246	\$475,773	\$585,473	Total Savings	\$1,785,487	\$819,744	\$965,743

1-2

SUBCOMMITTEE REPORT

Agency: Kansas Neurological Institute Bill No. 2729

Bill Sec. 25

Analyst: Duncan

Analysis Pg. No. 605

Budget Pg. No. 372

<u>Expenditure Summary</u>	<u>Agency Req. FY 90</u>	<u>Governor's Rec. FY 90</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 11,634,020	\$ 11,608,608	\$ 187,124
General Fee Fund	593,616	597,157	--
Medicaid	11,756,873	10,932,582	--
Foster Grandparent	188,231 ^a	188,231	--
Other Funds	44,984	44,984	--
Subtotal	<u>\$ 24,217,724</u>	<u>\$ 23,371,562</u>	<u>\$ 187,124</u>
Capital Improvements:			
State Institutions Building Fund	\$ --	\$ 91,172	\$ --
TOTAL	<u>\$ 24,217,724</u>	<u>\$ 23,462,734</u>	<u>\$ 187,124</u>
FTE Positions	879.5 ^b	879.5	--
Average Daily Census	385	385	--

a) Includes \$6,220 supplemental request for FY 1990.

b) Budgeted positions are one-half position below the FTE allocated by the 1989 Legislature.

Agency Request/Governor's Recommendation

For FY 1990, the Kansas Neurological Institute (KNI) requests \$24,217,724 for operating expenditures. KNI's request includes a supplemental request allowing a \$6,200 increase in the agency's expenditure limitation for the Foster Grandparent Program. This will enable the agency to expend additional funds received from the federal ACTION program during the current year, and to utilize funds carried forward from FY 1989. KNI has a client population of 385 retarded persons who range in age from 18 months to 54 years. In 1988, the average age was 25 years old. Seventy-six percent of KNI's population is profoundly retarded, 15 percent severely retarded, and 9 percent mildly to moderately retarded. Many have additional handicaps. For instance, 34 percent have sensory impairment, 65 percent have seizure disorders, 43 percent psychiatric impairments in addition to retardation, and 43 percent are nonambulatory.

On September 28, 1988 KNI was certified as out of compliance with active treatment by the Kansas Department of Health and Environment. This designation gave the agency 11 months to comply with federal standards. During this time period, KNI continued to receive federal Medicaid funding for current residents, however, funding was not available for new clients. KNI was found to be in compliance with federal regulations and recertified on September 29, 1989.

*HA
3-5-90
Attachment 2*

The Governor recommends \$23,371,562 for state operating expenditures in FY 1990, a decrease of \$846,162 from the agency estimate. Recommended reductions occur in salaries and wages (\$67,0153), repairing and servicing (\$1,425); fees -- other services (\$6,239); food (\$123,153); maintenance materials (\$26,192); and office supplies (\$19,000).

House Subcommittee Recommendation

The Subcommittee concurs with the Governor's recommendation with the following adjustments:

1. The Subcommittee notes that the Governor's FY 1990 budget recommendation was \$840,334 below the level approved by the 1989 Legislature. Based on this recommendation, after implementation of cost containment measures, KNI projects current year shortfalls of \$97,775 for salaries and wages; \$13,499 for contractual services; \$408,327 for commodities and \$1,118 for aid to local units. The agency anticipates savings of \$85,000 for capital outlay, bringing the total projected shortfall to \$435,719. The Subcommittee heard testimony indicating that the agency is prepared to lay off 65 probationary employees if it is obligated to live within the FY 1990 Governor's budget recommendation and that the agency believes that these positions affect certification.
2. Decrease shrinkage from the recommended 7.3 percent to 7.0 percent, an increase of \$60,221 for salaries and wages, to partially compensate for an estimated salary shortfall of \$97,775. The agency projects actual turnover to be 6.66 percent for FY 1990.
3. Add \$14,673 in salaries and wages to increase shift differential to the level requested by the agency during its appeal. On September 25, 1989, the Governor signed an executive directive increasing the shift differential from .20 to .25 for direct care workers and establishing a shift differential for RNs and LPNs at 10 percent of base salaries. The revised shift differentials were retroactive to June 18, 1989. The Subcommittee cautions that the Governor's recommendation includes upgrades for LPNs from range 15 to range 18 and establishes a senior LPN class at range 20. Because of legislative action increasing salaries for LPNs during the 1989 Session, adequate funds should be available for the 42 LPNs currently employed by KNI. The Subcommittee notes, however, that funding for these positions should be reevaluated during the FY 1991 Session.
4. Add \$90,000 for food. The Subcommittee learned that the agency's cost per meal has increased by 12.09 percent from 1989 to 1990. Additionally, the agency no longer receives free commodities through the federal Charitable Institutions Commodity program, resulting in a projected loss of \$50,000 to \$60,000 worth of food. The Subcommittee recommends that the Senate Subcommittee investigate whether any other type of federal commodities are available to the state institutions.
5. Add \$22,230 for other commodities to partially alleviate the estimated shortfall.

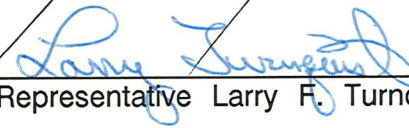
6. The Subcommittee notes with concern that the Governor's recommendation reduced state operating expenditures for FY 1990 but did not reduce corresponding Title XIX receipts. The Subcommittee directs Mental Health and Retardation Services to reevaluate projected FY 1990 Medicaid receipts for KNI and to provide this information to the Senate Subcommittee.



Representative Robert J. Vancrum
Subcommittee Chairman



Representative John M. Solbach, III

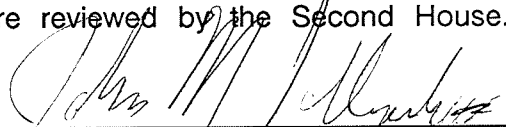


Representative Larry F. Turnquist

MINORITY REPORT

I concur with the Subcommittee but make the following observation:

All three of the mental retardation hospitals are projecting significant shortfalls for both FY 1990 and FY 1991 based on the Governor's recommendations. This Subcommittee evaluated these projections and elected to reinstate for FY 1990 only 42.9 percent of KNI's shortfall, none of Winfield's shortfall and 59.2 percent of Parsons' shortfall, even though Parsons is currently facing a potential certification crisis which could result in a loss of \$360,000 during the next year and \$8 million annually if the agency is not brought into compliance by January, 1991. The Subcommittee again chose in FY 1991 to fund only 39.3 percent of KNI's request, 11.0 percent of Winfield's request and 57.8 of Parsons' request. Although I realize that State General Fund dollars are not abundantly available during this budget cycle, I believe that we need to be mindful of our obligations for adequate state support to allow these agencies to comply with HCFA regulations. We also need to keep in mind the relationship of trust between the Legislature and the institutions. Unless there is evidence that the state hospitals are misapplying funds or are using state and federal funds inappropriately, the Governor and the Legislature should not make across-the-board cuts which will undoubtedly assure that the agencies have a shortfall or run on a less than adequate budget. I believe that it is important for the agencies to be honest with us and that we be no less honest with ourselves in adequately funding these budgets. I make this observation to bring these concerns to the attention of both the Senate and the institutions so that they can be addressed when these budgets are reviewed by the Second House.



Representative John M. Solbach III

SUBCOMMITTEE REPORT

Agency: Kansas Neurological Institute

Bill No. 2618

Bill Sec. 2

Analyst: Duncan

Analysis Pg. No. 605

Budget Pg. No. 372

<u>Expenditure Summary</u>	<u>Agency Req. FY 91</u>	<u>Governor's Rec. FY 91</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 12,091,837	\$ 10,628,167	\$ 197,909
General Fee Fund	883,279	883,279	--
Medicaid	12,330,522	12,750,025	--
Foster Grandparent	188,231	188,231	--
Other Funds	<u>61,890</u>	<u>61,890</u>	--
Subtotal	\$ 25,555,759	\$ 24,511,592	\$ 197,909
Capital Improvements:			
State Institutions			
Building Fund	<u>635,000</u>	--	--
TOTAL	<u>\$ 26,190,759</u>	<u>\$ 24,511,592</u>	<u>\$ 197,909</u>
Average Daily Census	385	385	--
FTE Positions	881.5	879.5	--

Agency Request/Governor's Recommendation

KNI requests \$25,555,759 for state operations expenditures for FY 1991. Requested capital improvements funded from the State Institutions Building Fund total \$635,000. The total request includes approximately \$30,202 (including fringe benefits) for the addition of two new positions.

The Governor recommends \$24,511,592 for state operations in FY 1991, a decrease of \$1,044,167 from the agency request. Recommended reductions occur in salaries and wages (\$503,032); communications (\$8,559); printing and advertising (\$2,255); repairing and servicing (\$4,871); fees -- other services (\$6,513); professional services (\$38,017); food (\$59,670); maintenance materials (\$27,344); motor vehicle parts (\$1,826); professional and scientific supplies (\$20,212); office supplies (\$27,893); and housekeeping supplies (\$25,998). The Governor does not recommend an increase in the agency's FTE.

House Subcommittee Recommendation

The House Subcommittee concurs with the recommendation of the Governor, with the following adjustments:

1. The Subcommittee notes that the Governor's FY 1991 budget recommendation for state operations was \$838,057 below the agency's B level request. After implementation of cost containment measures, the agency has revised their FY 1991 request downward by \$540,368 below

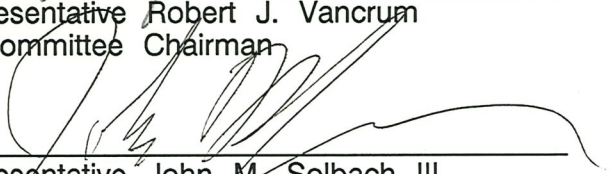
their original B level request. Based on the Governor's recommendation (as compared to the revised agency estimate) KNI still projects additional needs above the Governor's recommendation of \$273,128 for salaries and wages; \$32,520 for contractual services; \$126,865 for commodities; and \$71,286 for capital outlay, for a total of \$503,799. The Subcommittee commends the agency for its efforts to lower state operating costs.

2. Decrease shrinkage from the recommended 7.3 percent to 6.68 percent, an increase of \$140,633 in salaries and wages, to partially restore the agency's revised request of an additional \$273,128.
3. Add \$20,642 in salaries and wages to increase shift differential to the level requested by the agency during its appeal. On September 25, 1989, the Governor signed an executive directive increasing the shift differential from .20 to .25 for direct care workers and establishing a shift differential for RNS and LPNs at 10 percent of base salaries. The revised shift differentials were retroactive to June 18, 1989. The Subcommittee cautions that the Governor's recommendation includes upgrades for LPNs from range 15 to range 18 and establishes a senior LPN class at range 20. Because of legislative action increasing salaries for LPNs during the 1989 Session, adequate funds should be available for the 42 LPNs currently employed by KNI. The Subcommittee notes, however, that funding for these positions should be reevaluated during the FY 1991 Session.
4. Add \$34,634 in state operating expenditures to bring expenditures for commodities up to the FY 1990 level.
5. The Subcommittee concurs with the Governor's recommendation which increases nurse salaries to range 18 and establishes a senior class of LPNs at range 20. The Subcommittee notes that funding totaling \$465,000 was originally included in the Department of Administration's budget for LPN salary increases, however, this appropriation was deleted by the full Committee. The Subcommittee did not receive any information concerning distribution of funds for the mental health and mental retardation institutions, and recommends this issue be reviewed by the Second House.
6. Establish a no-limit appropriation for special oil overcharge funds to purchase vehicles for the hospital. The Subcommittee was informed that the U.S. Department of Energy is administering a "second state" oil overcharge refund program, and that funds are available to the state for energy conservation-related projects and equipment purchases. The Subcommittee notes that the hospital has applied for second-stage oil overcharge funds to purchase vehicles to be utilized for patient transportation.
7. Make technical adjustments as needed to add the appropriate transfer language from the canteen fund to the patient benefit fund and restore the line item and proviso for the patient activity therapy fund.
8. The Subcommittee notes that the three mental retardation agencies are incorporated into H.B. 2618, the SRS bill. The bill allocates 8,049 FTE

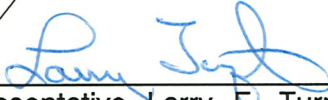
positions to SRS and does not itemize individual FTE positions for the three hospitals. The Subcommittee recommends that the FY 1990 bill format be used for these three agencies.



Representative Robert J. Vancrum
Subcommittee Chairman



Representative John M. Solbach III



Representative Larry F. Turnquist

SUBCOMMITTEE REPORT

Agency: Parsons State Hospital
and Training Center

Bill No. 2729

Bill Sec. 28

Analyst: Duncan

Analysis Pg. No. 638

Budget Pg. No.

<u>Expenditure Summary</u>	<u>Agency Req. FY 90</u>	<u>Governor's Rec. FY 90</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 7,892,214	\$ 7,844,245	\$ 350,906
General Fees Fund	596,634	599,598	--
Medicaid	7,830,846	7,418,892	--
Other Funds	30,000	30,000	--
Subtotal	<u>\$ 16,349,694</u>	<u>\$ 15,892,735</u>	<u>\$ 350,906</u>
Capital Improvements:			
State Institutions			
Building Fund	536,863	43,384	--
Total	<u>\$ 16,886,557</u>	<u>\$ 15,936,119</u>	<u>\$ 350,906</u>
Average Daily Census	285	285	--
FTE Positions	526.5	526.5	--

Agency Request/Governor's Recommendation

The FY 1990 budget estimate for state operations totals \$16,349,694, an amount unchanged from the budget approved by the 1989 Legislature. Major expenditures include \$13,494,686 for salaries and wages, \$578,322 for utilities, \$868,593 for special education services, \$90,300 for clothing, \$268,574 for food, and \$151,213 for drugs, pharmaceuticals, and other professional and scientific supplies.

On January 12, 1990, Parsons was surveyed by the Kansas Department of Health and Environment (KDHE) and was found to be out of compliance with four conditions of participation established by the Health Care Finance Association (HCFA). The center is out of compliance with active treatment, staff and staff training, governing body and management, and client rights. Parsons will be resurveyed in 30 to 60 days by KDHE. If the conditions are not corrected at that time, the center may be decertified, resulting in a substantial loss of federal Medicaid money.


The Governor recommends state operating expenditures of \$15,892,735 for FY 1990, a decrease of \$456,959 from the agency estimate. Recommended adjustments include reductions in salaries and wages (\$385,219); utilities (\$67,328); travel and subsistence (\$1); fees -- other services (\$1); other contractual services (\$1); and motor vehicle parts (\$4,412); and increases in repairing and servicing (\$2) and housekeeping supplies (\$1).

House Subcommittee Recommendation


The House Subcommittee concurs with the Governor's recommendation with the following adjustments:

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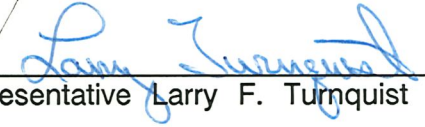
1. The Subcommittee notes that the Governor's FY 1990 budget recommendation was \$456,959 below the level approved by the 1989 Legislature. Based on this recommendation (after implementing cost containment measures) the agency projects current year shortfalls of \$181,770 for salaries and wages; \$17,441 for contractual services; and \$142,660 for commodities. The agency originally anticipated savings of \$38,000 for capital outlay, bringing the total projected shortfall to \$303,871. This shortfall is based solely on the Governor's recommendation and does not take into consideration the fact that on January 12, 1990 Parsons was certified as out of compliance with active treatment. Staff and staff training, general government, client rights, and poor furnishings and living environment were also cited deficiencies. To meet certification issues, the agency is requesting an additional \$175,611 for salaries and wages for 5.5 temporary Custodians for 4.5 months and 29 temporary Mental Retardation Technician trainees for four months; \$4,000 for professional supplies; \$3,000 for office supplies; \$26,800 for housekeeping supplies; and \$79,655 for capital outlay. Certification issues alone total \$289,606, advancing the agency's total FY 1990 shortfall to \$592,937. The Subcommittee notes that after addressing certification issues, the shortfall is \$135,978 over the amount approved by the FY 1989 Legislature.
2. Add \$28,871 for 5.5 temporary custodian positions to address certification issues for the remaining 4.5 months of FY 1990.
3. Add \$122,646 for 29 temporary Mental Retardation Technician I trainees for 3.5 months of FY 1990.
4. Shift \$38,000 from state operating expenditures to salaries and wages.
5. Add \$79,655 for capital outlay for new furniture to address cited deficiencies for poor and inadequate furnishings in some of the cottages.
6. Add \$119,734 in salaries and wages to fund two-thirds of an estimated salary shortfall of \$181,770.
7. The Subcommittee notes with concern that the Governor's recommendation reduced state operating expenditures for FY 1990 but did not reduce corresponding Title XIX receipts. The Subcommittee directs Mental Health and Retardation Services to reevaluate projected FY 1990 Medicaid receipts for Parsons and to provide this information to the Senate Subcommittee.



Representative Robert J. Vancrum
Subcommittee Chairman



Representative John M. Solbach III

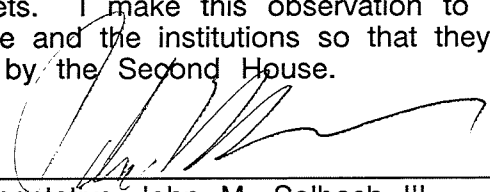


Representative Larry F. Turnquist

MINORITY REPORT

I concur with the Subcommittee but make the following observation:

All three of the mental retardation hospitals are projecting significant shortfalls for both FY 1990 and FY 1991 based on the Governor's recommendations. This Subcommittee evaluated these projections and elected to reinstate for FY 1990 only 42.9 percent of KNI's shortfall, none of Winfield's shortfall and 59.2 percent of Parsons' shortfall, even though Parsons is currently facing a potential certification crisis which could result in a loss of \$360,000 during the next year and \$8 million annually if the agency is not brought into compliance by January, 1991. The Subcommittee again chose in FY 1991 to fund only 39.3 percent of KNI's request, 11.0 percent of Winfield's request and 57.8 of Parsons' request. Although I realize that State General Fund dollars are not abundantly available during this budget cycle, I believe that we need to be mindful of our obligations for adequate state support to allow these agencies to comply with HCFA regulations. We also need to keep in mind the relationship of trust between the Legislature and the institutions. Unless there is evidence that the state hospitals are misapplying funds or are using state and federal funds inappropriately, the Governor and the Legislature should not make across-the-board cuts which will undoubtedly assure that the agencies have a shortfall or run on a less than adequate budget. I believe that it is important for the agencies to be honest with us and that we be no less honest with ourselves in adequately funding these budgets. I make this observation to bring these concerns to the attention of both the Senate and the institutions so that they can be addressed when these budgets are reviewed by the Second House.



Representative John M. Solbach III

SUBCOMMITTEE REPORT

Agency: Parsons State Hospital
and Training Center

Bill No. 2618

Bill Sec. 2

Analyst: Duncan

Analysis Pg. No. 638

Budget Pg. No.

<u>Expenditure Summary</u>	<u>Agency Req. FY 91</u>	<u>Governor's Rec. FY 91</u>	<u>Subcommittee Adjustments</u>
State Operations:			
State General Fund	\$ 8,524,877	\$ 7,495,706	\$ 408,133
General Fees Fund	546,634	546,634	--
Medicaid	8,204,174	8,420,854	408,133
Other Funds	<u>58,815</u>	<u>58,815</u>	<u>--</u>
Subtotal	\$ 17,334,500	\$ 16,522,009	\$ 816,266
Capital Improvements:			
State Institutions			
Building Fund	<u>995,700</u>	<u>--</u>	<u>--</u>
Total	<u>\$ 18,330,200</u>	<u>\$ 16,522,009</u>	<u>\$ 816,266</u>
Average Daily Census	270	270	--
FTE Positions	531.5	526.5	36.5

Agency Request/Governor's Recommendation

The agency's FY 1991 request for operating expenditures is \$17,334,500, of which \$8,524,877 is from the State General Fund. The FY 1991 request is a \$984,806 (6 percent) increase over the FY 1990 estimate. The FY 1991 request maintains current operating levels and includes the addition of 5 new FTE positions: three Mental Retardation Technicians I, one Psychologist II, and one Utility Worker.

The Governor recommends state operating expenditures of \$16,522,009 in FY 1991, a decrease of \$812,491 from the agency estimate. Adjustments include increases in professional services (\$23,896) and repairing and servicing (\$1); and decreases in salaries (\$399,965); communications (\$8,916); utilities (\$3,871); contractual services (\$1); clothing (\$6,543); maintenance materials (\$23,142); motor vehicle parts (\$4,598); office supplies (\$4,830); housekeeping supplies (\$42,604); and capital outlay (\$341,918).

House Subcommittee Recommendation

The House Subcommittee concurs with the recommendation of the Governor with the following adjustments:

1. The Subcommittee notes that the Governor's FY 1991 budget recommendation was \$538,609 below the agency's B level request. After reevaluating its needs and implementing cost containment measures, the agency revised its budget request to include an additional \$5,267 over level B. Based on the Governor's recommendation (as compared to the revised agency request) Parsons projects additional needs above the Governor's recommendation of \$257,079 for

salaries and wages; \$107,577 for commodities; and \$195,304 for capital outlay. The agency identified savings of \$16,084 for contractual services, bringing the total request to an additional \$543,876 above the Governor's recommendation. This request is based solely on the Governor's recommendation and does not take into consideration the fact that on January 12, 1990, Parsons was certified as out of compliance with active treatment, staff and staff training, general government, and client rights. Poor living environment and furnishings were also cited deficiencies. To meet certification issues, the agency is requesting an additional \$835,436 for 37.5 new FTE positions (5.5 Custodians, 29 Mental Retardation Technicians I, one Ombudsman, one LPN, and one Utility Worker); \$25,000 for other operating expenditures; and \$11,000 for capital outlay; advancing the agency's total FY 1991 request for additional funds to \$1,410,345.

2. Add \$90,109 (one-half Title XIX, one-half State General Fund) for 5.5 FTE custodian positions, bringing the total number of custodial positions for Parsons to 17.0 FTE. The Subcommittee learned that the agency received numerous deficiencies relating to sanitation. Upon review of staffing levels at the three mental retardation hospitals, the Subcommittee notes that Parsons currently has 11.5 custodial workers, while KNI has 29 and Winfield has 42.
3. Add \$527,003 (one-half Title XIX, one-half State General Fund) and 29.0 FTE Mental Retardation Technicians I. The Subcommittee understands that the agency was deemed out of compliance due, in part, to inadequate staffing levels. Parsons staff to client ratio is the lowest of the three mental retardation hospitals. The Subcommittee's recommendation would fund these new direct care positions at trainee levels for the first two months of the fiscal year, then raise the trainees to full MRT I status for the remainder of the year.
4. Add \$29,075 (one-half Title XIX, one-half State General Fund) and 1.0 FTE Ombudsman position. The Subcommittee notes that the agency is out of compliance with client rights for a variety of reasons, among which is the lack of an advocacy system for clients rights issues.
5. Add \$22,235 (one-half Title XIX, one-half State General Fund) and 1.0 FTE LPN position to address certification issues related to nurse staffing.
6. Add \$17,100 (one-half Title XIX, one-half State General Fund) and 1.0 FTE Utility Worker position. The Subcommittee notes that many of the agency's certification deficiencies involved the physical surroundings of the residents. Utility workers are general handymen. The Subcommittee compared the number of utility workers at the three institutions and discovered that Parsons currently has two utility workers, KNI has four, and Winfield has eight.
7. Add \$11,000 (one-half Title XIX, one-half State General Fund) in capital outlay to address certification issues and to partially offset the \$206,304 identified by the agency as needed for FY 1991.

8. Add \$119,734 (one-half Title XIX, one-half State General Fund) for salaries and wages to partially restore the agency's revised request (pre-certification) of an additional \$257,079.
9. Delete 1.0 FTE cosmetologist position and shift \$18,612 from salaries and wages to contractual services. The agency notes that the cosmetologist position has been vacant since July, 1988. Since that time, the agency has used salary savings from this position to contract with local hairdressers for services.
10. The Subcommittee concurs with the Governor's recommendation which increases nurse salaries to range 18 and establishes a senior class of LPNs at range 20. The Subcommittee notes that funding totaling \$465,000 was originally included in the Department of Administration's budget for LPN salary increases, however, this appropriation was deleted by the full Committee. The Subcommittee did not receive any information concerning distribution of funds for the mental health and mental retardation institutions, and recommends this issue be reviewed by the Second House.
11. Establish a no-limit appropriation for special oil overcharge funds to purchase vehicles for the hospital. The Subcommittee was informed that the U.S. Department of Energy is administering a "second state" oil overcharge refund program, and that funds are available to the state for energy conservation-related projects and equipment purchases. The Subcommittee notes that the hospital has applied for second-stage oil overcharge funds to purchase vehicles to be utilized for patient transportation.
12. Make technical adjustments as needed to add the appropriate transfer language from the canteen fund to the patient benefit fund and restore the line item and proviso for the patient activity therapy fund.
13. The Subcommittee notes that the three mental retardation agencies are incorporated into H.B. 2618, the SRS bill. The bill allocates 8,049 FTE positions to SRS and does not itemize individual FTE positions for the three hospitals. The Subcommittee recommends that the FY 1990 bill format be used for these three agencies.
14. The Title XIX estimate, based on the Subcommittee's recommendations, is as follows:

Expenditure	Actual FY 89	Agency Estimate FY 90	Gov. Rec. FY 90	Agency Request FY 91	Gov. Rec. FY 91	Subcomm. Adjust.
Beginning Balance	\$ 52,157	\$ 83,037	\$ 83,037	\$ 0	\$ 411,954	\$ -
Proj. Receipts	<u>6,324,308</u>	<u>7,747,809</u>	<u>7,747,809</u>	<u>8,204,174</u>	<u>8,008,900</u>	<u>408,133</u>
Total Funds Avail.	\$ 6,376,465	\$ 7,830,846	\$ 7,830,846	\$ 8,204,174	\$ 8,420,854	\$ 408,133
Less: Expenditures	6,292,089	7,830,846	7,418,892	8,204,174	8,420,854	408,133
Nonexpense Items	1,337	-	-	-	-	-
Ending Balance	<u>\$ 83,039</u>	<u>\$ 0</u>	<u>\$ 411,954</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>



Representative Robert J. Vancrum
Subcommittee Chairman

Representative John M. Solbach III



Representative Larry F. Turnquist

PROPOSED AMENDMENTS TO H.B. NO. 2729

For Consideration by House Committee on Appropriations

Be amended:

On page 16, after line 40, by inserting the following material to read as follows:

"Sec. 49. Section 5 of chapter 17 of the 1989 Session Laws of Kansas is hereby amended to read as follows: Sec. 5.

DEPARTMENT OF HEALTH AND ENVIRONMENT

(a) There is appropriated for the above agency from the state general fund the following:

Salaries and wages.....	\$12,207,025
<p><u>Provided</u>, That any unencumbered balance in excess of \$100 as of June 30, 1989, in the operating expenditures account is hereby reappropriated to the salaries and wages account for fiscal year 1990: <u>Provided</u>, however, That expenditures from such reappropriated balance shall be made only upon approval of the state finance council.</p>	
Other operating expenditures.....	6,490,488
<p><u>Provided</u>, That expenditures from this account for official hospitality by the secretary of health and environment shall not exceed \$1,000.</p>	
Genetic services.....	50,000
Hazardous waste cleanup.....	300,000
Prenatal care collaborative program.....	700,000
Aid to local units -- child care licensure inspections.....	192,500
<p><u>Provided</u>, That expenditures from this account are hereby authorized to be made for contracts which are hereby authorized to be entered into by the secretary of health and environment with local health departments, private individuals and others for child care licensure activities.</p>	
Aid to local units -- general public health programs.....	2,024,130
<p><u>Provided</u>, That all expenditures from this account shall be in accordance with the formula prescribed by K.S.A. 65-241 through 65-246 65-245, and amendments thereto, <u>exclusively</u>.</p>	
Grant to Sedgwick county for infant mortality project.....	40,000
Aid to local units -- adolescent health promotion.	100,000

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Provided, That expenditures may be made from this account for the purchase of vaccines for distribution to local health departments.

Aid to local units -- home visitor/healthy start program.....	236,505
Aid to local units -- acquired immune deficiency testing.....	271,000
Aid to local units -- adult care home visitation program.....	65,000
Women, infants and children program.....	300,000
Any unencumbered balance in excess of \$100 as of June 30, 1989, in the following account is hereby reappropriated for fiscal year 1990: Low level radioactive waste compact.	
Total.....	<u>\$22,976,648</u>

(b) There is appropriated for the above agency from the following special revenue funds all moneys now or hereafter lawfully credited to and available in such funds, except that expenditures shall not exceed the following:

Title XIX fund.....	\$1,632,522
<u>Provided</u> , That any transfers of moneys from this fund to other state agencies shall be in addition to any expenditure limitation imposed on this fund: <u>Provided further</u> , That transfers of moneys from this fund to the state fire marshal may be made for a contract which is hereby authorized to be entered into by the secretary of health and environment with the state fire marshal to provide fire and safety inspections for adult care homes and hospitals.	
Adult care licensing revolving fund.....	No limit
Minority health fund.....	No limit
Refugee project fee fund.....	No limit
Power generating facility fee fund.....	78,960
Pollutant discharge clean-up fund.....	No limit
Health and environment training fee fund.....	No limit

Provided, That expenditures may be made from this fund for acquisition and distribution of health and environment program literature and films and for participation in conducting training seminars: Provided further, That the secretary of health and environment is hereby authorized to fix, charge and collect fees in order to recover costs incurred for such acquisition and distribution of literature and films and for such seminars: And provided further, That such fees may be fixed in order to recover all or part of such costs: And provided further, That all moneys received from

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such fees shall be deposited in the state treasury and credited to this fund.

Food service inspection reimbursement fund.....	No limit
Rural abandoned mined-land -- federal fund.....	No limit
Radioactive hazardous waste perpetual care trust fund.....	No limit
Mined-land conservation and reclamation fee fund..	206,161
Hazardous waste perpetual care trust fund.....	No limit
Mined-land reclamation fund.....	No limit
Radiation site closure and reclamation fund.....	No limit
National surface mining control and reclamation act -- federal fund.....	206,161
Radiation long-term care fund.....	No limit
Abandoned mined-land reclamation act -- federal fund.....	No limit
Governor's council on fitness gift and donation fund.....	No limit

Provided, That the department of health and environment is hereby authorized to receive gifts and donations of money for the governor's council on fitness: Provided further, That such gifts and donations of money shall be deposited in the state treasury and credited to this fund: And provided further, That expenditures shall be made from this fund for the purposes specified by the donor or contributor, if any.

Medicare fund -- federal.....	551,085
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Provided, That any transfers of moneys from this fund to other state agencies shall be in addition to any expenditure limitation imposed on this fund: Provided further, That transfers of moneys from this fund to the state fire marshal may be made for a contract which is hereby authorized to be entered into by the secretary of health and environment and the state fire marshal to provide fire and safety inspections for adult care homes and hospitals.

National center for health statistics fund -- federal.....	160,281
Federal migrant health program fund.....	No limit
Genetic services grant fund.....	0
EPA pollution grant matching fund.....	0
Prevention of athletic injuries fund.....	53,069
Venereal disease control project fund -- federal..	No limit

Provided, That expenditures from this fund for state operations shall not exceed \$156,980.

Federal air quality program fund.....	789,723
Federal women, infants and children health program	

fund.....	No limit
<u>Provided</u> , That expenditures from this fund for state operations shall not exceed \$897,008.	
Federal occupational health and safety statistics program fund.....	33,450
Water supply fund -- federal.....	631,776
Maternal and child health services block grant fund.....	No limit
<u>Provided</u> , That expenditures from this fund for state operations shall not exceed \$2,263,993: <u>Provided further</u> , That transfers or payments from this fund to other state agencies shall be in addition to any expenditure limitation placed on this fund.	
Immunization grant funds -- federal fund.....	108,549
Diagnostic X-ray program -- federal fund.....	22,497
Federal EPA underground injection control fund....	157,701
Federal EPA 106 water pollution control fund.....	734,106
Federal EPA 208 water quality management planning fund.....	577,281
Federal EPA 205(g) construction grant program administration fund.....	959,892
Federal EPA 109(B) statewide operator training program fund.....	0
<u>Provided</u> , That any transfers or payments of moneys from this fund to other state agencies shall be in addition to any expenditure limitation imposed on this fund.	
Federal EPA national groundwater strategy fund....	75,205
Federal title X family planning fund.....	No limit
<u>Provided</u> , That expenditures from this fund for state operations shall not exceed \$262,549.	
Resource conservation and recovery act -- federal fund.....	712,502
Preventive health and health services block grant fund.....	No limit
<u>Provided</u> , That expenditures from this fund for state operations shall not exceed \$448,082: <u>Provided further</u> , That transfers or payments from this fund to other state agencies shall be in addition to any expenditure limitation placed on this fund.	
Physician vaccine supply -- federal fund.....	22,284
Diabetes control program fund.....	187,320
Refugee health program grant -- federal fund.....	No limit
State legalization impact assistance fund.....	65,316
Tuberculosis cooperative agreement -- federal fund	No limit

Early identification and intervention -- federal fund.....	0
Early childhood developmental services -- federal fund.....	19,903
Pollution abatement gift fund.....	No limit
Sewage disposal treatment -- revenue bond fund....	No limit
Sewage disposal treatment -- bond and interest sinking fund.....	No limit
Debt service reserve fund.....	No limit
Special bequest fund.....	No limit
Local air quality regulation services fund.....	No limit
Radiological environmental cooperative monitoring -- federal fund.....	21,273
Conversion of materials and equipment fund.....	No limit
Sponsored project overhead fund.....	505,691
<p>Provided, That any transfers of moneys from this fund to any other special revenue fund specified in this subsection or to other state agencies shall be in addition to any expenditure limitation imposed on this fund.</p>	
Underground storage tank fund -- federal.....	157,920
EPA -- pre-NPL existing sites fund.....	500,000
EPA -- core support fund.....	281,380
Commodity supplemental food program fund.....	No limit
Health facilities review fund.....	135,538
Waterwell head protection -- federal fund.....	208,022
AIDS project -- education and risk reduction -- federal fund.....	421,885
Leaking underground storage tank trust -- federal fund.....	850,000
104(6)(1) outreach operator training program -- federal fund.....	No limit
EPA -- Ark City feasibility and immediate removal -- federal fund.....	20,000
EPA 319 groundwater -- federal fund.....	0
EPA 205 J5 -- federal fund.....	199,510
Title I -- P.L. 99-457.....	715,672
Highway safety -- federal fund.....	100,000
PCB compliance inspections -- federal fund.....	109,760
Environmental response -- state match -- federal fund.....	100,000
Capacity management assistance fund.....	No limit

Environmental response fund.....	No limit
Remediation projects fund.....	No limit
Kansas water pollution control revolving fund.....	No limit

Provided, That the proceeds from revenue bonds issued by the Kansas development finance authority to provide matching grant payments under the federal clean water act of 1987 (P.L. 92-500) shall be credited to this fund: Provided further, That expenditures from this fund shall be made to provide for the payment of such matching grants.

Sanitarian services fund.....	No limit
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Provided, That the secretary of health and environment is hereby authorized to fix, charge and collect fees for sanitation services: Provided further, That such fees shall be fixed in order to recover all or part of the expenses incurred in providing such services: And provided further, That such fees shall be deposited in the state treasury and shall be credited to this fund.

(c) Prior to July 1, 1990, the director of accounts and reports shall transfer amounts specified by the secretary of health and environment, which amounts constitute reimbursements, credits and other amounts received by the department for activities related to federal programs, from specified special revenue funds of the department of health and environment to the sponsored project overhead fund.

(d) On December 1, 1989, and on April 1, 1990, the director of accounts and reports shall transfer \$50,000 from the Kansas economic development endowment account of the state economic development initiatives fund of the department of commerce to the environmental response fund of the department of health and environment.

(e) On September 1, 1989, and on the first day of each month thereafter, or as soon after each such date as moneys are available, the director of accounts and reports shall transfer \$150,000 from the Kansas economic development endowment account of the state economic development initiatives fund of the department of commerce to the remediation projects fund of the department of health and environment.

(f) On July 1, 1989, the director of accounts and reports

shall transfer \$135,538 from the health care stabilization fund of the insurance department to the health facilities review fund of the department of health and environment for the purpose of financing a review of records of licensed medical care facilities and an analysis of quality of health care services provided to assist in correcting substandard services and to reduce the incidence of liability resulting from the rendering of health care services and implementing the risk management provisions of K.S.A. 65-4922 et seq., and amendments thereto.";

And by renumbering sections accordingly;

On page 17, after line 7, by inserting the following:

"Sec. 52. Section 5 of chapter 17 of the 1989 Session Laws of Kansas is hereby repealed.";

And by renumbering the last section accordingly;

On page 1, in line 37, after "foregoing" by inserting: "; amending section 5 of chapter 17 of the 1989 Session Laws of Kansas and repealing the existing section";

And the bill be passed as amended.

PROPOSED AMENDMENT TO H.B. NO. 2729

On page 11, preceding line 10, by inserting the following subsection to read as follows:

"(k) The total amount of expenditures from the federal women, infants and children health program fund for fiscal year 1990 for administration of the WIC food voucher program by state and local governments shall not exceed the amount equal to 20% of the total amount expended for such program from such fund for fiscal year 1990, including all such costs of administration."

And by redesignating subsections accordingly

HA
3-5-90
Attachment 5

2-28-90

HOUSE BILL No. 2586

By Special Committee on Corrections and Mental Health

Re Proposal No. 17

12-21

12 AN ACT concerning community mental health services; providing
 13 for assessments of need and the adoption of plans to provide such
 14 services; prescribing certain powers, duties and functions in re-
 15 lation thereto; establishing the governor's ~~Commission on~~ mental
 16 health services; amending K.S.A. 19-4002, 19-4002a, 19-4002b, 59-
 17 2905, 65-211 and 65-213 and K.S.A. 1989 Supp. 59-2901, 59-2902,
 18 59-2908, 59-2912, 59-2914, 59-2914a, 59-2916, 59-2917, 59-2918,
 19 59-2918a, 59-2924, 65-4434 and 65-5603 and repealing the existing
 20 sections; also repealing K.S.A. 75-3302d and 75-3302e.
 21

planning council

59-2907,

59-2909;

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

New Section 1. Sections 1 through 11 and amendments thereto shall be known and may be cited as the mental health reform act.

New Sec. 2. As used in sections 1 through 11 and amendments thereto:

(a) "Targeted population" means the population group designated by rules and regulations of the secretary as most in need of mental health services which are funded, in whole or in part, by state or other public funding sources, which group shall include ~~but not be limited to,~~ adults with severe and persistent mental illness, severely emotionally disturbed children and adolescents, and other individuals at risk of requiring institutional care.

(b) "Community based mental health services" includes, but is not limited to, evaluation and diagnosis, case management services, mental health inpatient and outpatient services, prescription and management of psychotropic medication, prevention, education, consultation, treatment and rehabilitation services, twenty-four-hour emergency services, and any facilities required therefor, which are provided within one or more local communities in order to provide a continuum of care and support services to enable mentally ill persons, including targeted population members, to function outside of inpatient institutions to the extent of their capabilities. Community

Attachment 6
59-2909

1 based mental health services also include assistance in securing em-
2 ployment services, housing services, medical and dental care, and
3 other support services.

4 (c) "Mental health center" means any community mental health
5 center organized pursuant to the provisions of K.S.A. 19-4001 to 19-
6 4015, inclusive, and amendments thereto, or mental health clinic
7 organized pursuant to the provisions of K.S.A. 65-211 to 65-215,
8 inclusive, and amendments thereto, and licensed in accordance with
9 the provisions of K.S.A. 75-3307b and amendments thereto.

10 (d) "Secretary" means the secretary of social and rehabilitation
11 services.

12 (e) "Department" means the department of social and rehabili-
13 tation services.

14 (f) "State psychiatric hospital" means Osawatomie state hospital,
15 Rainbow mental health facility, Topeka state hospital or Larned state
16 hospital.

17 [^]New Sec. 3. In addition to powers and duties otherwise provided
18 by law, the secretary shall have the following powers and duties:

19 (a) To function as the sole state agency to develop a compre-
20 hensive plan to meet the needs of persons who have mental illness;

21 (b) to evaluate and coordinate all programs, services and facilities
22 for persons who have mental illness presently provided by agencies
23 receiving state and federal funds and to make appropriate recom-
24 mendations regarding such services, programs and facilities to the
25 governor and the legislature;

26 (c) to evaluate all programs, services and facilities within the state
27 for persons who have mental illness and determine the extent to
28 which present public or private programs, services and facilities meet
29 the needs of such persons;

30 (d) to solicit, accept, hold and administer on behalf of the state
31 any grants, devises or bequests of money, securities or property to
32 the state of Kansas for services to persons who have mental illness
33 or purposes related thereto;

34 (e) to provide consultation and assistance to communities and
35 groups developing local and area services for persons who have
36 mental illness;

37 (f) to assist in the provision of services for persons who are men-
38 tally ill in local communities whenever possible, with primary control
39 and responsibility for the provision of services with mental health
40 centers, and to assure that such services are provided in the least
41 restrictive environment;

42 (g) to adopt rules and regulations ~~[which assure that no person]~~
43 ~~[is]~~ inappropriately denied necessary mental health services from any

(g) "Mental health reform phased program" means the program in three phases for the implementation of mental health reform in Kansas as follows:

(1) The first phase covers the counties in the Osawatomie state hospital catchment area and is to commence on July 1, 1990, and is to be completed by June 30, 1994;

(2) the second phase covers the counties in the Topeka state hospital catchment area and is to commence on July 1, 1992, and is to be completed by June 30, 1996; and

(3) the third phase covers the counties in the Larned state hospital catchment area and is to commence on July 1, 1993, and is to be completed by June 30, 1997.

(h) "Screening" means the process performed by a participating community mental health center, pursuant to a contract entered into with the secretary under section 10 and amendments thereto, to determine whether a person, under either voluntary or involuntary procedures, can be evaluated or treated, or can be both evaluated and treated, in the community or should be referred to the appropriate state psychiatric hospital for such treatment or evaluation or for both treatment and evaluation.

for targeted population members which provide that no person shall be

and that each targeted population member shall be provided such services in the least restrictive manner

1 mental health center or state psychiatric hospital;

2 (h) to establish and implement policies and procedures within
3 the programs and activities of the department of social and reha-
4 bilitation services so that funds from the state shall follow persons
5 who are mentally ill from state facilities into community programs;

6 (i) to provide the least restrictive treatment and most appropriate
7 community based care as well as rehabilitation for Kansas residents
8 who are mentally ill persons through coordinated utilization of the
9 existing network of mental health centers and state psychiatric
10 hospitals;

11 (j) to establish standards for the provision of community support
12 services and for other community based mental health services pro-
13 vided by mental health centers in consultation with representatives
14 of mental health centers, consumers of mental health services and
15 family members of consumers of mental health services;

16 (k) to assure the establishment of specialized programs within
17 each mental health center throughout the state in order to provide
18 appropriate care for designated targeted population members;

19 (l) to establish service requirements for programs within mental
20 health centers which will ensure that targeted population members
21 receive the most effective community treatment possible;

22 (m) to ensure the development and continuation of high quality
23 community based mental health services, including programs for
24 targeted population members, in each mental health center service
25 delivery area through the provision of technical assistance, consul-
26 tation and funding;

27 (n) to establish standards for the provision of community based
28 mental health programs through community programs in consultation
29 with representatives of mental health centers, private and public
30 service providers, families and consumer advocates;

31 (o) to monitor the establishment and the continuing operation of
32 all state funded community based mental health services to ensure
33 that programs providing these services comply with established
34 standards;

35 (p) to review and approve the annual coordinated services plan
36 of each mental health center during each fiscal year ending after
37 June 30, 1991, and to withhold state funds from any mental health
38 center which is not being administered substantially in accordance
39 with the provisions of the annual coordinated services plan and
40 budget submitted to the secretary by the mental health center;

41 (q) to establish state policies for the disbursement of federal funds
42 within the state and for state administration of federal programs
43 providing services or other assistance to persons who have mental

1 illness consistent with relevant federal law, rules and regulations,
2 policies and procedures. ~~and~~

3 ~~(t) (r)~~ to adopt such rules and regulations as may be necessary to
4 administer the provisions of sections 1 through 11 and amendments
5 thereto.

6 New Sec. 4. (a) On or before October 1, 1991, and in accordance
7 with rules and regulations adopted under section 3 and amendments
8 thereto, the secretary shall develop and adopt a state assessment of
9 needs and a plan to develop and operate a state system to provide
10 mental health services for persons who are residents of Kansas,
11 including all targeted population members designated by rules and
12 regulations adopted by the secretary. The plan for the state system
13 shall include coordinating and assisting in the provision of community
14 based mental health services in the service delivery areas of mental
15 health centers, including the services provided by state psychiatric
16 hospitals and the provision of state financial assistance. On or before
17 March 1, 1992, the secretary shall adopt a state plan for an integrated
18 system to coordinate and assist in the provision of community based
19 mental health services within Kansas. The assessment of needs and
20 plan for the state shall be reviewed and updated by the secretary
21 on an annual basis.

22 (b) The secretary shall assist and coordinate the development by
23 each mental health center of a community assessment of needs and
24 a plan for the community system to provide community based mental
25 health services for persons who reside in the service delivery area
26 of the mental health center, including all targeted population mem-
27 bers. The secretary shall review and approve, or return, with rec-
28 ommendations for revision and resubmittal, all such assessments of
29 needs and plans in accordance with criteria prescribed by rules and
30 regulations adopted under section 3 and amendments thereto. If
31 necessary services for a service delivery area cannot be provided by
32 the mental health center or in order to ensure that a continuum of
33 services will be provided in a service delivery area, the secretary
34 may require the provision of services for a service delivery area
35 through the combination of the operations of two or more mental
36 health centers or through contracts between two or more mental
37 health centers.

38 (c) Each mental health center shall annually review and update
39 such assessment of needs and plan for the service delivery area. If
40 the assessment of needs or the plan for the community system to
41 provide community based mental health services are not in com-
42 pliance with the criteria prescribed by rules and regulations under
43 section 3 and amendments thereto, the secretary shall withhold all

(r) to adopt rules and regulations to ensure the protection of persons receiving mental health services, including an appeal procedure and the designation of an impartial advocate or mediator for persons receiving mental health services;

(s) to establish procedures and systems to evaluate the results and outcomes pursuant to section 10 and amendments thereto and as otherwise provided for under this act; and

1 or part of the state financial assistance provided to the mental health
2 center.

3 (d) On or after October 1, 1991, each mental health center shall
4 submit an annual coordinated services plan addressing the service
5 needs of the targeted population to the secretary of social and re-
6 habilitation services for review and approval. The annual coordinated
7 services plan shall be developed according to the standards estab-
8 lished by rules and regulations adopted by the secretary of social
9 and rehabilitation services.

10 New Sec. 5. (a) There is hereby established the governor's ~~com-~~
11 ~~mission on~~ mental health services. ~~The commission~~ shall consist of
12 ~~27~~ ¹³ members appointed by the governor, of which not more than ~~10~~
13 members shall be state officers or employees or providers of mental
14 health services.

15 (b) The governor shall designate the chairperson of the governor's
16 ~~commission on~~ mental health services. Each member of the gov-
17 ernor's ~~commission on~~ mental health services shall be appointed for
18 a term of four years. In the case of a vacancy on the ~~commission~~,
19 the governor shall appoint a successor for the unexpired term in the
20 same manner as the original appointment. The members of the
21 governor's ~~commission on~~ mental health services shall elect a vice-
22 chairperson.

23 (c) Members of the governor's ~~commission on~~ mental health serv-
24 ices attending meetings of the ~~commission~~, or attending a subcom-
25 mittee meeting thereof authorized by the ~~commission~~, shall be paid
26 amounts provided in subsection (c) of K.S.A. 75-3223 and amend-
27 ments thereto.

28 New Sec. 6. (a) The governor's ~~commission on~~ mental health
29 services shall hold regular quarterly meetings and such other meet-
30 ings as the chairperson of such ~~commission~~ deems advisable, and in
31 addition shall meet at such other times upon the call of the secretary
32 ~~of social and rehabilitation services~~.

33 (b) It is the duty of the governor's ~~commission on~~ mental health
34 services to:

35 (1) Confer, advise and consult with the secretary with respect to
36 the policies governing the management and operation of all state
37 psychiatric hospitals and facilities and community based mental
38 health services;

39 (2) serve as an advocate for targeted population members and
40 other individuals with mental illness or emotional problems;

41 (3) monitor, review and evaluate, not less than once each year,
42 the allocation and adequacy of mental health services within the
43 state;

The members shall be appointed by the governor so that the composition of the council is in compliance with the requirements of public law 99-660 or supplementary federal acts and in accordance with the following:

- (1) Eight members shall be representatives of state agencies;
- (2) one member shall be a representative of private mental health service providers;
- (3) two members shall be members of governing boards of mental health centers;
- (4) two members shall be executive directors of mental health centers; and
- (5) fourteen members shall be members of the general public and shall be, mostly, consumers of mental health services and family members of mentally ill persons.

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1 (4) perform such other planning , reviewing and evaluating of
2 mental health services in this state, as may be requested by the
3 secretary or as may be prescribed by law; and

4 (5) consult with and advise the governor, from time to time, with
5 reference to the management, conduct and operation of state psy-
6 chiatric hospitals and mental health programs.

7 (c) A member or members of the governor's ~~commission on~~ men-
8 tal health services, from time to time, shall visit each state psychiatric
9 hospital and may visit other providers of community based mental
10 health services for the purpose of inspecting the state psychiatric
11 hospital, mental health center or the facility of other such providers
12 of community based mental health services. Such visits shall be made
13 at such times and in such manner as the ~~commission~~ determines at
14 a regular meeting.

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15 (d) The governor's ~~commission on~~ mental health services shall
16 make annual reports to the governor and the members of the leg-
17 islature and may make such recommendations as it deems advisable
18 for appropriate legislation.

19 New Sec. 7. On or before March 1, 1991, the secretary shall
20 transfer those powers, duties, functions of adult services, which are
21 part of the home and community based services program or the adult
22 services community and day living program, or similar programs,
23 and which provide mental health services to persons, including per-
24 sons residing in intermediate care facilities that provide mental health
25 services, to mental health and retardation services.

26 New Sec. 8. (a) On or before October 1, 1991, and in accordance
27 with rules and regulations adopted by the secretary each mental
28 health center shall prepare and adopt a community assessment of
29 needs and a plan to provide community based mental health services
30 for persons who are residents of the service delivery area of the
31 mental health center and shall submit such assessment of needs and
32 plan to the secretary for approval. Among other provisions, such
33 plan shall include the provision of services to all targeted population
34 members who apply therefor.

35 (b) Each mental health center shall conduct periodic reviews of
36 the community assessment of needs for the service delivery area and
37 shall report at least annually to the secretary the results of such
38 reviews and any amendments to the community assessment of needs
39 or the plan to provide community based mental health services which
40 are adopted. The amendments to such plan shall be subject to ap-
41 proval by the secretary in accordance with criteria prescribed by
42 rules and regulations adopted by the secretary.

43 (c) Prior to October 1, 1991, the secretary shall adopt rules and

1 regulations prescribing guidelines for the conduct of community as-
2 sements of need, for the development and operation of systems to
3 provide community based mental health services within the service
4 delivery area of the mental health center, and for periodic reporting
5 to the secretary on the operations under such systems in accordance
6 with this act.

7 New Sec. 9. (a) Each mental health center may provide com-
8 munity based mental health services under the system established
9 in accordance with this act and approved by the secretary either by
10 directly providing such services or by providing such services through
11 contracts with service providers, including other mental health cen-
12 ters, or both directly and through contracts with such service
13 providers.

14 (b) Subject to and in accordance with the provisions of this act
15 and appropriations acts, the secretary shall assist in the establishment
16 and development of community based mental health services in each
17 county by providing counties and mental health centers with tech-
18 nical assistance and financial assistance.

19 New Sec. 10. (a) Prior to March 1, 1992, the secretary shall
20 enter into contracts with mental health centers so that there is a
21 participating mental health center for each area of the state. Each
22 mental health center entering into a contract with the secretary shall
23 provide court ordered evaluation and treatment services pursuant to
24 the treatment for mentally ill persons and shall be known as a
25 participating mental health center.

26 (b) Subject to the provisions of this act and appropriations acts,
27 the secretary shall administer and disburse funds to each mental
28 health center for the coordination and provision of mental health
29 services for all persons who are residents of the service delivery area
30 of such mental health center.

31 New Sec. 11. Subject to applicable federal guidelines and reg-
32 ulations and the provisions of appropriations acts, the secretary ~~of~~
33 ~~social and rehabilitation services shall~~ negotiate and enter into a
34 contract for a pilot project to be conducted during the fiscal year
35 ending June 30, ~~1991. The pilot project shall~~ be conducted to provide
36 the medicaid services related to psychiatric and substance abuse
37 services for Kansas medicaid eligible residents who are less than 21
38 years of age on the basis of a described set of such services to a
39 predetermined population as prescribed by the contract. The contract
40 shall not be subject to the competitive bid requirements of K.S.A.
41 75-3739 and amendments thereto. The services to be provided for
42 such residents under the contract shall include but not be limited
43 to case management services, day treatment, outpatient services and

(c) Subject to and in accordance with the provisions of this act and appropriations acts, the secretary shall undertake, in cooperation with participating mental health centers, establishment and implementation of the mental health reform phased program.

(1) Beginning with the Osawatomie state hospital catchment area, the secretary shall enter into contracts with participating mental health centers to reduce the rated bed capacity of the Osawatomie state hospital as follows:

(A) One unit of 20 to 30 beds for adults shall be closed by June 30, 1991;

(B) by June 30, 1992, an additional unit or units comprising 20 to 30 beds shall be closed for adolescents; and

(C) by June 30, 1993, an additional unit or units comprising 20 to 30 adult beds shall be closed.

(2) The secretary shall enter into contracts with participating mental health centers to reduce the rated bed capacity of Topeka state hospital as follows:

(A) One or more units comprising 20 to 30 adolescent beds shall be closed by June 30, 1993;

(B) an additional unit or units comprising 20 to 30 adult beds shall be closed by June 30, 1994; and

(C) an additional unit or units comprising 20 to 30 adult beds shall be closed by June 30, 1995.

(2) The secretary shall enter into contracts with participating mental health centers to reduce the rated bed capacity of Larned state hospital by closing one or more units comprising 20 to 30 adult beds in each of the fiscal years ending June 30, 1994, June 30, 1995, and June 30, 1996.

(d) The staff of each state psychiatric hospital and the staff of the participating mental health centers in the catchment area of the state psychiatric hospital shall develop and implement admission and discharge criteria for all patients. The provisions of this section shall be incorporated into all contracts entered into between the secretary and the participating mental health centers.

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1992. If the secretary conducts a pilot project under this section, the pilot program may

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emergency services. The contract ~~shall~~ be entered into by the secretary with a single mental health center or with a contracting agency to provide such services through a mental health center or other qualified service providers, or both, within an area of Kansas determined by the secretary. In determining the location of the pilot project and the area in which such services shall be provided, the secretary shall consider both those areas in which such services are being provided currently for such residents by mental health centers and those areas of Kansas in which such services can be provided for such residents at the time the pilot project is to commence under the contract. The secretary shall submit a preliminary report on the results of the pilot project to the committee on ways and means of the senate and the committee on appropriations of the house of representatives at the beginning of the ~~1991~~ regular session of the legislature. The secretary shall submit additional reports and information regarding the pilot project as requested by such committees during such legislative session.

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Sec. 12. On April 1, 1991, K.S.A. 19-4002 is hereby amended to read as follows: 19-4002. (a) (1) Except as provided by K.S.A. ~~1986 Supp.~~ 19-4002a and 19-4002b and amendments thereto, every county which establishes a mental health center or facility for the mentally retarded shall establish a community mental health or mental retardation governing board. Every county which wants to establish such board for the purpose of allowing such board to contract with a nonprofit corporation to provide services for the mentally retarded may establish a mental retardation governing board in accordance with the provisions of this section. Any board established under this subsection shall be referred to as the governing board. The governing board shall be composed of not less than seven members. The members of such governing board shall be appointed by and shall serve at the pleasure of the board of county commissioners of the county.

(2) When any combination of counties desires to establish a mental health center or facility for the mentally retarded, the chairperson of the board of the county commissioners of each participating county shall appoint two members to a selection committee, which committee shall select the first governing board. Each participating county shall have at least one representative on such board.

(b) Membership of each governing board, as nearly as possible, shall be representative of public health, medical profession, the judiciary, public welfare, hospitals, mental health organizations and mental retardation organizations, as well as education, rehabilitation, labor, business, civic groups, *family members of mentally ill persons,*

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1 *representatives of mental health consumer groups* and the general
2 public.

, and, in each case of a governing board for a mental health center,
the membership of the governing board shall include consumers of mental
health services and family members of mentally ill persons

3 (c) Should the board or boards of county commissioners be de-
4 sirable of providing both mental health services and services for the
5 mentally retarded in accordance with the provisions of this act, and
6 determine it is more practical to establish a single governing board
7 for mental health services and mental retardation facilities, then the
8 respective board or boards of commissioners may establish a single
9 board. In the event the board or boards of county commissioners
10 determine that separate boards are more practical, then the re-
11 spective board or boards of county commissioners may establish a
12 governing board for a mental health center and a separate board for
13 mental retardation facilities.

14 Sec. 13. On April 1, 1991, K.S.A. 19-4002a is hereby amended
15 to read as follows: 19-4002a. (a) In lieu of appointing a governing
16 board as provided by K.S.A. 19-4002, and amendments thereto, the
17 board of county commissioners of Sedgwick county may serve as the
18 community mental health or mental retardation governing board for
19 Sedgwick.

20 (b) If the board of county commissioners elects to serve as the
21 governing board pursuant to this section, the board of county com-
22 missioners shall appoint a mental health and mental retardation ad-
23 visory board of not less than seven members. Members of the
24 advisory board shall serve at the pleasure of the board of county
25 commissioners. Membership of the advisory board, as nearly as pos-
26 sible, shall be representative of public health, medical profession,
27 the judiciary, public welfare, hospitals and mental health organiza-
28 tions and education, rehabilitation, labor, business and civic groups.
29 ~~family members of mentally ill persons and representatives of mental~~
30 ~~health consumer groups.~~

shall include consumers of mental health services and family members of
mentally ill persons

31 (c) The board of county commissioners, as the mental health or
32 mental retardation governing board, shall seek the recommendations
33 of the mental health and mental retardation advisory board prior to
34 adopting the annual plan and budget for county mental health and
35 retardation programs.

36 Sec. 14. On April 1, 1991, K.S.A. 19-4002b is hereby amended
37 to read as follows: 19-4002b. (a) In lieu of appointing a governing
38 board as provided by K.S.A. 19-4002 and amendments thereto, the
39 board of county commissioners of Johnson county may serve as the
40 community mental health or mental retardation governing board for
41 Johnson county.

42 (b) If the board of county commissioners elects to serve as the
43 governing board pursuant to this section, the board of county com-

missioners shall appoint a mental health and mental retardation advisory board of not less than seven members. Members of the advisory board shall serve at the pleasure of the board of county commissioners. Membership of the advisory board as nearly as possible, shall be representative of public health, medical profession, the judiciary, public welfare, hospitals and mental health organizations and education, rehabilitation, labor, business and civic groups ~~family members of mentally ill persons and representatives of mental health consumer groups~~

shall include consumers of mental health services and family members of mentally ill persons and

(c) The board of county commissioners, as the mental health or mental retardation governing board, shall seek the recommendations of the mental health and mental retardation advisory board prior to adopting the annual plan and budget for county mental health and retardation programs.

Sec. 15. On April 1, 1991, K.S.A. 1989 Supp. 59-2901 is hereby amended to read as follows: 59-2901. ~~This act~~ *The provisions of K.S.A. 59-2901 through 59-2941 and amendments thereto and K.S.A. 1989 Supp. 59-2943 and ~~section 27~~ and amendments thereto* shall be known and may be cited as the treatment act for mentally ill persons.

sections 27 and 28

Sec. 16. On April 1, 1991, K.S.A. 1989 Supp. 59-2902 is hereby amended to read as follows: 59-2902. When used in ~~this~~ *the treatment act for mentally ill persons:*

(a) "Conditional release" means release of a patient who has not been discharged but who is permitted by the head of the treatment facility to live apart from the treatment facility pursuant to K.S.A. 59-2924 and amendments thereto.

(b) "Discharge" means the final and complete release from treatment, by either an order of a court pursuant to K.S.A. 59-2923 and amendments thereto or a treatment facility.

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

(d) "Involuntary patient" means a mentally ill person who is receiving treatment under order of a court of competent jurisdiction.

(e) "Lacks capacity to make an informed decision concerning treatment" means that the person, by reason of the person's mental disorder or condition, is unable, despite conscientious efforts at explanation, to understand basically the nature and effects of hospitalization or treatment or is unable to engage in a rational decision-making process regarding hospitalization or treatment, as evidenced by inability to weigh the possible risks and benefits.

(f) "Law enforcement officer" means any sheriff, regularly employed deputy sheriff, state highway patrol officer, regularly em-

1 ployed city police officer, law enforcement officer of any county law
2 enforcement department or regularly employed police officer of any
3 university, community college or Haskell institute, if such police
4 officer of a university, community college or Haskell institute has
5 completed not less than 320 hours of law enforcement instruction at
6 the law enforcement training center or in a training program ap-
7 proved under K.S.A. 74-5604a and amendments thereto.

8 (g) "Likely to cause harm to self or others" means that the person:

9 (1) Is likely, in the reasonably foreseeable future, to cause sub-
10 stantial physical injury or physical abuse to self or others or sub-
11 stantial damage to another's property, as evidenced by behavior
12 causing, attempting or threatening such injury, abuse or damage; or

13 (2) is substantially unable, except for reason of indigency, to
14 provide for any of the person's basic needs, such as food, clothing,
15 shelter, health or safety causing a substantial deterioration of the
16 person's ability to function on the person's own.

17 (h) "Mentally ill person" means any person who:

18 (1) Is suffering from a severe mental disorder to the extent that
19 such person is in need of treatment;

20 (2) lacks capacity to make an informed decision concerning treat-
21 ment; and

22 (3) is likely to cause harm to self or others.

23 No person who is being treated by prayer in the practice of the
24 religion of any church which teaches reliance on spiritual means
25 alone through prayer for healing shall be determined to be a mentally
26 ill person unless substantial evidence is produced upon which the
27 district court finds that the proposed patient is likely, in the rea-
28 sonably foreseeable future, to cause substantial physical injury or
29 physical abuse to self or others or substantial damage to another's
30 property, as evidence by behavior causing, attempting or threatening
31 such injury, abuse or damage.

32 (i) "Patient" means a person who is a voluntary patient, a pro-
33 posed patient or an involuntary patient.

34 (j) "Physician" means a person licensed to practice medicine and
35 surgery as provided by the Kansas healing arts act or a person who
36 is employed by a Kansas state hospital or by an agency of the United
37 States and who is authorized by either government to practice med-
38 icine and surgery.

39 (k) "Proposed patient" means a person for whom an application
40 pursuant to K.S.A. 59-2913 and amendments thereto has been filed.

41 (l) "Psychologist" means a ~~certified~~ licensed psychologist, as de-
42 fined by K.S.A. 74-5302 and amendments thereto.

43 (m) "Restraints" means the application of any devices, other than

1 human force alone, to any parts of the body of the patient for the
2 purpose of preventing the patient from causing injury to self or
3 others.

4 (n) "Seclusion" means the placement of a patient, alone, in a
5 locked room, where the patient's freedom to leave is restricted and
6 where the patient is not under continuous observation.

7 (o) "Severe mental disorder" means a clinically significant be-
8 havioral or psychological syndrome or pattern associated with either
9 a painful symptom or serious impairment in one or more important
10 areas of functioning and involving substantial behavioral, psychologic
11 or biologic dysfunction. "Severe mental disorder" does not include
12 a condition which is caused by the use of chemical substances or
13 for which the primary diagnosis is antisocial personality.

14 (p) "Treatment" means any service intended to promote the men-
15 tal health of the patient and rendered by a qualified professional
16 licensed or certified by the state to provide such service as an
17 independent practitioner or under the supervision of such
18 practitioner.

19 (q) "Treatment facility" means any mental health center or clinic,
20 psychiatric unit of a medical care facility, psychologist, physician or
21 other institution or individual authorized or licensed by law to pro-
22 vide either inpatient or outpatient treatment to any patient.

23 (r) "Voluntary patient" means a person who is receiving treatment
24 at a treatment facility other than by order of any court.

25 (s) The terms defined in K.S.A. 59-3002 and amendments thereto
26 shall have the meanings provided by that section.

27 (t) "Mental health center" means any community mental health
28 center organized pursuant to the provisions of K.S.A. 19-4001
29 through 19-4015, and amendments thereto, or mental health clinic
30 organized pursuant to the provisions of K.S.A. 65-211 through 65-
31 215, and amendments thereto, and licensed in accordance with the
32 provisions of K.S.A. 75-3307b and amendments thereto.

33 (u) "Participating mental health center" means a mental health
34 center which has entered into a contract with the secretary of social
35 and rehabilitation services to provide court ordered evaluation and
36 treatment services pursuant to the treatment act for mentally ill
37 persons.

38 (v) "State psychiatric hospital" means Larned state hospital, Os-
39 awatomie state hospital, Rainbow mental health facility and Topeka
40 state hospital.

41 (w) "Qualified mental health professional" means (1) a physician
42 or psychologist who is employed by a participating mental health
43 center or who is providing services as a physician or psychologist,

1 respectively, under a contract with a participating mental health
2 center, or (2) a registered masters level psychologist or a licensed
3 specialist clinical social worker or licensed master social worker who
4 is employed by a participating mental health center and who is acting
5 under the supervision of a physician.

6 (x) "Registered masters level psychologist" means a person reg-
7 istered as a registered masters level psychologist by the behavioral
8 sciences regulatory board under K.S.A. 1989 Supp. 74-5361 through
9 74-5373 and amendments thereto.

10 (y) "Licensed specialist clinical social worker" means a person
11 licensed in the clinical social work practice specialty by the behav-
12 ioral sciences regulatory board under K.S.A. 1989 Supp. 65-6301
13 through 65-6318 and amendments thereto.

14 (z) "Licensed master social worker" means a person licensed as
15 a master social worker by the behavioral sciences regulatory board
16 under K.S.A. 1989 Supp. 65-6301 through 65-6318 and amendments
17 thereto.

18 (aa) "Secretary" means the secretary of social and rehabilitation
19 services.

20 Sec. 17. On April 1, 1991, K.S.A. 59-2905 is hereby amended
21 to read as follows: 59-2905. (a) Any person may be admitted to a
22 treatment facility as a voluntary patient when there are available
23 accommodations and in the judgment of the head of the treatment
24 facility or his or her designee determines such person is in need
25 of treatment therein, except that no such person shall be admitted
26 to a state psychiatric hospital without a written statement authorizing
27 such admission from a qualified mental health professional. Such
28 person, if eighteen (18) 18 years of age or older, shall make written
29 application for admission. If such person is less than eighteen (18)
30 18 years of age, then the parent or person in loco parentis to such
31 person may make such written application. If such person is fourteen
32 (14) 14 years of age or over, such person may make such written
33 application on his or her such person's own behalf without the
34 consent or written application of such person's parent, guardian or
35 any other person. In any case, if such person is over eighteen (18)
36 18 years of age or older and has a guardian, the guardian shall make
37 such application. The head of the treatment facility or his or her
38 designee may require a statement of such person's attending phy-
39 sician or a statement of the local health officer of the area in which
40 such person resides that such person is in need of treatment in a
41 treatment facility. Whenever a minor fourteen (14) who is 14 years
42 of age or older makes written application on his or her such minor's
43 own behalf and is admitted as a voluntary patient, the head of the

, except that such person may be placed in a treatment facility pursuant to an application by a guardian only after a hearing conducted in accordance with the provisions of K.S.A. 59-2917 and amendments thereto and a finding by the court under that section that such person is in need of treatment at a treatment facility

1 treatment facility shall promptly notify the minor's parent or other
2 person *in loco parentis* of the admittance of such minor.

3 (b) No person shall be admitted as a voluntary patient under the
4 provisions of this act to any treatment facility unless the head of the
5 treatment facility or his or her designee has informed such person
6 or such person's parent, guardian or person *in loco parentis* in writing
7 of the following: (a)

8 (1) The rules and procedures of the treatment facility relating to
9 the discharge of voluntary patients; (b)

10 (2) the legal rights of a voluntary patient receiving treatment
11 from a treatment facility; and (c)

12 (3) the types of treatment which are available to the voluntary
13 patient from the treatment facility.

14 Sec. 18. On April 1, 1991, K.S.A. 1989 Supp. 59-2908 is hereby
15 amended to read as follows: 59-2908. (a) Any law enforcement officer
16 who has reasonable belief upon observation that any person is a
17 mentally ill person and because of such person's illness is likely to
18 cause harm to self or others if allowed to remain at liberty may take
19 the person into custody without a warrant. The officer shall transport
20 the person to any treatment facility where the person shall be ex-
21 amined by a physician or psychologist on duty at such the treatment
22 facility, *except that no person shall be transported to a state psy-
23 chiatric hospital for examination unless a written statement recom-
24 mending evaluation at a state psychiatric hospital has been obtained
25 from a qualified mental health professional. If no physician or psy-
26 chologist is on duty at the time the person is transported to the
27 treatment facility, the person shall be so examined within a reason-
28 able time not to exceed [7] hours. If a written statement is made
29 by the physician or psychologist at the treatment facility that after
30 preliminary examination the physician or psychologist believes the
31 person to be a mentally ill person and because of the person's illness
32 is likely to cause harm to self or others if allowed to remain at
33 liberty, and if the treatment facility is willing to admit the person,
34 the law enforcement officer shall present to the treatment facility
35 the application provided for in subsection (b) of K.S.A. 59-2909 and
36 amendments thereto. If the physician or psychologist on duty at the
37 treatment facility does not believe the person to be a mentally ill
38 person, the law enforcement officer shall release the person.*

12

39 (b) If the physician or psychologist on duty at the treatment
40 facility states that the physician or psychologist believes, in the
41 physician's or psychologist's opinion, the person to be is a mentally
42 ill person but the treatment facility is unwilling to admit the person,
43 ~~or if~~ there is no treatment facility available to receive the person

the treatment facility shall provide a suitable facility in which the person may be detained by the law enforcement officer until the close of the first day the district court of the county is open for the transaction of business, unless the court orders that the person remain in custody pursuant to the provisions of K.S.A. 59-2912 and amendments thereto. If

1 within the territorial limits of the law enforcement officer's jurisdic-
 2 tion, the law enforcement officer may detain the person in any other
 3 suitable place until the close of the first day the district court of the
 4 county is open for the transaction of business, unless the court orders
 5 that the person remain in custody pursuant to the provisions of
 6 K.S.A. 59-2912 and amendments thereto. If a law enforcement officer
 7 detains a person pursuant to this subsection, the law enforcement
 8 officer shall file the application provided for in subsection (a) of
 9 K.S.A. 59-2912 and amendments thereto, as soon as the court is
 10 open for the transaction of business. ^

No person shall be detained by a law enforcement officer pursuant to this subsection in a nonmedical facility used for the detention of persons charged with or convicted of a crime

11 Sec. 19. On April 1, 1991, K.S.A. 1989 Supp. 59-2912 is hereby
 12 amended to read as follows: 59-2912. (a) A district court may issue
 13 an order of protective custody upon the verified application of any
 14 law enforcement officer or other individual, *except that no order of*
 15 *protective custody shall be issued pursuant to this section to a state*
 16 *psychiatric hospital unless the district court has obtained a written*
 17 *recommendation for such admission from a qualified mental health*
 18 *professional. The application shall state:*

- 19 (1) The name and address of the person with respect to whom
- 20 the order is sought, if known;
- 21 (2) the name and address of the person's spouse, legal counsel
- 22 or nearest relative, if known;
- 23 (3) the affiant's belief that the person is a mentally ill person and
- 24 because of the person's illness is likely to cause harm to self or others
- 25 if not immediately detained;
- 26 (4) the factual allegations upon which subsection (a)(3) is based;
- 27 and
- 28 (5) that the application provided for in K.S.A. 59-2913 and
- 29 amendments thereto has been filed.

30 An order of *protective custody* issued under this subsection shall
 31 only be valid until 5:00 p.m. of the second full day the district court
 32 is open for the transaction of business after the date of issuance.
 33 The district court shall not issue successive orders of protective
 34 custody pursuant to this subsection.

35 (b) A district court may issue an order of protective custody upon
 36 the verified application of any person, if the application provided
 37 for in K.S.A. 59-2913 and amendments thereto has been filed in the
 38 court, and the court has found following a hearing that there is
 39 probable cause to believe that the person with respect to whom the
 40 application has been filed is a mentally ill person, *except that no*
 41 *order of protective custody shall be issued pursuant to this section*
 42 *to a state psychiatric hospital unless the district court has obtained*
 43 *a written recommendation for such admission from a qualified mental*

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1 *health professional.* No order of protective custody shall be issued
2 pursuant to this subsection until the court has held a hearing to
3 determine probable cause, which hearing shall be held not later than
4 5:00 p.m. of the second full day the district court is open for the
5 transaction of business after the filing of the application provided for
6 by K.S.A. 59-2913 and amendments thereto. The person with respect
7 to whom the application has been filed shall be present at the
8 hearing, unless the attorney for the person requests that the person's
9 presence be waived and the court finds that the person's presence
10 at the hearing would be injurious to the person's welfare. The court
11 shall enter in the record of the proceedings the facts upon which
12 the court has found that the presence of the person at the hearing
13 would be injurious to such person's welfare. Notwithstanding the
14 foregoing provisions of this subsection, if the person with respect to
15 whom the application has been filed requests in writing to the court
16 or to such person's attorney that the person be present at the hearing,
17 the person's presence cannot be waived.

18 (c) The applicant and the person with respect to whom the ap-
19 plication has been filed shall be notified of the time and place of
20 the hearing and afforded an opportunity to appear at the hearing,
21 to testify and to present and cross-examine witnesses. If the person
22 with respect to whom the application has been filed has not retained
23 an attorney, the court shall appoint an attorney for the person in
24 the same manner as an attorney is appointed under the provisions
25 of K.S.A. 59-2914 and amendments thereto. All persons not nec-
26 essary for the conduct of the proceedings may be excluded. The
27 hearing shall be conducted in as informal a manner as may be
28 consistent with orderly procedure and in a physical setting not likely
29 to have a harmful effect on the person with respect to whom the
30 application has been filed. The court shall receive all relevant and
31 material evidence which may be offered. The rules governing evi-
32 dentiary and procedural matters at hearings under this section shall
33 be applied so as to facilitate informal, efficient presentation of all
34 relevant, probative evidence and resolution of issues with due regard
35 to the interests of all parties. The facts or data upon which a duly
36 qualified expert bases an opinion or inference may be those perceived
37 by or made known to the expert at or before the hearing. If of a
38 type reasonably relied upon by experts in a particular field in forming
39 opinions or inferences upon the subject, the facts or data need not
40 be admissible in evidence. The expert may testify in terms of opinion
41 or inference and give the expert's reasons therefor without prior
42 disclosure of the underlying facts or data unless the court requires
43 otherwise. The expert may in any event be required to disclose the

1 underlying facts or data on cross examination. If the applicant is not
2 represented by counsel, the county or district attorney shall rep-
3 resent the applicant, prepare all necessary papers, appear at the
4 hearing and present such evidence as the county or district attorney
5 determines to be of aid to the court in determining whether or not
6 there is probable cause to believe that the person with respect to
7 whom the application has been filed is a mentally ill person.

8 If the court determines from the evidence that there is probable
9 cause to believe that the person with respect to whom the application
10 has been filed is a mentally ill person, the court shall issue an order
11 of protective custody; otherwise, the court shall terminate the
12 proceedings.

13 (d) The order of protective custody issued pursuant to provisions
14 of this section may authorize a health officer, physician, law en-
15 forcement officer or other person to take the person with respect to
16 whom the application has been filed into custody and to transport
17 and place the person in a designated treatment facility or other
18 suitable place willing to receive the person and may designate the
19 place of detention, but no person shall be detained in protective
20 custody in a nonmedical facility used for the detention of persons
21 charged with or convicted of a crime ~~unless other facilities are not~~
22 ~~available~~. In lieu of such detention, the order of protective custody
23 may allow the person with respect to whom the application has been
24 filed to be at liberty, subject to such conditions as the court may
25 impose, pending the hearing provided for in K.S.A. 59-2917 and
26 amendments thereto.

27 Sec. 20. On April 1, 1991, K.S.A. 1989 Supp. 59-2914 is hereby
28 amended to read as follows: 59-2914. (a) Upon the filing of the
29 application provided for in K.S.A. 59-2913 and amendments thereto,
30 the district court shall issue the following:

31 (1) An order fixing the time and place of the hearing on the
32 application. Such hearing, in the court's discretion, may be con-
33 ducted in the courtroom, a treatment facility or other suitable place.
34 The time designated in the order shall in no event be earlier than
35 seven days or later than 14 days after the date of the filing of the
36 application, except that if the proposed patient absents the patient's
37 self and the service of the notice on the proposed patient cannot be
38 served because of the absence, the time of absence shall not be
39 included in computing the time of the expiration of the fourteen-
40 day limitation above set out.

41 (2) An order that the proposed patient appear at the time and
42 place of the hearing. The proposed patient shall be present at the
43 hearing, unless the attorney for the proposed patient requests that

1 the proposed patient's presence be waived and the court finds that
2 the proposed patient's presence at the hearing would be injurious
3 to the proposed patient's welfare. The court shall enter in the record
4 of the proceedings the facts upon which the court has found that
5 the presence of the proposed patient at the hearing would be in-
6 jurious to the proposed patient's welfare. Notwithstanding the fore-
7 going provisions of this subsection, if the proposed patient requests
8 in writing to the court or to such person's attorney that the proposed
9 patient be present at the hearing, the proposed patient's presence
10 cannot be waived.

11 (3) An order appointing an attorney to represent the proposed
12 patient at all stages of the proceedings and until all orders resulting
13 from such proceedings are terminated. The court shall give pref-
14 erence, in the appointment of the attorney, to any attorney who has
15 represented the proposed patient in other matters if the court has
16 knowledge of the prior relationship. The proposed patient shall have
17 the right to engage an attorney of the proposed patient's own choice
18 and, in such event, the attorney appointed herein shall be relieved
19 of all duties by the court.

20 (4) An order that the proposed patient shall appear at a time
21 and place that is in the best interests of the patient to consult with
22 the proposed patient's court-appointed attorney, which time shall be
23 at least five days prior to the date set for the hearing under K.S.A.
24 59-2917 and amendments thereto.

25 (5) A notice in the manner provided for in K.S.A. 59-2916 and
26 amendments thereto.

27 (6) Upon the motion of any party or on the court's own motion,
28 an order of investigation, which investigation may inquire into the
29 proposed patient's character, family relationships and past conduct;
30 whether or not the proposed patient is likely to cause harm to self
31 or others if allowed to remain at liberty; and other pertinent factors.
32 The court may designate a treatment facility, licensed social worker,
33 court services officer or social service agency to make such inves-
34 tigation and to promptly make a written report to the court, which
35 report shall be made available only to counsel for the parties at least
36 five days prior to the date set for the hearing under K.S.A. 59-2917
37 and amendments thereto, *except that no order for investigation shall*
38 *designate a state psychiatric hospital. The court may designate a*
39 *qualified mental health professional or a case manager employed by*
40 *a participating mental health center to conduct an investigation pur-*
41 *suant to this section.*

42 (7) Upon the motion of any party, containing those statements
43 required by K.S.A. 59-3009 and amendments thereto, orders nec-

1 essary to make a determination of the need for a guardian or con-
2 servator, or both, to act on behalf of the proposed patient. For the
3 purposes of determining whether a guardian or conservator is
4 needed, the hearings required by K.S.A. 59-2917 and 59-3013, and
5 amendments thereto, may be consolidated.

6 (b) Nothing in this section shall prevent the court from granting
7 an order of continuance, for good cause shown, to either party for
8 no longer than seven days, except that such limitation does not apply
9 to a request for an order of continuance made by the proposed
10 patient. The court also, upon request by either party, may advance
11 the date of the hearing if necessary in the interests of all concerned.

12 Sec. 21. On April 1, 1991, K.S.A. 1989 Supp. 59-2914a is hereby
13 amended to read as follows: 59-2914a. (a) After the filing of the
14 application provided for in K.S.A. 59-2913 and amendments thereto
15 and prior to the hearing provided for in K.S.A. 59-2917 and amend-
16 ments thereto, the court shall issue an order for mental evaluation.
17 The order of mental evaluation shall be served in the manner pro-
18 vided for in K.S.A. 59-2916 and amendments thereto. It shall order
19 the proposed patient to submit to a mental evaluation and to undergo
20 such evaluation as may be designated by the court in the order,
21 except that any proposed patient who is not under an order of
22 protective custody issued pursuant to K.S.A. 59-2912 and amend-
23 ments thereto and who requests a hearing pursuant to subsection
24 (b), need not submit to such evaluation until the hearing has been
25 held and the court finds that there is probable cause to believe that
26 the proposed patient is a mentally ill person. The evaluation may
27 be held at a treatment facility, the home of the proposed patient or
28 such other suitable place that the court determines is not likely to
29 have a harmful effect on the health of the proposed patient. A state
30 psychiatric hospital shall ~~receive and not be ordered to evaluate~~
31 any proposed patient ~~ordered evaluated therein, unless the court~~
32 *has been informed in writing that the evaluation cannot be performed*
33 *at a participating mental health center. The written authorization*
34 *to have the evaluation performed at a state psychiatric hospital must*
35 *be presented to the court by the administrator of the participating*
36 *mental health center or by a qualified mental health professional.*

37 (b) Whenever a proposed patient requests a hearing pursuant to
38 subsection (a), the hearing shall be held within a reasonable time
39 thereafter. The applicant and the proposed patient shall be notified
40 of the time and place of the hearing, afforded an opportunity to
41 testify, and to present and cross-examine witnesses. The proposed
42 patient shall be present at the hearing, and the patient's presence
43 cannot be waived. All persons not necessary for the conduct of the

1 proceedings may be excluded. The hearing shall be conducted in as
2 informal a manner as may be consistent with orderly procedure and
3 in a physical setting not likely to have a harmful effect on the
4 proposed patient. The court shall receive all relevant and material
5 evidence which may be offered. If the applicant is not represented
6 by counsel, the county or district attorney shall represent the ap-
7 plicant, prepare all necessary papers, appear at the hearing and
8 present such evidence as is determined to be of aid to the court in
9 determining whether or not there is probable cause to believe that
10 the proposed patient is a mentally ill person. If the court determines
11 from the evidence that there is probable cause to believe that the
12 proposed patient is a mentally ill person, the court shall issue the
13 order of mental evaluation; otherwise, the court shall terminate all
14 proceedings. At the time designated by the court in the order, but
15 in no event later than three days prior to the date of the hearing
16 provided for in K.S.A. 59-2917 and amendments thereto, the ex-
17 aminer shall submit to the court a report, in writing, of the evaluation
18 which report also shall be made available to counsel for the parties
19 at least three days prior to such hearing. The report also shall be
20 made available to the proposed patient and to whomever the patient
21 directs, unless for good cause recited in the order, the court orders
22 otherwise. Such report shall state that the examiner has made an
23 examination of the proposed patient and shall state the results of
24 the examination on the issue of whether the proposed patient is a
25 mentally ill person and the examiner's opinion as to the least re-
26 strictive treatment alternative which will protect the proposed patient
27 and others and allow for the improvement of the proposed patient.

28 Sec. 22. On April 1, 1991, K.S.A. 1989 Supp. 59-2916 is hereby
29 amended to read as follows: 59-2916. (a) The notice required by
30 K.S.A. 59-2914 and amendments thereto shall be given to the pro-
31 posed patient named in the application, the attorney appointed pur-
32 suant to K.S.A. 59-2914 and amendments thereto and such other
33 persons as the court directs. *The notice shall also be given to the*
34 *participating mental health center which has jurisdiction over the*
35 *county where the proposed patient is located.*

36 (b) The notice shall state:

37 (1) That an application has been filed, alleging that the proposed
38 patient is a mentally ill person and requesting that the court order
39 treatment;

40 (2) the time and place of the hearing;

41 (3) the name of the attorney appointed to represent the proposed
42 patient and the time and place where the proposed patient shall
43 consult with such attorney; and

1 (4) that the proposed patient has a right to demand a hearing
2 before a jury.

3 (c) The court may order any of the following to serve the notice:

4 (1) The physician or psychologist currently administering to the
5 proposed patient, if the physician or psychologist consents;

6 (2) the head of the local mental health clinic or the designee
7 thereof;

8 (3) the local health officer or such officer's designee;

9 (4) the secretary of social and rehabilitation services or the sec-
10 retary's designee;

11 (5) any law enforcement officer; or

12 (6) the attorney of the proposed patient.

13 (d) The notice shall be served personally on the proposed patient
14 and the attorney appointed pursuant to K.S.A. 59-2914 and amend-
15 ments thereto as soon as possible, but not less than 10 days prior
16 to the date of the hearing, and immediate return thereof shall be
17 made. Unless otherwise ordered by the court, notice shall be served
18 on the proposed patient by a nonuniformed person. Notice to all
19 other persons shall be made in the manner directed by the court,
20 but such notice shall not be given less than 10 days prior to the
21 date of the hearing.

22 Sec. 23. On April 1, 1991, K.S.A. 1989 Supp. 59-2917 is hereby
23 amended to read as follows: 59-2917. (a) The hearing shall be held
24 at the time and place specified in the court's order unless a contin-
25 uance as provided in K.S.A. 59-2914, 59-2916a or 59-2918, and
26 amendments thereto, has been granted. The hearing shall be held
27 to the court only, unless the proposed patient ~~shall~~, at least four
28 days prior to the time of the hearing, ~~demand~~ demands in writing
29 a hearing before a jury.

30 (b) The jury, if one is demanded, shall consist of six persons.

31 The jury panel shall be selected as provided by law and from such
32 panel 12 qualified jurors, who have been passed for cause, shall be
33 empaneled. Prior service as a juror in any court shall not *exempt*,
34 for that reason, ~~exempt~~ any person from jury service hereunder.
35 From the panel so obtained, the proposed patient or the proposed
36 patient's attorney shall strike one name; *then* the applicant, or the
37 applicant's attorney, *shall strike* one name; and so on alternately
38 until each ~~shall have~~ has stricken three names. If either party
39 neglects or refuses to aid in striking the names, the court shall strike
40 a name on behalf of such party. If 12 qualified jurors cannot be so
41 empaneled, the court shall draw from such panel or list, by lot,
42 sufficient additional names to empanel 12 qualified jurors.

43 (c) The applicant and the proposed patient shall be afforded an

1 opportunity to appear at the hearing, to testify, and to present and
2 cross-examine witnesses. All persons not necessary for the conduct
3 of the proceedings may be excluded. The hearings shall be conducted
4 in as informal a manner as may be consistent with orderly procedure
5 and in a physical setting not likely to have a harmful effect on the
6 proposed patient. The court shall receive all relevant and material
7 evidence which may be offered, including the testimony or written
8 findings and recommendations of the treatment facility or examiner
9 who has examined or evaluated the proposed patient and the tes-
10 timony or written findings and recommendations of the investigator
11 appointed pursuant to K.S.A. 59-2914 and amendments thereto. Such
12 evidence shall not be privileged for the purpose of this hearing.

13 (d) The rules governing evidentiary and procedural matters at
14 hearings under this section shall be applied so as to facilitate informal,
15 efficient presentation of all relevant, probative evidence and reso-
16 lution of issues with due regard to the interests of all parties.

17 (e) If the applicant is not represented by counsel, the county or
18 district attorney shall represent the applicant, prepare all necessary
19 papers, appear at the hearing and present such evidence as the
20 county or district attorney shall determine to be of aid to the court
21 in determining whether the proposed patient is a mentally ill person.

22 (f) Upon the completion of the hearing, if the court or jury finds
23 by clear and convincing evidence that the proposed patient is a
24 mentally ill person, the court shall order treatment for such person
25 at a treatment facility, *except that the court shall not order treatment*
26 *at a state psychiatric hospital unless the court has received a written*
27 *recommendation for treatment at a state psychiatric hospital from*
28 *a qualified mental health professional. An order for treatment in a*
29 *treatment facility, except a state psychiatric hospital, shall be con-*
30 *ditioned upon the consent of such treatment facility.*

31 (g) When the court orders treatment, it shall retain jurisdiction
32 to modify, change or terminate such order.

33 (h) If, upon the completion of the hearing the court or jury finds
34 by clear and convincing evidence that the proposed patient is a
35 mentally ill person has not been shown, the court shall enter the
36 finding in the record and by an appropriate order shall terminate
37 the proceedings.

38 Sec. 24. On April 1, 1991, K.S.A. 1989 Supp. 59-2918 is hereby
39 amended to read as follows: 59-2918. (a) The proposed patient, at
40 any time prior to the hearing provided for in K.S.A. 59-2917 and
41 amendments thereto, may request, in writing, that the hearing be
42 continued for 90 days so that the court may make an order of referral
43 for short-term treatment. Upon receipt of such a request, the court

1 may refer the proposed patient for a period of time not to exceed
2 90 days, for short-term treatment, to any treatment facility. An order
3 of referral for treatment in any treatment facility, ~~except a state~~
4 ~~psychiatric hospital~~, shall be conditioned upon the consent of such
5 treatment facility, *except that no order of referral for treatment in*
6 *a state psychiatric hospital shall be entered unless the court has*
7 *received a written recommendation for such admission from a qual-*
8 *ified mental health professional.* The court may not issue an order
9 of referral unless the attorney representing the proposed patient has
10 filed a statement, in writing, stating that the attorney has explained
11 to the proposed patient the nature of the order of referral and the
12 right to a hearing before a court or jury to determine whether the
13 proposed patient is a mentally ill person.

14 (b) Any proposed patient who has been referred for short-term
15 treatment under this section may be accepted for voluntary admission
16 in a treatment facility pursuant to K.S.A. 59-2905 and amendments
17 thereto. When the proposed patient has been admitted as a voluntary
18 patient, the treatment facility shall file written notice of the patient's
19 acceptance as a voluntary patient in the court which had ordered
20 the referral. The filing of such notice shall constitute a dismissal of
21 the pending application to determine whether the proposed patient
22 is a mentally ill person.

23 (c) Unless the proposed patient has been accepted as a voluntary
24 patient by a treatment facility, the facility treating the proposed
25 patient, not later than 14 days prior to the expiration date of the
26 referral period, shall file a written report of its findings and rec-
27 ommendations with the court. The court shall then set the date for
28 the hearing provided for in K.S.A. 59-2917 and amendments thereto.
29 Such hearing date shall not be later than the expiration date of the
30 referral, unless continued at the proposed patient's request.

31 Sec. 25. On April 1, 1991, K.S.A. 1989 Supp. 59-2918a is hereby
32 amended to read as follows: 59-2918a. (a) Following the hearing on
33 the petition as provided for in K.S.A. 59-2917 and amendments
34 thereto, or prior to the entry of an order provided for in K.S.A. 59-
35 2918 and amendments thereto, if the court finds that the proposed
36 patient is a mentally ill person, the court, as an alternative to in-
37 patient treatment, may enter an order for outpatient treatment at a
38 ~~community~~ mental health center or other private treatment facility
39 capable of providing outpatient care. Such an order for outpatient
40 treatment may be entered by the court only if the court finds that
41 outpatient treatment will not constitute a danger to the community
42 and that the patient is not likely to cause harm to self or others
43 while under outpatient treatment. In considering this issue the court

1 shall take into consideration all relevant factors, including but not
2 limited to, the degree of supervision and type of outpatient treatment
3 proposed and available, the preferences of the patient and the degree
4 of security to the community provided for under outpatient
5 treatment.

6 (b) No order for outpatient treatment shall be entered unless the
7 outpatient treatment facility has consented to treat the patient on
8 an outpatient basis under the terms and conditions set forth by the
9 court, *except that no order for outpatient treatment shall be refused*
10 *by a participating mental health center.*

11 (c) If outpatient treatment is ordered, the order shall state the
12 specific conditions to be followed by the patient and shall include
13 the general condition that the patient shall follow all directives and
14 treatment methods established by the head of the treatment facility
15 or the head's designee. The court shall also make such orders as are
16 appropriate to provide for transportation to the outpatient treatment
17 facility, for the transfer of the copies of the patient's records to the
18 outpatient *treatment* facility and provisions for monitoring the pro-
19 posed patient's progress and compliance with outpatient treatment.

20 (d) (1) The court shall retain jurisdiction to modify or revoke its
21 order for outpatient treatment at any time on its own motion, on
22 the motion of any counsel of record or upon notice from the treat-
23 ment facility of any need for new conditions in the order for out-
24 patient treatment or of material noncompliance by the patient with
25 the order for outpatient treatment. Revocation or modification may
26 be ordered by *ex parte* order or by order of the court after notice
27 and hearing.

28 (2) The treatment facility shall immediately report to the court
29 any material noncompliance by the patient with the outpatient treat-
30 ment order. Such notice may be verbal or by telephone but shall
31 be followed by a verified written notice to the court and to counsel
32 for all parties. Upon receipt of telephone, verbal or written verified
33 notice of noncompliance, the court may enter an *ex parte* order of
34 protective custody revoking the outpatient treatment order and pro-
35 viding for immediate commitment *of the patient* to an inpatient
36 treatment facility.

37 (3) After the entry of an *ex parte* order revoking or modifying
38 the order for outpatient treatment, a copy of the order shall be
39 served upon the patient and the patient's attorney. Any party to the
40 matter, including the petitioner, the state or the patient may request
41 a hearing on the matter if the request is filed within five days from
42 the date of service of the *ex parte* order upon the patient. The court
43 may also order such a hearing on its own motion within five days

1 from the date of service of the notice. If no request or order for
2 hearing is filed within the five-day period, the *ex parte* order shall
3 become the final order of the court. If a hearing is requested, a
4 written motion for revocation or modification of the outpatient treat-
5 ment order shall be filed by the state or the petitioner and a hearing
6 shall be held thereon within five days after the filing of the motion.
7 If upon hearing the court finds that the conditions of the outpatient
8 treatment order have not been met, the court may enter an order
9 for inpatient treatment or may continue the order for outpatient
10 treatment with different terms and conditions *in accordance with*
11 *this section*.

12 (e) The outpatient treatment facility shall comply with the pro-
13 visions of K.S.A. ~~1986~~ 1989 Supp. 59-2919a *and amendments thereto*
14 concerning filing of medical records summaries each 90 or 180 days
15 during the time the outpatient treatment order is in effect and the
16 court shall receive and process such reports in the same manner as
17 reports received from an inpatient treatment facility.

18 Sec. 26. On April 1, 1991, K.S.A. 1989 Supp. 59-2924 is hereby
19 amended to read as follows: 59-2924. (a) The secretary of social and
20 rehabilitation services or the secretary's designee may transfer any
21 patient from any state psychiatric hospital under the secretary's con-
22 trol to any other state psychiatric hospital whenever the secretary
23 or the secretary's designee considers it to be in the best interests
24 of the patient. Except in the case of an emergency, the patient's
25 next of kin or guardian, if one has been appointed, shall be notified
26 of the transfer, and notice shall be sent to the committing court not
27 less than 14 days before the proposed transfer. The notice shall state
28 the location to which the transfer is proposed and state that, upon
29 request of the next of kin or guardian, an opportunity for a hearing
30 on the proposed transfer will be provided by the secretary of social
31 and rehabilitation services prior to such transfer.

32 (b) The secretary of social and rehabilitation services or the de-
33 signee of the secretary may transfer any involuntary patient from
34 any state psychiatric hospital to any state institution for the mentally
35 retarded whenever the secretary of social and rehabilitation services
36 or the designee of the secretary considers it to be in the best interests
37 of the patient. Any patient transferred as provided in this subsection
38 shall remain subject to the same statutory provisions as were ap-
39 plicable at the hospital from which the patient was transferred and
40 in addition thereto shall abide by and be subject to all the rules
41 and regulations of the institution to which the patient has been
42 transferred. Except in the case of an emergency, the patient's next
43 of kin or guardian, if one has been appointed, shall be notified of

1 the transfer, and notice shall be sent to the committing court not
2 less than 14 days before the proposed transfer. The notice shall state
3 the location to which the transfer is proposed and state that, upon
4 request of the next of kin or guardian, an opportunity for a hearing
5 on the proposed transfer will be provided by the secretary of social
6 and rehabilitation services prior to such transfer. No involuntary
7 patient shall be transferred from a state psychiatric hospital to a state
8 institution for the mentally retarded unless the superintendent of
9 the receiving institution has found that the patient is mentally re-
10 tarded and in need of care and training and that placement in the
11 institution is the least restrictive alternative available. Nothing in
12 this subsection shall prevent the secretary of social and rehabilitation
13 services or the designee of the secretary from allowing a person to
14 be admitted as a voluntary resident to a state institution for the
15 mentally retarded, or from discharging such person from a state
16 psychiatric hospital.

17 (c) When any proposed patient or involuntary patient has been
18 ordered to any treatment facility pursuant to K.S.A. 59-2909, 59-
19 2912, 59-2917 or 59-2918, and amendments thereto, the head of the
20 treatment facility shall discharge the patient when the patient is no
21 longer in need of treatment in the facility, *except that no patient*
22 *shall be discharged from a state psychiatric hospital without receiving*
23 *recommendations from the participating mental health center, if any,*
24 *serving the area where the patient intends to reside.* The head of
25 the treatment facility shall review and investigate all applications for
26 involuntary admission and, if appropriate, shall divert patients to
27 less restrictive treatment alternatives before further judicial pro-
28 ceedings occur whenever it is deemed appropriate by the head of
29 the treatment facility. If diversion from involuntary treatment is not
30 appropriate, the head of the treatment facility should be prepared
31 to present evidence at the next hearing scheduled for the patient
32 concerning further need for involuntary treatment.

33 (d) The head of the treatment facility may release any involuntary
34 patient who has been committed for treatment pursuant to K.S.A.
35 59-2917 or 59-2918, and amendments thereto, on conditional release
36 when the head of the treatment facility believes that (1) the release
37 is in the best interests of the patient and (2) the patient is not likely
38 to cause harm to self or others as long as the patient continues a
39 plan of treatment in the community. The treatment facility shall
40 formulate a plan of treatment for each patient released on conditional
41 release. The plan of treatment may include any conditions which
42 the head of the treatment facility considers to be in the best interests
43 of the patient or necessary to ensure that the patient is not likely

On and after April 1, 1991, *state*

1 to cause harm to self or others. The conditions may include a re-
2 quirement that the patient be supervised by and report to a treat-
3 ment facility which shall be responsible for ensuring that the patient
4 complies with the conditions. The treatment facility in the com-
5 munity shall inform the head of the treatment facility from which
6 the patient was discharged of any material noncompliance with the
7 treatment plan. The head of the treatment facility from which the
8 patient is released may change the plan of treatment or the conditions
9 specified in the plan whenever the head considers it to be in the
10 best interests of the patient or necessary to ensure that the patient
11 is not likely to cause harm to self or others. If the patient fails to
12 comply with any conditions of the treatment plan, the head of the
13 facility may revoke the release and order the patient readmitted to
14 the facility. The head of the treatment facility may authorize and
15 order a law enforcement officer or other person to take into custody
16 and transport the patient to a treatment facility.

17 Prior to the end of the 120 days on conditional release, and not
18 less often than each 120 days thereafter while a patient is on con-
19 ditional release, the head of the treatment facility from which the
20 patient is released shall reexamine the facts relating to the treatment
21 of the patient on conditional release.

22 (e) The head of the treatment facility shall not discharge an in-
23 voluntary patient from conditional release unless at least seven days'
24 notice of the intention to discharge the patient is given to the pa-
25 tient's guardian, if any, and to any other treatment facility which is
26 involved in the treatment plan for the patient.

27 (f) Nothing in this section shall be construed to amend or modify
28 or repeal any law relating to the confinement of persons charged
29 with or convicted of a criminal offense.

30 New Sec. 27. ~~State~~ psychiatric hospitals and their officers and
31 employees, and participating mental health centers and their officers
32 and employees, except for gross or wanton negligence, shall be
33 immune from all civil liability arising out of a decision refusing
34 admission of a person to, or discharging or conditionally releasing a
35 person from any treatment facility, or providing treatment for a
36 patient pursuant to an order for outpatient treatment. Under no
37 circumstances shall any officer or employee of a state psychiatric
38 hospital or participating mental health center performing actions pur-
39 suant to the treatment act for mentally ill persons have a duty to,
40 or be liable for failure to notify, advise or warn anyone concerning
41 the nonadmission, transfer or removal of restrictions on discharge of
42 any person absent a showing of gross or wanton negligence.

43 Sec. 28. On April 1, 1991, K.S.A. 65-211 is hereby amended to

New Sec. 28. (a) On and after April 1, 1991, no patient shall be admitted to a state psychiatric hospital pursuant to any of the provisions of the treatment act for mentally ill persons, including any court-ordered admissions, if the secretary has notified the supreme court of the state of Kansas and each district court, which has jurisdiction over all or part of the area served by the state psychiatric hospital, that the required program of the state psychiatric hospital has reached capacity and no more patients may be admitted. Following notification that a state psychiatric hospital program has reached its capacity and no more patients may be admitted, any district court, which has jurisdiction over all or part of the area served by such state psychiatric hospital, and any participating mental health center, which serves all or part of the same area, may request that patients be placed on a waiting list maintained by the state psychiatric hospital.

(b) In each such case, as each vacancy at the state psychiatric hospital occurs, the district court and participating mental health center shall be notified, in the order of their previous requests for placing a patient on the waiting list, that a patient may be admitted to the state psychiatric hospital. As soon as the state psychiatric hospital is able to admit patients on a regular basis to a program for which notice has been given under this section, the superintendent of the state psychiatric hospital shall inform the supreme court and each affected district court that the moratorium on admissions is no longer necessary.

(c) The provisions of this section shall be effective on and after April 1, 1991, and shall apply to those state psychiatric hospitals included in the mental health reform phased program, as defined by section 2 and amendments thereto.

, which occurs on or after April 1, 1991

on or after April 1, 1991,

And by renumbering sections accordingly

1 read as follows: 65-211. (a) In all counties wherein there is established
 2 a joint board of health pursuant to K.S.A. 65-205, and amendments
 3 thereto, the governing bodies of the municipalities involved may by
 4 resolution adopted by each of the governing bodies, provide for the
 5 establishment of a mental health clinic for the diagnosis and treat-
 6 ment of mental illness. If established, the mental health clinic shall
 7 be operated by and be subject to the jurisdiction of such joint board
 8 of health to the same extent as other public health services provided
 9 thereby. *The joint board of health shall appoint a mental health*
 10 *advisory board of not less than seven members. Members of the*
 11 *mental health advisory board shall include ~~as nearly as possible,~~*
 12 *~~one or more~~ family members of mentally ill persons ~~and represen-~~*
 13 *~~tatives of mental health consumer groups~~. The joint board of health*
 14 *shall establish a schedule of charges for services and medications to*
 15 *persons using the mental health clinic, but no person shall be denied*
 16 *the services and medications of the clinic because of inability to pay*
 17 *for the same. The mental health clinic also shall provide facilities*
 18 *for patients paroled thereto by lawfully constituted authority. All*
 19 *moneys received for services and medications rendered hereunder*
 20 *shall be applied on and used to finance the budget of the joint board*
 21 *of health. If the governing bodies of the municipalities involved*
 22 *hereunder determine by resolution adopted by each of the governing*
 23 *bodies that it is more practicable to contract for such mental health*
 24 *services and medications with a nonprofit corporation, then and in*
 25 *that event the joint board of health shall contract with a nonprofit*
 26 *corporation to provide mental health services hereunder. The gov-*
 27 *erning body of any such nonprofit corporation shall include ~~as~~*
 28 *~~nearly as possible, one or more~~ family members of mentally ill per-*
 29 *~~sons and representatives of mental health consumer groups~~. The*
 30 *nonprofit corporation may shall not deny service or medication to*
 31 *anyone because of inability to pay for the same, but the nonprofit*
 32 *corporation may establish a schedule of charges for those who are*
 33 *financially able to pay for such services or medication. The nonprofit*
 34 *corporation annually shall provide the joint board of health with a*
 35 *complete financial report showing the amount of fees collected, the*
 36 *amount of tax money received under the contract, and any other*
 37 *income. The report also shall show any other disbursements, in-*
 38 *cluding salaries paid to each person employed by the nonprofit*
 39 *corporation.*

consumers of mental health services and

40 (b) In lieu of contracting with a nonprofit corporation to provide
 41 mental health services, the governing bodies of municipalities which
 42 have established a joint board of health pursuant to K.S.A. 65-205,
 43 and amendments thereto, may establish a joint board of mental health

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1 for the purpose of authorizing such board to contract for and on
 2 behalf of the governing bodies of the municipalities with a nonprofit
 3 corporation to provide mental health services. *The governing body*
 4 *of any such nonprofit corporation shall include* ~~as nearly as possible,~~
 5 ~~one or more~~ family members of mentally ill persons ~~and represen-~~
 6 ~~tatives of mental health consumer group~~. Members of the joint board
 7 of mental health shall be appointed in the same manner as members
 8 are appointed to the joint board of health. Any joint board of mental
 9 health which is authorized to contract with a nonprofit corporation
 10 under this subsection is hereby authorized to pay the amount agreed
 11 upon in such contract with a nonprofit corporation from the proceeds
 12 of the tax levied pursuant to K.S.A. 65-212, and amendments thereto,
 13 for mental health services.

14 Sec. 29. On April 1, 1991, K.S.A. 65-213 is hereby amended to
 15 read as follows: 65-213. (a) In all counties having a population of
 16 more than ~~twenty thousand (20,000)~~ 20,000 and less than ~~twenty-~~
 17 ~~two thousand (22,000)~~ 22,000, and having an assessed tangible
 18 valuation of more than ~~forty million dollars (\$40,000,000)~~
 19 \$40,000,000, wherein there has been established a county hospital,
 20 the board of county commissioners of such county may, by resolution,
 21 provide for the establishment of a mental health clinic for the di-
 22 agnosis and treatment of mental illness, which mental health clinic,
 23 when so established, shall be operated by; and subject to the ju-
 24 risdiction of; a board of trustees ~~consisting~~.

25 (b) *The board of trustees shall consist* of five ~~(5)~~ citizens who
 26 shall be appointed by ~~said~~ the board of county commissioners with
 27 reference to their fitness for such office, all residents of the county,
 28 not more than three ~~(3)~~ of ~~said~~ members ~~to~~ shall be residents of
 29 the city in which ~~said~~ the hospital is located. *In addition, the board*
 30 *of trustees shall include* ~~as nearly as possible, one or more~~ family
 31 *members of mentally ill persons* ~~and representatives of mental health~~
 32 ~~consumer group~~.

33 *Said* (c) *The members shall be appointed initially to hold their*
 34 *office as follows, three (3) for four (4) years and two (2) for two (2)*
 35 *years, and, thereafter, each subsequent two (2) years, the said board*
 36 *of county commissioners shall appoint, for four (4) year four-year*
 37 *terms, successors to such members whose terms have expired.*

38 Sec. 30. On April 1, 1991, K.S.A. 1989 Supp. 65-4434 is hereby
 39 amended to read as follows: 65-4434. (a) Subject to the provisions
 40 of appropriation acts and the provisions of K.S.A. ~~1987~~ 1989 Supp.
 41 65-4436 and amendments thereto, the secretary shall make grants in
 42 accordance with this section to mental health centers as provided
 43 in this section which are providing the basic level of services in

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1 *the service delivery area as required under subsection (f).*

2 (b) (1) For the fiscal year ending June 30, 1989, the secretary
3 shall make grants under this section to each mental health center,
4 which is providing the basic level of services prescribed under sub-
5 section (f), as provided in this subsection. Subject to the other pro-
6 visions of this subsection (b), the grants to each mental health center
7 shall be based upon the total of:

8 (A) The mental health center's base grant which shall be the
9 greater of either (i) the amount equal to the grant payments received
10 by the mental health center under this section for the previous fiscal
11 year or (ii) the amount computed on the basis of \$3.27 multiplied
12 by the number of residents in the service area of the mental health
13 center as of July 1, 1985, as certified by the division of the budget
14 of the department of administration to the secretary of state in July
15 of, 1986, plus

16 (B) each mental health center's pro rata share of any additional
17 moneys, including any inflation adjustments, appropriated for such
18 purpose in accordance with the base grant amounts so determined.

19 (2) If appropriations have been reduced from the previous fiscal
20 year, the secretary shall prorate the available moneys based upon
21 the grant payments received by mental health centers for the fiscal
22 year ending June 30, 1988.

23 (c) For the fiscal year ending June 30, 1990, and for subsequent
24 fiscal years, the secretary shall make grants to mental health centers
25 *as provided in this section*, which are providing, the basic level of
26 services as prescribed under subsection (f) based upon the grant
27 payments received by *or for* each mental health center for the
28 previous fiscal year plus each mental health center's pro rata share
29 of any increase in moneys, including any inflation adjustments, ap-
30 propriated for such purpose, in accordance with the grant payments
31 received by *or for* the mental health center for the previous fiscal
32 year. If appropriations have been reduced from the previous fiscal
33 year, the secretary shall prorate the available moneys based upon
34 the grant payments *for* each center *which were* received during such
35 fiscal year.

36 (d) At the beginning of each fiscal year, the secretary shall de-
37 termine the amount of state funds due under this section to each
38 mental health center which has applied for such funds and which is
39 providing the basic level of services as prescribed under subsection
40 (f). The secretary, with the consent of the governing board of a
41 mental health center, may withhold funds that would otherwise be
42 allocated to the mental health center and use the funds to match
43 other funds for the purchase of services for the mental health center.

1 Any funds withheld that are not used to purchase services in the
 2 various mental health centers shall be allocated to the mental health
 3 center from which such funds were originally withheld. In any case
 4 where a mental health center is not providing or has failed to con-
 5 tinue providing the basic level of services as prescribed under sub-
 6 section (f), the secretary shall withhold all or part of any grant
 7 otherwise payable to the mental health center, as warranted by the
 8 circumstances, until any deficiencies are corrected and the mental
 9 health center is providing such basic level of services.

10 (e) The state funds due under this section to each mental health
 11 center applying therefor shall be paid in four quarterly installments
 12 if it is providing the basic level of services prescribed under sub-
 13 section (f). The moneys received in any quarter may be used at any
 14 time during the year. Installments shall be paid as follows: (1) On
 15 July 1st for the quarter beginning July 1 and ending September 30;
 16 (2) on October 1st for the quarter beginning October 1 and ending
 17 December 31; (3) on January 1st for the quarter beginning January
 18 1 and ending March 31; and (4) on April 1st for the quarter beginning
 19 April 1 and ending June 30.

20 (f) ~~On or after July 1, 1989,~~ The secretary shall adopt rules
 21 and regulations prescribing the basic level of services to be provided
 22 by mental health centers, including criteria prescribing such services
 23 in terms of types of services provided and minimum staffing levels
 24 therefor.

25 (g) In order to be eligible for grants under this section or for
 26 special purpose grants under K.S.A. 1989 Supp. 65-4435 and amend-
 27 ments thereto, each mental health center shall have a governing
 28 body which includes ~~as nearly as possible, one or more~~ family
 29 members of mentally ill persons ~~and representatives of mental health~~
 30 ~~consumer groups~~, except that, if the governing body of a mental
 31 health center is the board of county commissioners, such mental
 32 health center shall have a local advisory committee which includes ~~]~~
 33 ~~as nearly as possible, representatives of such persons and groups~~

consumers of mental health services and

consumers of mental health services and family members of mentally ill persons

34 Sec. 31. On April 1, 1991, K.S.A. 1989 Supp. 65-5603 is hereby
 35 amended to read as follows: 65-5603. (a) The privilege established
 36 by K.S.A. ~~1988~~ 1989 Supp. 65-5602 and amendments thereto shall
 37 not extend to:

38 (1) Any communication relevant to an issue in proceedings to
 39 involuntarily commit to treatment a patient for mental illness, al-
 40 coholism or drug dependency if the treatment personnel in the
 41 course of diagnosis or treatment has determined that the patient is
 42 in need of hospitalization;

43 (2) an order for examination of the mental, alcoholic, drug de-

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1 pendency or emotional condition of the patient which is entered by
2 a judge, with respect to the particular purpose for which the ex-
3 amination is ordered;

4 (3) any proceeding in which the patient relies upon any of the
5 aforementioned conditions as an element of the patient's claim or
6 defense, or, after the patient's death, in any proceeding in which
7 any party relies upon any of the patient's conditions as an element
8 of a claim or defense;

9 (4) any communication which forms the substance of information
10 which the treatment personnel or the patient is required by law to
11 report to a public official or to be recorded in a public office, unless
12 the statute requiring the report or record specifically provides that
13 the information shall not be disclosed;

14 (5) any information necessary for the emergency treatment of a
15 patient or former patient if the head of the treatment facility at
16 which the patient is being treated or was treated states in writing
17 the reasons for disclosure of the communication and makes such
18 statement a part of the treatment or medical record of the patient;

19 (6) information relevant to protect a person who has been threat-
20 ened with substantial physical harm by a patient during the course
21 of treatment, when such person has been specifically identified by
22 the patient, the treatment personnel believes there is substantial
23 likelihood that the patient will act on such threat in the reasonable
24 foreseeable future and the head of the treatment facility has con-
25 cluded that notification should be given. The patient shall be notified
26 that such information has been communicated;

27 (7) any information from a state psychiatric hospital to appropriate
28 administrative staff of the department of corrections whenever pa-
29 tients have been administratively transferred to a state psychiatric
30 hospital pursuant to the provisions of K.S.A. 75-5209 and amend-
31 ments thereto;

32 (8) any information to the patient or former patient, except that
33 the head of the treatment facility at which the patient is being treated
34 or was treated may refuse to disclose portions of such records if the
35 head of the treatment facility states in writing that such disclosure
36 will be injurious to the welfare of the patient or former patient;

37 (9) any information to any state or national accreditation, certi-
38 fication or licensing authority, or scholarly investigator, but the head
39 of the treatment facility shall require, before such disclosure is made,
40 a pledge that the name of any patient or former patient shall not
41 be disclosed to any person not otherwise authorized by law to receive
42 such information;

43 (10) any information to Kansas advocacy and protective services,

1 inc. which concerns individuals who reside in a treatment facility
2 and which is required by federal law and federal rules and regulations
3 to be available pursuant to a federal grant-in-aid program;

4 (11) any information relevant to the collection of a bill for profes-
5 sional services rendered by a treatment facility; or

6 (12) any information sought by a coroner serving under the laws
7 of Kansas when such information is material to an investigation or
8 proceeding conducted by the coroner in the performance of such
9 coroner's official duties. Information obtained by a coroner under
10 this provision shall be used for official purposes only and shall not
11 be made public unless admitted as evidence by a court or fo- pur-
12 poses of performing the coroner's statutory duties; or

13 (13) any communication and information between a state psy-
14 chiatric hospital and a participating mental health center for pur-
15 poses of promoting continuity of care in the hospital during treatment
16 and in the community following discharge or conditional release; the
17 proposed patient, patient, or former patient's consent shall not be
18 necessary to share evaluation and treatment records between a state
19 psychiatric hospital and a participating mental health center; the
20 words and phrases used in this paragraph (13) shall have the mean-
21 ings respectively ascribed thereto in K.S.A. 59-2902 and amendments
22 thereto.

23 (b) The treatment personnel shall not disclose any information
24 subject to subsection (a)(3) unless a judge has entered an order
25 finding that the patient has made such patient's condition an issue
26 of the patient's claim or defense. The order shall indicate the parties
27 to whom otherwise confidential information must be disclosed.

28 Sec. 32. On April 1, 1991, K.S.A. 19-4002, 19-4002a, 19-4002b,
29 59-2905, 65-211, 65-213 75-3302d and 75-3302e and K.S.A. 1989
30 Supp. 59-2901, 59-2902, 59-2908, 59-2912, 59-2914, 59-2914a, 59-
31 2916, 59-2917, 59-2918, 59-2918a, 59-2924, 65-4434 and 65-5603 are
32 hereby repealed.

33 Sec. 33. This act shall take effect and be in force from and after
34 July 1, 1990, and its publication in the statute book.

treatment facilities

or among ~~psychiatric hospitals and community mental health centers~~ regarding a proposed patient, patient or former patient; as used in this paragraph (13), "proposed patient" and "patient"

treatment facilities

or among ~~psychiatric hospitals and community mental health centers~~ regarding a proposed patient, patient or former patient

psychiatric

~~and 65-5603~~

See attached

59-2907,

59-2909,

And renumber accordingly

6-33

Sec. 33. On April 1, 1991, K.S.A. 1989 Supp. 59-2907 is hereby amended to read as follows: 59-2907. (a) The head of a treatment facility shall discharge a voluntary patient within a reasonable time but not to exceed three days, excluding Saturdays, Sundays and legal holidays, after the receipt of such patient's written request for discharge. No patient shall be discharged from a state psychiatric hospital without receiving recommendations from the participating mental health center, if any, serving the area where the patient intends to reside, except that such patient shall be discharged within a reasonable time of not to exceed three days, excluding Saturdays, Sundays and legal holidays, after the receipt of such patient's written request for discharge. If the voluntary patient is a minor, the written request for discharge shall be made by the minor's parent or person in loco parentis unless the minor made written application to become a voluntary patient on the minor's own behalf. If a minor 14 or more years of age has made written application to become a voluntary patient on the minor's own behalf and has requested to be discharged, the head of the treatment facility shall promptly inform the minor's parent or other person in loco parentis of the request.

(b) Nothing in this act shall prevent the head of the treatment facility or other person from filing an application for determination of mental illness with respect to a voluntary patient who is refusing reasonable treatment efforts and is likely to cause harm to self or others if discharged.

Sec. 34. On April 1, 1991, K.S.A. 1989 Supp. 59-2909 is hereby amended to read as follows: 59-2909. (a) A treatment facility may admit and detain any person for emergency observation and treatment upon an order of protective custody issued by a district court pursuant to K.S.A. 59-2912 and amendments thereto.

(b) A treatment facility may admit and detain any person for emergency observation and treatment upon written application of any law enforcement officer having custody of any person pursuant to K.S.A. 59-2908 and amendments thereto. , except that no person shall be admitted to a state psychiatric hospital for emergency observation and treatment unless a written statement recommending the emergency observation and treatment at a state psychiatric hospital has been obtained from a qualified mental health professional. The application shall state:

- (1) The name and address of the person, if known;
- (2) the name and address of the person's spouse or nearest relative, if known;
- (3) the officer's belief that the person is a mentally ill person and because of the person's illness is likely to cause harm to self or others if not immediately detained;
- (4) the factual circumstances under which the person was taken into custody; and
- (5) the fact that the law enforcement officer will submit the application provided for in subsection (a) of K.S.A. 59-2912 and amendments thereto, by 5:00 p.m. of the next full day that the district court is open for the transaction of business or that the officer has been informed by a parent, guardian or other person in loco parentis to the person taken into custody that such parent, guardian or other person, whose name shall be stated in the application, will file the application provided for in subsection (b) of K.S.A. 59-2912 and amendments thereto within that time.

(c) A treatment facility may admit and detain any person for emergency observation and treatment upon the written application of any individual, except that a state psychiatric hospital shall

not admit and detain any such person without a written statement authorizing such admission from a qualified mental health professional. The application shall state:

- (1) The name and address of the person, if known;
- (2) the name and address of the person's spouse or nearest relative, if known;
- (3) the applicant's belief that the person is a mentally ill person and because of the person's illness is likely to cause harm to self or others if not immediately detained;
- (4) the circumstances in support of that belief; and
- (5) the fact that the applicant will submit the application provided for in subsection (b) of K.S.A. 59-2912 and amendments thereto by 5:00 p.m. of the next full day that the district court is open for transaction of business.

(d) Application of an individual under subsection (c) shall be accompanied by a statement in writing of a physician or psychologist confirming the existence of the described condition of the person and, upon the filing of the application, the head of the treatment facility or the designee of the head of the treatment facility may authorize and order in writing any law enforcement officer or other person to take into custody and transport the person to the treatment facility, except that no person shall be transported to a state psychiatric hospital under this subsection unless a written statement recommending that the person be transported to a state psychiatric hospital has been obtained from a qualified mental health professional.

(e) Any treatment facility or personnel thereof who in good faith render treatment in accordance with law to any person admitted pursuant to subsection (b) or (c), shall not be liable in a civil or criminal action based upon a claim that the treatment was rendered without legal consent.

PROPOSED AMENDMENTS TO H.B. NO. 2586

On page 4 of the balloon of amendments, by amending proposed subsection (r), as inserted after line 2, to read as follows:

"(r) to adopt rules and regulations to ensure the protection of persons receiving mental health services, which shall include an appeal procedure at the state and local levels;"

On page 5 of the balloon of amendments, by amending the proposed paragraph (5), as inserted in line 14, to read as follows:

"(5) fourteen members shall be members of the general public and a majority of such members shall be consumers of mental health services and family members of mentally ill persons.";

[Also the following conceptual amendments]

On page 7 of the balloon of amendments, in line 19, by striking "March 1, 1992" and inserting in lieu thereof the following:

"January 1, 1991, for the Osawatomie state hospital catchment area

July 1, 1992, for the Topeka State Hospital catchment area

July 1, 1993, for the Larned State Hospital catchment area;"

[These catchment areas would be defined by statute.]

Further, the amendatory sections, in particular, those amending the Treatment Act for Mentally Ill Persons, should take effect January 1, 1991, and further corresponding amendments to provide for the phase in of screening.

For example, on page 13, in line 27, preceding the period by inserting the following: ", if there is a participating mental health center located in the catchment area in which such state psychiatric hospital is located"

HA
3-5-90
Attachment 7