

Approved \_\_\_\_\_

Date

4/27/90

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at \_\_\_\_\_  
Chairperson

3:30 ~~xx~~ a.m./p.m. on March 29, 1990, 1990 in room 526S of the Capitol.

All members were present except:

Committee staff present:

Norman Furse, Revisor's Office  
Emalene Correll, Legislative Research  
Sandra Nash, Committee Secretary

Conferees appearing before the committee:

The Chairman called the Committee to order, requesting the wishes of the Committee on H.B. 2800.

Senator Burke said we are taking the state hospitals out. What is the policy decision.

Staff Correll said the policy decision was one that was presented as a accomplished fact by the bill as it was drafted. The only explanation was that SRS, as an internal system for investigating abuse and neglect that occurs within the institutional setting, there was no response to the issue of persons who are currently mandated by law to report abuse and neglect, no longer being mandated if it were to occur in state institutions. Ms. Correll said she isn't sure, because the position that SRS took in the House committee, was their concern was that the investigation of abuse and neglect in the state institutions, remain within the SRS system, rather than being transferred. Because they already have a mechanism set up for the responsibility to investigate. So, if those facilities were to be put back into the bill, I would understand that the position by SRS would be that they would be as they are currently. Which would be made to the secretary of SRS. I don't know if Health and Environment has problems with that legislation. In other words, by restoring them to the bill, but not including them in the definition of medical care facility, you would be leaving everything as it is now.

Senator Salisbury said that to do nothing further in the bill, would allow the institutions to be treated in the same manner as they are now.

Staff Correll said as the bill is drafted now, the state institutions are out of this system.

Senator Salisbury said it seemed to her that some provisions for the state institutions should be included in this bill.

Senator Walker said some of his concern was that there is an internal mechanism, the hotlines, patient rights advocates, but there is an internal system. But it seems to me that whether they are handled in this bill or out, that it's not going to affect them. Because they are going to maintain their internal.

Staff Correll said except the individuals who are mandated by law in this law, would not be mandated to report if the incident occurred in a state institution. And they also would not have the protections granted by this law.

Senator Walker said they still would have all the protections that

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 526S, Statehouse, at 3:30 ~~a.m.~~p.m. on March 29, 1990, 19    .

currently exist.

Staff Correll said the protections arise from this law currently.

The Chairman asked why were the state hospitals exempt? Because I'm sure abuse occurs in state hospitals also.

Staff Correll said she was assuming that initially the concern was medical care facilities be brought in. Currently, medical care facilities are not covered unless they are state or federal medical care facilities. What this bill does is make a total reversal and to cover all medical care facilities except state and federal medical care facilities. She didn't know if this was simply the attempt to get the medical care facilities, the hospitals, under health and environment. I think there was an assumption that the state institutions would be included under the adult abuse legislation which we passed last year. It would be true, but that legislation applies to individuals, not to the institutional setting.

Senator Burke made a conceptual motion to put back the state institutions under SRS. Seconded by Senator Salisbury. The motion carried.

The Chairman asked for the wishes of the Committee on H.B. 2800. Senator Burke made the motion to move H.B. 2800 as amended out of committee favorably. Senator Walker seconded the motion. The motion carried. Senator Anderson will carry.

The Chairman called the Committee's attention to H.B. 2586. The Chairman said that Staff Furse would walk the Committee through the amendments. Staff Furse passed out a balloon which listed all the proposed amendments by the conferees (Attachment 1)

Staff Furse pointed out that this was a revised version of the bill. The Chairman said after Staff Furse was complete with all the explanation, the Committee would go through and vote on each proposed amendment.

The adopted amendments are as follows for H.B. 2586.

Page 3, Line 41, Subsection (g). Senator Salisbury made a motion to include the amendment, Subsection (g) made by Representative Douville. Senator Burke seconded the motion. The motion carried.

Page 5, Line 12, Subsection (t). Senator Salisbury made the motion to adopt the language offered by ACHMC and Representative Douville on Page 5, line 12, Subsection (t). Senator Anderson seconded the motion. The motion carried.

Page 5, Line 42, Subsection (b). Senator Salisbury made the motion to delete the words "the combination of the operations of two or more mental health centers or through" from lines 42 and 43 in Subsection (b). Senator Anderson seconded the motion. The motion carried.

Page 6, Line 17, New Section 5(a). Senator Salisbury made the motion to adopt the language offered by KMS to add one member licensed to practice medicine and surgery to the council. Senator Burker seconded the motion. The motion carried.

Page 6, Line 18, New Section 5(a). Senator Salisbury made a motion to change the number to 28 members on the council. Senator Burke seconded the motion. The motion carried.

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room 526S, Statehouse, at 3:30 ~~a.m.~~<sup>p.m.</sup> on March 29, 1990, 19    .

Page 7, Line 27, Subsection (c). Senator Walker made the motion to delete "time to time" and insert "at least once each year." Senator Anderson seconded the motion. The motion carried.

Staff Correll said on page 7 and on the top of page 8, suggestion from LINC, one of the conferees made an oral statement in the committee, raised a question about transferring certain of the functions of Adult Services to MR&MH. The home and community based services program is part of the Medicaid program, comes under the Medicaid waiver. It is operated primarily to provide home and community base services for the elderly and the mentally retarded and there are a few mentally ill individuals also served in the group. But what you would be doing then is splitting a program that is already a small component of a large program, currently split between the reimbursement part, which is the medical assistance program in adult services still further. If I read it correctly, it would be saying that you would take those community and home based services clients who are providers, who relate specifically to mental illness, and move them out of adult services, but not move the other 300 and some clients out of adult services. It seems as tho it's going to be an administrative nightmare for anybody. It doesn't say move the whole HCBS program and it doesn't say that you move the whole day treatment program, day living program or that type of program. But, just apparantly individual people. I really don't know how they can administer the programs on that kind of situation.

Senator Burke made a conceptual motion for the Revisor to work with the Department of Social and Rehabilitation Services to clear up the meaning of the language. Senator Kanan seconded the motion. The motion carried.

Page 10, Line 30-31, Add new Section 12: "Nothing in the mental health reform act shall authorize the secretary or the department of social and rehabilitation servcies to require that mental health centers make expenditures other than expenditures approved for the mental health center by the governing board of the center."

Senator Salisbury made the motion to adopt the new Section 12. Senator Reilly seconded the motion. The motion carried.

Page 15, Line 17, Subsection (w). Delete word "clinical".  
Senator Salisbury made the motion to delete word "clinical". Senator Walker seconded the motion. The motion carried.

Page 15, Line 17, Subsection (w). Insert "or a registered nurse who has a specialty in psychiatric nursing" after "who".  
Senator Salisbury made the motion to insert "or a registered nurse who has a specialty in psychiatric nursing". Senator Walker seconded the motion. The motion carried.

Page 15, Line 19, Subsection(w). Delete Supervision and insert direction. Define term direction in definitions.  
Senator Salisbury made the motion to substitute "direction" for Supervision and to define the term "direction" in the definitions. Senator Burke seconded the motion. The motion carried.

Page 18, Line 17, Section 19. Senator Salisbury made the motion to change the hours to 17. Senator Langworthy seconded the motion. The motion carried.

Page 19, Line 19, correction. Senator Walker make the motion to make the noted correction needed. Senator Langworthy seconded the motion. The motion carried.

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room 526 Statehouse, at 3:30 a.~~m~~p.m. on March 29, 1990

Page 23, Line 29, Subsection (d). Senator Burke made the motion to change "charged" to "convicted". Senator Langworthy seconded the motion. The motion carried.

Page 34, Line 2, New Section 29. Senator Burke made the motion to delete New Section 29. Senator Reilly seconded the motion. The motion carried.

Senator Burke made the motion to move Substitute H.B. 2586 as amended from Committee. Senator Walker seconded the motion. The motion carried. The bill goes to the Senate Ways and Means Committee.

\* The Committee adjourned at 4:45p.m.

\* Data prepared by SRS listing referral sources to all mental health hospitals and health centers. (Attachment 2)

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3/29/90 p.m.

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

<i>Danyal Asmat</i>	<i>SRS / MH</i>
<i>Maury Hallin</i>	<i>SRS / DMP</i>
<i>Carolyn Miller</i>	<i>SRS / MTH</i>
<i>Ladonna Jones</i>	<i>SRS / MHRS</i>
<i>Tom Bell</i>	<i>Ks Hosp. Assn.</i>
<i>Robert Harder</i>	<i>Mental Health Consortium</i>
<i>Ron Smith</i>	<i>Ks Bar Assoc</i>
<i>Anne Smith</i>	<i>Ks. Assoc of Counties</i>
<i>Patrick Hurley</i>	<i>Ment. Health Assoc</i>
<i>KEITH R LANDIS</i>	<i>CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS</i>
<i>Dan &amp; Lot</i>	<i>Assoc. of CMHA's</i>
<i>Jasitta (Zoi) Class'ruha</i>	<i>KS Mental Health Assn.</i>
<i>Jim Hoyt</i>	<i>Lawrence Town Hall</i>
<i>R G Frey</i>	<i>KTLA</i>
<i>J. K. Hulett</i>	<i>Governor's Office - Peterson Associates</i>
<i>BILL DEAN</i>	<i>MHARS</i>
<i>Al Demec</i>	<i>SRS</i>
<i>Larry Hinton</i>	<i>Governor's Office</i>
<i>Ann A. de la Torre</i>	<i>KOA</i>

*APR 12 1990*  
Please continue on next page.

Substitute for HOUSE BILL No. 2586

By Committee on Appropriations

3-7

Revision I

SPH/W  
Attachment #1  
3/29/90

10 AN ACT concerning community mental health services; providing  
11 for assessments of need and the adoption of plans to provide such  
12 services; prescribing certain powers, duties and functions in re-  
13 lation thereto; establishing the governor's mental health services  
14 planning council; amending K.S.A. 19-4002, 19-4002a, 19-4002b,  
15 59-2905, 65-211 and 65-213 and K.S.A. 1989 Supp. 59-2901, 59-  
16 2902, 59-2907, 59-2908, 59-2909, 59-2912, 59-2914, 59-2914a, 59-  
17 2916, 59-2917, 59-2918, 59-2918a, 59-2924, 65-4434 and 65-5603  
18 and repealing the existing sections; also repealing K.S.A. 75-3302d  
19 and 75-3302e.

Additions: Senator Ehrlich  
LINC  
District Judges Association

20  
21 Be it enacted by the Legislature of the State of Kansas:

22 New Section 1. Sections 1 through [11] and amendments thereto  
23 shall be known and may be cited as the mental health reform act. [12]

24 New Sec. 2. As used in sections 1 through [11] and amendments  
25 thereto: [12]

26 (a) "Targeted population" means the population group designated  
27 by rules and regulations of the secretary as most in need of mental  
28 health services which are funded, in whole or in part, by state or  
29 other public funding sources, which group shall include adults with  
30 severe and persistent mental illness, severely emotionally disturbed  
31 children and adolescents, and other individuals at risk of requiring  
32 institutional care.

33 (b) "Community based mental health services" includes, but is  
34 not limited to, evaluation and diagnosis, case management services,  
35 mental health inpatient and outpatient services, prescription and  
36 management of psychotropic medication, prevention, education, con-  
37 sultation, treatment and rehabilitation services, twenty-four-hour  
38 emergency services, and any facilities required therefor, which are  
39 provided within one or more local communities in order to provide  
40 a continuum of care and support services to enable mentally ill  
41 persons, including targeted population members, to function outside  
42 of inpatient institutions to the extent of their capabilities. Community  
43 based mental health services also include assistance in securing em-

*adopted*

1 Harvey, Jackson, Jewell, Lincoln, Lyon, Marion, Marshall, Mc-  
2 Pherson, Mitchell, Morris, Nemaha, Osage, Ottawa, Pottawatomie,  
3 Republic, Riley, Saline, Sedgwick, Shawnee, Wabaunsee and  
4 Washington.

5 (k) "Larned state hospital catchment area" means the area com-  
6 posed of the following counties: Barber, Barton, Cheyenne, Clark,  
7 Comanche, Decatur, Edwards, Ellis, Finney, Ford, Gove, Graham,  
8 Grant, Gray, Greeley, Hamilton, Harper, Haskell, Hodgeman,  
9 Kearny, Kingman, Kiowa, Lane, Logan, Meade, Morton, Ness, Nor-  
10 ton, Osborne, Pawnee, Phillips, Pratt, Rawlins, Reno, Rice, Rooks,  
11 Rush, Russell, Scott, Seward, Sheridan, Sherman, Smith, Stafford,  
12 Stanton, Stevens, Sumner, Thomas, Trego, Wallace and Wichita.

13 (l) "Catchment area" means the Osawatomie state hospital catch-  
14 ment area, the Topeka state hospital catchment area or the Larned  
15 state hospital catchment area.

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

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

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

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

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

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

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

41 (g) to adopt rules and regulations for targeted population mem-  
42 bers which provide that no person shall be inappropriately denied  
43 necessary mental health services from any mental health center or

LINC (Dennis Kelly)

Line 37, delete "primary control" and insert "with cooperation between mental health centers and private agencies which provide mental health services"

KPA, David Rodeheffer

Line 42, strike "inappropriately"

Rep. Douville

Modify subsection (g) so clearly within appropriations therefor

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2 state psychiatric hospital and that each targeted population member  
3 shall be provided such services in the least restrictive manner;

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

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

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

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

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

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

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

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

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

43 (q) to establish state policies for the disbursement of federal funds  
within the state and for state administration of federal programs

LINC

Line 10, after centers insert "and other local agencies"

Senator Ehrlich

1-3



providing services or other assistance to persons who have mental illness consistent with relevant federal law, rules and regulations, policies and procedures;

(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;

(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

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

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

(b) The secretary shall assist and coordinate the development by each mental health center of a community assessment of needs and a plan for the community system to provide community based mental health services for persons who reside in the service delivery area of the mental health center, including all targeted population members. The secretary shall review and approve, or return, with recommendations for revision and resubmittal, all such assessments of needs and plans in accordance with criteria prescribed by rules and regulations adopted under section 3 and amendments thereto. If necessary services for a service delivery area cannot be provided by the mental health center or in order to ensure that a continuum of services will be provided in a service delivery area, the secretary may require the provision of services for a service delivery area through the combination of the operations of two or more mental health centers or through contracts between two or more mental

ACMHC and Rep. Douville

which are consistent with appropriations available for the administration of such provisions

*adopt*

*adopt*

Deletion suggested by ACMHC.

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health centers.

2 (c) Each mental health center shall annually review and update  
3 such assessment of needs and plan for the service delivery area. If  
4 the assessment of needs or the plan for the community system to  
5 provide community based mental health services are not in com-  
6 pliance with the criteria prescribed by rules and regulations under  
7 section 3 and amendments thereto, the secretary shall withhold all  
8 or part of the state financial assistance provided to the mental health  
9 center.

10 (d) On or before October 1, 1991, each mental health center  
11 shall submit an annual coordinated services plan addressing the serv-  
12 ice needs of the targeted population to the secretary of social and  
13 rehabilitation services for review and approval. The annual coordi-  
14 nated services plan shall be developed according to the standards  
15 established by rules and regulations adopted by the secretary of social  
16 and rehabilitation services.

17 New Sec. 5. (a) There is hereby established the governor's men-  
18 tal health services planning council. The council shall consist of 27  
19 members appointed by the governor, of which not more than 13  
20 members shall be state officers or employees or providers of mental  
21 health services. The members shall be appointed by the governor  
22 so that the composition of the council is in compliance with the  
23 requirements of public law 99-660 and supplementary federal acts  
24 and in accordance with the following:

- 25 (1) Eight members shall be representatives of state agencies;
- 26 (2) one member shall be a representative of private mental health  
27 service providers;
- 28 (3) two members shall be members of governing boards of mental  
29 health centers;
- 30 (4) two members shall be executive directors of mental health  
31 centers; and
- 32 (5) fourteen members shall be members of the general public  
33 and a majority of such members shall be consumers of mental health  
34 services and family members of mentally ill persons.

35 (b) The governor shall designate the chairperson of the governor's  
36 mental health services planning council. Each member of the gov-  
37 ernor's mental health services planning council shall be appointed  
38 for a term of four years. In the case of a vacancy on the council,  
39 the governor shall appoint a successor for the unexpired term in the  
40 same manner as the original appointment. The members of the  
governor's mental health services planning council shall elect a vice-  
chairperson.

(c) Members of the governor's mental health services planning

28 *adapt*

LINC

Item (2) recommends 4 members be representative of private mental health service providers.

*adapt*

KMS

Add one member licensed to practice medicine and surgery to the council.

LINC

Item (5) should specify 7 consumers and 7 family members.

5-1

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council attending meetings of the council, or attending a subcommittee meeting thereof authorized by the council, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto.

New Sec. 6. (a) The governor's mental health services planning council shall hold regular quarterly meetings and such other meetings as the chairperson of such council deems advisable, and in addition shall meet at such other times upon the call of the secretary.

(b) It is the duty of the governor's mental health services planning council to:

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

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

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

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

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

(c) A member or members of the governor's mental health services planning council, from time to time, shall visit each state psychiatric hospital and may visit other providers of community based mental health services for the purpose of inspecting the state psychiatric hospital, mental health center or the facility of other such providers of community based mental health services. Such visits shall be made at such times and in such manner as the council determines at a regular meeting.

(d) The governor's mental health services planning council shall make annual reports to the governor and the members of the legislature and may make such recommendations as it deems advisable for appropriate legislation.

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

*adapt*

LINC

Line 27, delete "time to time" and insert "at least once each year"

*change adapted conceptual notation*

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LINC

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services, to mental health and retardation services.

Line 1, suggest that the two groups should not be combined.

2 New Sec. 8. (a) On or before October 1, 1991, and in accordance  
3 with rules and regulations adopted by the secretary each mental  
4 health center shall prepare and adopt a community assessment of  
5 needs and a plan to provide community based mental health services  
6 for persons who are residents of the service delivery area of the  
7 mental health center and shall submit such assessment of needs and  
8 plan to the secretary for approval. Among other provisions, such  
9 plan shall include the provision of services to all targeted population  
10 members who apply therefor.

11 (b) Each mental health center shall conduct periodic reviews of  
12 the community assessment of needs for the service delivery area and  
13 shall report at least annually to the secretary the results of such  
14 reviews and any amendments to the community assessment of needs  
15 or the plan to provide community based mental health services which  
16 are adopted. The amendments to such plan shall be subject to ap-  
17 proval by the secretary in accordance with criteria prescribed by  
18 rules and regulations adopted by the secretary.

19 (c) Prior to October 1, 1991, the secretary shall adopt rules and  
20 regulations prescribing guidelines for the conduct of community as-  
21 sessments of need, for the development and operation of systems to  
22 provide community based mental health services within the service  
23 delivery area of the mental health center, and for periodic reporting  
24 to the secretary on the operations under such systems in accordance  
25 with this act.

26 New Sec. 9. (a) Each mental health center may provide com-  
27 munity based mental health services under the system established  
28 in accordance with this act and approved by the secretary either by  
29 directly providing such services or by providing such services through  
30 contracts with service providers, including other mental health cen-  
31 ters, or both directly and through contracts with such service  
32 providers.

33 (b) Subject to and in accordance with the provisions of this act  
34 and appropriations acts, the secretary shall assist in the establishment  
35 and development of community based mental health services in each  
36 county by providing counties and mental health centers with tech-  
37 nical assistance and financial assistance.

38 New Sec. 10. (a) Prior to January 1, 1991, for the Osawatomie  
39 state hospital catchment area, prior to July 1, 1992, for the Topeka  
40 state hospital catchment area and prior to July 1, 1993, for the Larned  
41 state hospital catchment area, the secretary shall enter into contracts  
42 with mental health centers so that there is a participating mental  
43 health center for each area of the state. Each mental health center

8-1

1 entering into a contract with the secretary under this section shall  
2 provide court ordered evaluation and treatment services pursuant to  
3 the treatment [act] for mentally ill persons and shall be known as  
4 a participating mental health center.

5 (b) Subject to the provisions of this act and appropriations acts,  
6 the secretary shall administer and disburse funds to each mental  
7 health center for the coordination and provision of mental health  
8 services for all persons who are residents of the service delivery area  
9 of such mental health center.

10 (c) Subject to and in accordance with the provisions of this act  
11 and appropriations acts, the secretary shall undertake, in cooperation  
12 with participating mental health centers, the establishment and im-  
13 plementation of the mental health reform phased program.

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

18 (A) One unit of 20 to 30 beds for adults shall be closed by June  
19 30, 1991;

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

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

24 (2) For the Topeka state hospital catchment area, the secretary  
25 shall enter into contracts with participating mental health centers to  
26 reduce the rated bed capacity of Topeka state hospital as follows:

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

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

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

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

38 (d) The staff of each state psychiatric hospital and the staff of the  
39 participating mental health centers in the catchment area of the state  
40 psychiatric hospital shall develop and implement admission and dis-  
41 charge criteria for all patients. The provisions of this section shall  
42 be incorporated into all contracts entered into between the secretary  
43 and the participating mental health centers.

KPA

Delete proposed statutory bed closings.

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New Sec. 11. Subject to applicable federal guidelines and regulations and the provisions of appropriations acts, the secretary may negotiate and enter into a contract for a pilot project to be conducted during the fiscal year ending June 30, 1992. If the secretary conducts a pilot project under this section, the pilot project may be conducted to provide the medicaid services related to psychiatric and substance abuse services for Kansas medicaid eligible residents who are less than 21 years of age on the basis of a described set of such services to a predetermined population as prescribed by the contract. The contract shall not be subject to the competitive bid requirements of K.S.A. 75-3739 and amendments thereto. The services to be provided for such residents under the contract shall include but not be limited to case management services, day treatment, outpatient services and emergency services. The contract may 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 1992 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 January 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

6-1

accepted

Senator Ehrlich

New Sec. 12. Nothing in the mental health reform act shall authorize the secretary or the department of social and rehabilitation services to ~~require that mental health centers submit copies of their budgets to the secretary or the department or to require that mental health centers make expenditures other than expenditures approved for the mental health center by the governing board of the center.~~

And renumber sections accordingly

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

(c) Should the board or boards of county commissioners be desirous of providing both mental health services and services for the mentally retarded in accordance with the provisions of this act, and determine it is more practical to establish a single governing board for mental health services and mental retardation facilities, then the respective board or boards of commissioners may establish a single board. In the event the board or boards of county commissioners determine that separate boards are more practical, then the respective board or boards of county commissioners may establish a governing board for a mental health center and a separate board for mental retardation facilities.

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

(b) If the board of county commissioners elects to serve as the governing board pursuant to this section, the board of county commissioners 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 *shall include consumers of mental health services and family members of mentally ill persons and*, 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,

LINC

Line 9, delete "as nearly as possible"

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1 organized pursuant to the provisions of K.S.A. 65-211 through 65-  
2 215, and amendments thereto, and licensed in accordance with the  
3 provisions of K.S.A. 75-3307b and amendments thereto.

4 (u) "Participating mental health center" means a mental health  
5 center which has entered into a contract with the secretary of social  
6 and rehabilitation services to provide court ordered evaluation and  
7 treatment services pursuant to the treatment act for mentally ill  
8 persons.

9 (v) "State psychiatric hospital" means Larned state hospital, Os-  
10 awatomie state hospital, Rainbow mental health facility and Topeka  
11 state hospital.

12 (w) "Qualified mental health professional" means (1) a physician  
13 or psychologist who is employed by a participating mental health  
14 center or who is providing services as a physician or psychologist,  
15 respectively, under a contract with a participating mental health  
16 center, or (2) a registered masters level psychologist or a licensed  
17 specialist clinical social worker or licensed master social worker who  
18 is employed by a participating mental health center and who is acting  
19 under the supervision of a physician.

20 (x) "Registered masters level psychologist" means a person reg-  
21 istered as a registered masters level psychologist by the behavioral  
22 sciences regulatory board under K.S.A. 1989 Supp. 74-5361 through  
23 74-5373 and amendments thereto.

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

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

32 (aa) "Secretary" means the secretary of social and rehabilitation  
33 services.

34 (bb) "Osawatomie state hospital catchment area" means the area  
35 composed of the following counties: Allen, Anderson, Atchison,  
36 Bourbon, Butler, Chautauqua, Cherokee, Cowley, Crawford, Elk,  
37 Franklin, Jefferson, Johnson, Labette, Leavenworth, Linn, Miami,  
38 Montgomery, Neosho, Wilson, Woodson and Wyandotte.

39 (cc) "Topeka state hospital catchment area" means the area com-  
40 posed of the following counties: Brown, Chase, Clay, Cloud, Cof-  
41 fey, Dickinson, Doniphan, Douglas, Ellsworth, Geary, Greenwood,  
42 Harvey, Jackson, Jewell, Lincoln, Lyon, Marion, Marshall, Mc-  
43 Pherson, Mitchell, Morris, Nemaha, Osage, Ottawa, Pottawatomie,

District Judges Association

Broaden QMHP definition to allow health professionals in  
communities without local mental health centers to  
make appropriate recommendations.

KPA & KAPP

Requests changing definition by inserting "or other  
treatment facility" in line 5 after "center"

KPA & KAPP

Requests inserting in line 16, after "center" the  
language "or who is currently treating or evaluating  
the voluntary or proposed patient"

Staff

Line 17 delete "clinical", statute term is licensed  
specialist social worker (K.S.A. 65-6308).

ACMHC

- 1. Line 17, preceding "who" insert "or a registered  
nurse who has a specialty in psychiatric nursing"
- 2. Line 19, strike "supervision" insert "direction"

KPA & KAPP

Line 19, before the period, insert "or psychologist"

Bill Simons, Project Acceptance

- 1. Expand QMHP definition to include private practi-  
tioners.
- 2. Authorize a second opinion from a mental health  
professional of the consumer's choice.

F.J. Tirrell, Ph.D.

Objects to semantics re term "qualified mental health  
professional"

Corrina Hartman, Self-Help Resources

- 1. Feels need separation of service providers from gate-  
keepers, otherwise conflict of interest, re 1. 12-19.
- 2. Only physicians should do mental health evaluations,  
not case workers or other professionals, lines 12-19.



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1 *Republic, Riley, Saline, Sedgwick, Shawnee, Wabaunsee and*  
2 *Washington.*

3 *(dd) "Larned state hospital catchment area" means the area com-*  
4 *posed of the following counties: Barber, Barton, Cheyenne, Clark,*  
5 *Comanche, Decatur, Edwards, Ellis, Finney, Ford, Gove, Graham,*  
6 *Grant, Gray, Greeley, Hamilton, Harper, Haskell, Hodgeman,*  
7 *Kearny, Kingman, Kiowa, Lane, Logan, Meade, Morton, Ness, Nor-*  
8 *ton, Osborne, Pawnee, Phillips, Pratt, Rawlins, Reno, Rice, Rooks,*  
9 *Rush, Russell, Scott, Seward, Sheridan, Sherman, Smith, Stafford,*  
10 *Stanton, Stevens, Sumner, Thomas, Trego, Wallace and Wichita.*

11 *(ee) "Catchment area" means the Osawatomie state hospital*  
12 *catchment area, the Topeka state hospital catchment area or the*  
13 *Larned state hospital catchment area.*

14 Sec. 17. On January 1, 1991, K.S.A. 59-2905 is hereby amended  
15 to read as follows: 59-2905. (a) Any person may be admitted to a  
16 treatment facility as a voluntary patient when there are available  
17 accommodations and ~~in the judgment of the head of the treatment~~  
18 ~~facility or his or her designee determines~~ such person is in need  
19 of treatment therein, *except that no such person shall be admitted*  
20 *to a state psychiatric hospital, if there are one or more participating*  
21 *mental health centers located in the catchment area in which the*  
22 *state psychiatric hospital is located, without a written statement*  
23 *authorizing such admission from a qualified mental health profes-*  
24 *sional. Such person, if ~~eighteen (18)~~ 18 years of age or older, shall*  
25 *make written application for admission. If such person is less than*  
26 *~~eighteen (18)~~ 18 years of age, then the parent or person in loco*  
27 *parentis to such person may make such written application. If such*  
28 *person is ~~fourteen (14)~~ 14 years of age or ~~over~~ older, such person*  
29 *may make such written application on ~~his or her~~ such person's own*  
30 *behalf without the consent or written application of such person's*  
31 *parent, guardian or any other person. In any case, if such person*  
32 *is ~~over eighteen (18)~~ 18 years of age or older and has a guardian,*  
33 *the guardian shall make such application, ~~except as otherwise au-~~*  
34 *thorized under K.S.A. 1989 Supp. 59-3018a and amendments thereto*  
35 *and except that, in any case, an application may be made by a*  
36 *guardian under this section only after a hearing conducted in ac-*  
37 *cordance with the provisions of K.S.A. 1989 Supp. 59-3018a and*  
38 *amendments thereto and pursuant to an order entered by the court*  
39 *under K.S.A. 1989 Supp. 59-3018a and amendments thereto au-*  
40 *thorizing the guardian to admit such person to an appropriate treat-*  
41 *ment facility under this section. The head of the treatment facility*  
42 *~~or his or her designee~~ may require a statement of such person's*  
43 *attending physician or a statement of the local health officer of the*

KPA, David Rodeheffer

Line 23, delete "authorizing such admission" and in-  
sert in line 24 before the period "regarding the need  
for such admission"

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2 area in which such person resides that such person is in need of  
3 treatment in a treatment facility. Whenever a minor ~~fourteen (14)~~  
4 *who is 14 years of age or older makes written application on his or*  
5 *her such minor's own behalf and is admitted as a voluntary patient,*  
6 *the head of the treatment facility shall promptly notify the minor's*  
7 *parent or other person in loco parentis of the admittance of such*  
8 *minor.*

9 (b) No person shall be admitted as a voluntary patient under the  
10 provisions of this act to any treatment facility unless the head of the  
11 treatment facility ~~or his or her designee~~ has informed such person  
12 or such person's parent, guardian or person *in loco parentis* in writing  
13 of the following: (a)

- 14 (1) The rules and procedures of the treatment facility relating to  
15 the discharge of voluntary patients; ~~(b)~~  
16 (2) the legal rights of a voluntary patient receiving treatment  
17 from a treatment facility; and ~~(c)~~  
18 (3) the types of treatment which are available to the voluntary  
19 patient from the treatment facility.

20 Sec. 18. On January 1, 1991, K.S.A. 1989 Supp. 59-2907 is  
21 hereby amended to read as follows: 59-2907. (a) The head of a  
22 treatment facility shall discharge a voluntary patient within a rea-  
23 sonable time but not to exceed three days, excluding Saturdays,  
24 Sundays and legal holidays, after the receipt of such patient's written  
25 request for discharge. *No patient shall be discharged from a state*  
26 *psychiatric hospital without receiving recommendations from the par-*  
27 *ticipating mental health center, if there is one, serving the area*  
28 *where the patient intends to reside, except that such patient shall*  
29 *be discharged within a reasonable time of not to exceed three days,*  
30 *excluding Saturdays, Sundays and legal holidays, after the receipt*  
31 *of such patient's written request for discharge. If the voluntary*  
32 *patient is a minor, the written request for discharge shall be made*  
33 *by the minor's parent or person in loco parentis unless the minor*  
34 *made written application to become a voluntary patient on the mi-*  
35 *nor's own behalf. If a minor 14 or more years of age has made*  
36 *written application to become a voluntary patient on the minor's*  
37 *own behalf and has requested to be discharged, the head of the*  
38 *treatment facility shall promptly inform the minor's parent or other*  
39 *person in loco parentis of the request.*

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

? Re-draft

KPA

Line 25, strike "receiving recommendations from"  
and insert "written notification"

1 Sec. 19. On January 1, 1991, K.S.A. 1989 Supp. 59-2908 is  
2 hereby amended to read as follows: 59-2908. (a) Any law enforcement  
3 officer who has reasonable belief upon observation that any person  
4 is a mentally ill person and because of such person's illness is likely  
5 to cause harm to self or others if allowed to remain at liberty may  
6 take the person into custody without a warrant. The officer shall  
7 transport the person to any treatment facility where the person shall  
8 be examined by a physician or psychologist on duty at ~~such the~~  
9 *treatment facility, except that no person shall be transported to a*  
10 *state psychiatric hospital for examination, if there are one or more*  
11 *participating mental health centers located in the catchment area in*  
12 *which the state psychiatric hospital is located, unless a written state-*  
13 *ment recommending evaluation at a state psychiatric hospital has*  
14 *been obtained from a qualified mental health professional. If no*  
15 *physician or psychologist is on duty at the time the person is trans-*  
16 *ported to the treatment facility, the person shall be so examined*  
17 *within a reasonable time not to exceed 17 [12] hours. If a written*  
18 *statement is made by the physician or psychologist at the treatment*  
19 *facility that after preliminary examination the physician or psychol-*  
20 *ogist believes the person to be a mentally ill person and because of*  
21 *the person's illness is likely to cause harm to self or others if allowed*  
22 *to remain at liberty, and if the treatment facility is willing to admit*  
23 *the person, the law enforcement officer shall present to the treatment*  
24 *facility the application provided for in subsection (b) of K.S.A. 59-*  
25 *2909 and amendments thereto. If the physician or psychologist on*  
26 *duty at the treatment facility does not believe the person to be a*  
27 *mentally ill person, the law enforcement officer shall release the*  
28 *person.*

29 (b) If the physician or psychologist on duty at the treatment  
30 facility states that ~~the physician or psychologist believes, in the~~  
31 *physician's or psychologist's opinion, the person to be is a mentally*  
32 *ill person but the treatment facility is unwilling to admit the person,*  
33 *or if the treatment facility shall provide a suitable facility in which*  
34 *the person may be detained by the law enforcement officer until the*  
35 *close of the first day the district court of the county is open for the*  
36 *transaction of business, unless the court orders that the person*  
37 *remain in custody pursuant to the provisions of K.S.A. 59-2912 and*  
38 *amendments thereto. If there is no treatment facility available to*  
39 *receive the person within the territorial limits of the law enforcement*  
40 *officer's jurisdiction, the law enforcement officer may detain the*  
41 *person in any other suitable place until the close of the first day*  
42 *the district court of the county is open for the transaction of business,*  
43 *unless the court orders that the person remain in custody pursuant*

KPA

Line 13 delete "recommending evaluation at a state  
psychiatric hospital" 1 line 14, before period insert  
"regarding the need for such an evaluation"

ACMHC

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adapt

51-1

to the provisions of K.S.A. 59-2912 and amendments thereto. If a law enforcement officer detains a person pursuant to this subsection, the law enforcement officer shall file the application provided for in subsection (a) of K.S.A. 59-2912 and amendments thereto, as soon as the court is open for the transaction of business. ~~Not~~ [If the place for such detention, other than a treatment facility, is located in a catchment area in which there are one or more participating mental health centers, 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.

Sec. 20. On January 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, if there are one or more participating mental health centers located in the catchment area in which the state psychiatric hospital is located, 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:

*admitted*

correction

KPA

Lines 23 and 24, by striking "recommending" and inserting "regarding the need for"

- (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.

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2 (c) A treatment facility may admit and detain any person for  
3 emergency observation and treatment upon the written application  
4 of any individual, *except that a state psychiatric hospital shall not*  
5 *admit and detain any such person, if there are one or more par-*  
6 *ticipating mental health centers located in the catchment area in*  
7 *which the state psychiatric hospital is located, without a written*  
8 *statement authorizing such admission from a qualified mental health*  
9 *professional. The application shall state:*

- 9 (1) The name and address of the person, if known;  
10 (2) the name and address of the person's spouse or nearest rel-  
11 ative, if known;  
12 (3) the applicant's belief that the person is a mentally ill person  
13 and because of the person's illness is likely to cause harm to self or  
14 others if not immediately detained;  
15 (4) the circumstances in support of that belief; and  
16 (5) the fact that the applicant will submit the application provided  
17 for in subsection (b) of K.S.A. 59-2912 and amendments thereto by  
18 5:00 p.m. of the next full day that the district court is open for  
19 transaction of business.

20 (d) Application of an individual under subsection (c) shall be  
21 accompanied by a statement in writing of a physician or psychologist  
22 confirming the existence of the described condition of the person  
23 and, upon the filing of the application, the head of the treatment  
24 facility or the designee of the head of the treatment facility may  
25 authorize and order in writing any law enforcement officer or other  
26 person to take into custody and transport the person to the treatment  
27 facility, *except that no person shall be transported to a state psy-*  
28 *chiatric hospital under this subsection, if there are one or more*  
29 *participating mental health centers located in the catchment area in*  
30 *which the state psychiatric hospital is located, unless a written state-*  
31 *ment recommending that the person be transported to a state psy-*  
32 *chiatric hospital has been obtained from a qualified mental health*  
33 *professional.*

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

39 Sec. 21. On January 1, 1991, K.S.A. 1989 Supp. 59-2912 is  
40 hereby amended to read as follows: 59-2912. (a) A district court may  
41 issue an order of protective custody upon the verified application of  
42 any law enforcement officer or other individual; *except that no*  
43 *order of protective custody shall be issued pursuant to this*

1-16  
KPA

Line 7, strike "authorizing" and insert "regarding  
the need for"

KPA

Line 31, strike "recommending that" and insert  
"regarding the need for"

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has been filed is a mentally ill person, the court shall issue an order of protective custody; otherwise, the court shall terminate the proceedings.

(d) The order of protective custody issued pursuant to provisions of this section may authorize a health officer, physician, law enforcement officer or other person to take the person with respect to whom the application has been filed into custody and to transport and place the person in a designated treatment facility[, except as otherwise provided herein,] or other suitable place willing to receive the person and may designate the place of detention, but no person shall be detained in protective custody in a nonmedical facility used for the detention of persons charged with or convicted of a crime ~~unless other facilities are not available~~ [unless other facilities are not available and the place of such protective custody is in a catchment area in which there are no participating mental health centers]. In lieu of such detention, the order of protective custody may allow the person with respect to whom the application has been filed to be at liberty, subject to such conditions as the court may impose, pending the hearing provided for in K.S.A. 59-2917 and amendments thereto. [The court shall not provide in any order of protective custody that the person be transported and placed or detained at a state psychiatric hospital unless a written statement recommending such placement or detention has been obtained from a qualified mental health professional. If a designated treatment facility is unwilling to admit the person, the participating mental health center shall provide a suitable facility in which the person may be detained in protective custody, but no person shall be so detained in a nonmedical facility used for detention of persons charged with or charged of a crime.]

Sec. 22. On January 1, 1991, K.S.A. 1989 Supp. 59-2914 is hereby amended to read as follows: 59-2914. (a) Upon the filing of the application provided for in K.S.A. 59-2913 and amendments thereto, the district court shall issue the following:

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

KPA

Line 23, strike "recommending" and insert "regarding the need for"

LINC

Line 28, delete "nonmedical facility" and insert "correctional facility"

*conducted (adapted)*

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2 court may designate a qualified mental health professional or a case  
3 manager employed by a participating mental health center to conduct  
4 an investigation pursuant to this section.

5 (7) Upon the motion of any party, containing those statements  
6 required by K.S.A. 59-3009 and amendments thereto, orders nec-  
7 essary to make a determination of the need for a guardian or con-  
8 servator, or both, to act on behalf of the proposed patient. For the  
9 purposes of determining whether a guardian or conservator is  
10 needed, the hearings required by K.S.A. 59-2917 and 59-3013, and  
11 amendments thereto, may be consolidated.

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

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

KPA

Lines 40 and 41, strike "authorization" and insert  
"evaluation regarding the need"

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From the panel so obtained, the proposed patient or the proposed patient's attorney shall strike one name; *then* the applicant, or the applicant's attorney, *shall strike one name*; and so on alternately until each ~~shall have~~ *has* stricken three names. If either party neglects or refuses to aid in striking the names, the court shall strike a name on behalf of such party. If 12 qualified jurors cannot be so empaneled, the court shall draw from such panel or list, by lot, sufficient additional names to empanel 12 qualified jurors.

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

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

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

(f) Upon the completion of the hearing, if the court or jury finds by clear and convincing evidence that the proposed patient is a mentally ill person, the court shall order treatment for such person at a treatment facility, *except that the court shall not order treatment at a state psychiatric hospital, if there are one or more participating mental health centers located in the catchment area in which the state psychiatric hospital is located, unless the court has received a written recommendation for treatment at a state psychiatric hospital from a qualified mental health professional.* An order for treatment in a treatment facility, except a state psychiatric hospital, shall be conditioned upon the consent of such *treatment* facility.

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

KPA

Line 38, strike "recommendation" and insert "evaluation regarding the need"



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

6 Sec. 26. On January 1, 1991, K.S.A. 1989 Supp. 59-2918 is  
7 hereby amended to read as follows: 59-2918. (a) The proposed pa-  
8 tient, at any time prior to the hearing provided for in K.S.A. 59-  
9 2917 and amendments thereto, may request, in writing, that the  
10 hearing be continued for 90 days so that the court may make an  
11 order of referral for short-term treatment. Upon receipt of such a  
12 request, the court may refer the proposed patient for a period of  
13 time not to exceed 90 days, for short-term treatment, to any treat-  
14 ment facility. An order of referral for treatment in any treatment  
15 facility, ~~except a state psychiatric hospital,~~ shall be conditioned  
16 upon the consent of such *treatment facility, except that no order of*  
17 *referral for treatment in a state psychiatric hospital shall be entered,*  
18 *if there are one or more participating mental health centers located*  
19 *in the catchment area in which the state psychiatric hospital is*  
20 *located, unless the court has received a written recommendation for*  
21 *such admission from a qualified mental health professional.* The court  
22 may not issue an order of referral unless the attorney representing  
23 the proposed patient has filed a statement, in writing, stating that  
24 the attorney has explained to the proposed patient the nature of the  
25 order of referral and the right to a hearing before a court or jury  
26 to determine whether the proposed patient is a mentally ill person.

27 (b) Any proposed patient who has been referred for short-term  
28 treatment under this section may be accepted for voluntary admission  
29 in a treatment facility pursuant to K.S.A. 59-2905 and amendments  
30 thereto. When the proposed patient has been admitted as a voluntary  
31 patient, the treatment facility shall file written notice of the patient's  
32 acceptance as a voluntary patient in the court which had ordered  
33 the referral. The filing of such notice shall constitute a dismissal of  
34 the pending application to determine whether the proposed patient  
35 is a mentally ill person.

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

KPA

Line 20, strike "recommendation" and insert "evalua-  
tion regarding the need"

1-20

with or convicted of a criminal offense.

2 New Sec. 29. On and after January 1, 1991, each state psychiatric  
3 hospital, which is located in a catchment area in which there are  
4 located one or more participating mental health centers, and the  
5 officers and employees of such state psychiatric hospital, and each  
6 participating mental health center and the officers and employees  
7 thereof, except for gross or wanton negligence, shall be immune  
8 from all civil liability arising out of a decision refusing admission of  
9 a person to, or discharging or conditionally releasing a person from  
10 any treatment facility, or providing treatment for a patient pursuant  
11 to an order for outpatient treatment, which occurs on or after January  
12 1, 1991. Under no circumstances shall any officer or employee of a  
13 state psychiatric hospital, which is located in a catchment area in  
14 which there are located one or more participating mental health  
15 centers, or a participating mental health center performing actions  
16 on or after January 1, 1991, pursuant to the treatment act for mentally  
17 ill persons have a duty to, or be liable for failure to notify, advise  
18 or warn anyone on or after January 1, 1991, concerning the non-  
19 admission, transfer or removal of restrictions on or discharge of any  
20 person absent a showing of gross or wanton negligence.

21 New Sec. 30. (a) On and after January 1, 1991, and subject to  
22 the provisions of subsection (c), no patient shall be admitted to a  
23 state psychiatric hospital pursuant to any of the provisions of the  
24 treatment act for mentally ill persons, including any court-ordered  
25 admissions, if the secretary has notified the supreme court of the  
26 state of Kansas and each district court, which has jurisdiction over  
27 all or part of the area served by the state psychiatric hospital, that  
28 the required program of the state psychiatric hospital has reached  
29 capacity and no more patients may be admitted. Following notifi-  
30 cation that a state psychiatric hospital program has reached its ca-  
31 pacity and no more patients may be admitted, any district court,  
32 which has jurisdiction over all or part of the area served by such  
33 state psychiatric hospital, and any participating mental health center,  
34 which serves all or part of the same area, may request that patients  
35 be placed on a waiting list maintained by the state psychiatric  
36 hospital.

37 (b) In each such case, as each vacancy at the state psychiatric  
38 hospital occurs, the district court and participating mental health  
39 center shall be notified, in the order of their previous requests for  
40 placing a patient on the waiting list, that a patient may be admitted  
41 to the state psychiatric hospital. As soon as the state psychiatric  
42 hospital is able to admit patients on a regular basis to a program  
43 for which notice has been given under this section, the superin-

KPA & KAPP

12-1  
Recommends inserting hospitals licensed under K.S.A.  
65-425 or 75-3307b, and amendments thereto, physi-  
cians and psychologists under this section in line 5  
and line 15.

Attorney General

Objects to exempting state hospitals, and officers  
and employees thereof, from ordinary negligence stan-  
dards as section 29 does.

KTLA

Requests deletion of section 29.

will be injurious to the welfare of the patient or former patient;

2 (9) any information to any state or national accreditation, certi-  
3 fication or licensing authority, or scholarly investigator, but the head  
4 of the treatment facility shall require, before such disclosure is made,  
5 a pledge that the name of any patient or former patient shall not  
6 be disclosed to any person not otherwise authorized by law to receive  
7 such information;

8 (10) any information to Kansas advocacy and protective services,  
9 inc. which concerns individuals who reside in a treatment facility  
10 and which is required by federal law and federal rules and regulations  
11 to be available pursuant to a federal grant-in-aid program;

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

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

21 (13) *any communication and information between or among*  
22 *treatment facilities regarding a proposed patient, patient or former*  
23 *patient for purposes of promoting continuity of care in the psychi-*  
24 *atric hospital during treatment and in the community following dis-*  
25 *charge or conditional release; the proposed patient, patient, or*  
26 *former patient's consent shall not be necessary to share evaluation*  
27 *and treatment records between or among treatment facilities re-*  
28 *garding a proposed patient, patient or former patient; as used in*  
29 *this paragraph (13), "proposed patient" and "patient" shall have the*  
30 *meanings respectively ascribed thereto in K.S.A. 59-2902 and amend-*  
31 *ments thereto.*

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

37 Sec. 35. On January 1, 1991, K.S.A. 19-4002, 19-4002a, 19-  
38 4002b, 59-2905, 65-211, 65-213, 75-3302d and 75-3302e and K.S.A.  
39 1989 Supp. 59-2901, 59-2902, 59-2907, 59-2908, 59-2909, 59-2912,  
40 59-2914, 59-2914a, 59-2916, 59-2917, 59-2918, 59-2918a, 59-2924,  
65-4434 and 65-5603 are hereby repealed.

41 Sec. 36. This act shall take effect and be in force from and after  
42 July 1, 1990, and its publication in the statute book.  
43

KPA

Delete (13). This paragraph eliminates the need for a signed release of information by the patient.

1-22

DATA (FY 89) PROVIDED TO THE SENATE PUBLIC  
HEALTH AND WELFARE COMMITTEE

Prepared by SRS, Mental Health and  
Retardation Services  
March 29, 1990

**Referral sources to all state mental health hospitals (All clients)**

	Number	Percentage
1. Court	2,769	50.54
2. Penal System	575	10.49
3. MHC	503	9.18
4. General Hospital	451	8.23
5. Self	259	4.73
6. Peace Officer	212	3.87
7. SRS Area Office	140	2.56
8. State MH Hospital	125	2.28
9. Family	89	1.62
10. Private Health Care	58	1.06
11. Other	298	5.44
TOTAL	5,479	100

**Court referrals from FY 86 to FY 89 (All Clients)**

	FY 86	FY 87	FY 88	FY 89
Number of Clients	2,303	2,539	2,618	2,769
Percentage of Clients	41.83%	42.08%	45.56%	50.54%

**Screening by Mental Health Centers (All Clients)**

19.04%

**Reasons why no mental health center screening (All Clients)**

	Percentage
1. Court	49.76
2. Alcohol Drug Program	14.33
3. After Hours	7.87
4. Transfer from Other	5.02
5. Brought by Law	4.37
6. Transfer from KS Mental Hosp.	3.59
7. Walk-In	3.45
8. Voluntary Admission	2.87
9. Coordinate with Area Office	2.41
10. Private Practitioner	2.36
11. Other	3.97
TOTAL	100

**Referral Sources to Larned State Hospital (All Clients)**

	Number	Percentage
1. Court	785	42.78
2. Penal System	572	31.17
3. Self	107	5.83
4. MHC	83	4.52
5. Peace Officer	61	3.32
6. SRS Area Office	36	1.96
7. State MH Hospital	29	1.58
8. Family	18	.98
9. Parole Officer	18	.98
10. Private Health Care	14	.76
11. Other	112	6.12
TOTAL	1,835	100

**Referral Sources to Osawatomie State Hospital (All Clients)**

	Number	Percentage
1. Court	993	57.37
2. General Hospital	155	8.95
3. Self	122	7.05
4. MHC	111	6.41
5. Peace Officer	102	5.89
6. SRS Area Office	65	3.76
7. State MH Hospital	44	2.54
8. Family	35	2.02
9. Private ICF/MH	24	1.39
10. Private Health Care	19	1.10
11. Other	61	3.52
TOTAL	1,731	100

**Referral Sources to Rainbow Mental Health Facility (All Clients)**

	Number	Percentage
1. General Hospital	222	34.15
2. MHC	192	29.54
3. Court	171	26.31
4. In House Staff	25	3.85
5. SRS Area Office	22	3.38
6. State MH Hospital	6	.92
7. Private Health Care	4	.62
8. Private Pscy. Hospital	4	.62
9. Private ICF/MH	2	.31
10. Social Agency	1	.15
11. Penal System	1	.15
TOTAL	650	100

**Referral Sources to Topeka State Hospital (All Clients)**

	Number	Percentage
1. Court	820	64.92
2. MHC	117	9.26
3. General Hospital	70	5.54
4. Peace Officer	49	3.88
5. State MH Hospital	46	3.64
6. Family	36	2.85
7. Self	30	2.38
8. Private Health Care	21	1.66
9. SRS Area Office	17	1.35
10. Social Agency	10	.79
11. Other	47	3.73
TOTAL	1,263	100

**Referral Sources to All Mental Health Hospitals (Adults)**

	Number	Percentage
1. Court	2,577	52.07
2. Penal System	575	11.62
3. Mental Health Center	440	8.89
4. General Hospital	402	8.12
5. Self	258	5.21
6. Peace Officer	202	4.08
7. State MH Hospital	113	2.28
8. Family	67	1.35
9. Private Health Care	52	1.05
10. Private ICF/MH	35	.71
11. Other	228	4.62
TOTAL	4,949	100

**Referral Sources to All State Hospitals (Youths)**

	Number	Percentage
1. Court	192	36.23
2. SRS Area Office	114	21.51
3. MHC	63	11.89
4. General Hospital	49	9.25
5. In House Staff	27	5.09
6. Family	22	4.15
7. Private Pscy Hospital	15	2.83
8. State MH Hospital	12	2.26
9. Peace Officer	10	1.89
10. Private Health Care	6	1.13
11. Other	20	3.77
TOTAL	530	100

**Number of Youth Referrals From FY 86 to FY 89**

		Percentage of Court Referrals
FY 86	201	19.40%
FY 87	225	19.69%
FY 88	377	28.12%
FY 89	530	36.23%

**Percentage of Mental Health Center Screening on Youths**

21.13%

**Why No Mental Health Center Screening (Youths)**

	Number	Percentage
1. Court	161	38.89
2. Coordinated with Area Office	86	20.77
3. Transfer from KS MH Hospital	38	9.18
4. Voluntary Admission	37	8.94
5. From Medical Facility	30	7.25
6. Private Practitioner	23	5.56
7. Transfer from Other	14	3.38
8. Brought by Law	10	2.42
9. After Hours	10	2.42
10. From Alcohol Drug Program	2	.48
11. Other	3	.71
TOTAL	414	100

**Referral Sources to Larned State Hospital (Youths)**

	Number	Percentage
1. SRS Area Office	28	37.84
2. Court	24	32.43
3. Family	9	12.16
4. Peace Officer	6	8.11
5. Mental Health Center	2	2.70
6. Friend	1	1.35
7. Private Health Care	1	1.35
8. General Hospital	1	1.35
9. College School	1	1.35
10. Other	1	1.36
TOTAL	74	100

2-4

**Referral Sources to Osawatomie State Hospital (Youths)**

	Number	Percentage
1. SRS Area Office	51	35.17
2. Court	32	22.07
3. General Hospital	19	13.10
4. MHC	18	12.41
5. Private Pscy Hospital	11	7.59
6. State MH Hospital	4	2.76
7. Family	3	2.07
8. Peace Officer	3	2.07
9. Private Health Care	1	.69
10. Other	3	2.07
TOTAL	145	100

**Referral Sources to Rainbow Mental Health Facility (Youths)**

	Number	Percentage
1. MHC	33	33.33
2. In House Staff	24	24.24
3. SRS Area Office	21	21.21
4. General Hospital	9	9.09
5. Court	7	7.08
6. State MH Hospital	3	3.03
7. Private Health Care	1	1.01
8. Private Pscy Hospital	1	1.01
9. TOTAL	99	100

**Referral Sources to Topeka State Hospital (Youths)**

	Number	Percentage
1. Court	129	60.85
2. General Hospital	20	9.43
3. SRS Area Office	14	6.60
4. MHC	10	4.72
5. Family	10	4.72
6. State MH Hospital	5	2.36
7. In House Staff	3	1.42
8. Social Agency	3	1.42
9. Private Pscy Hospital	3	1.42
10. Private Health Care	3	1.42
11. Other	12	5.64
TOTAL	212	100

2-5