

HOUSE BILL No. 2196

By Committee on Corrections and Juvenile Justice

2-8

1 AN ACT concerning rules of evidence; relating to the civil commitment
2 of sexually violent predators; amending K.S.A. 59-29a06 and
3 repealing the existing section.
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 59-29a06 is hereby amended to read as follows:
7 59-29a06. (a) Within 60 days after the completion of any hearing held
8 pursuant to K.S.A. 59-29a05, and amendments thereto, the court shall
9 conduct a trial to determine whether the person is a sexually violent
10 predator. The trial may be continued upon the request of either party and
11 a showing of good cause, or by the court on its own motion in the due
12 administration of justice, and when the respondent will not be
13 substantially prejudiced.

14 (b) At all stages of the proceedings under K.S.A. 59-29a01 *et seq.*,
15 and amendments thereto, any person subject to K.S.A. 59-29a01 *et seq.*,
16 and amendments thereto, shall be entitled to the assistance of counsel,
17 and if the person is indigent, the court shall appoint counsel to assist such
18 person. Whenever any person is subjected to an examination under
19 K.S.A. 59-29a01 *et seq.*, and amendments thereto, such person may retain
20 experts or professional persons to perform an examination of such
21 person's behalf. When the person wishes to be examined by a qualified
22 expert or professional person of such person's own choice, such examiner
23 shall be permitted to have reasonable access to the person for the purpose
24 of such examination, as well as to all relevant medical and psychological
25 records and reports. In the case of a person who is indigent, the court,
26 upon the person's request, shall determine whether the services are
27 necessary and reasonable compensation for such services. If the court
28 determines that the services are necessary and the expert or professional
29 person's requested compensation for such services is reasonable, the court
30 shall assist the person in obtaining an expert or professional person to
31 perform an examination or participate in the trial on the person's behalf.
32 The court shall approve payment for such services upon the filing of a
33 certified claim for compensation supported by a written statement
34 specifying the time expended, services rendered, expenses incurred on
35 behalf of the person and compensation received in the same case or for
36 the same services from any other source.

1 (c) *Notwithstanding K.S.A. 60-456, and amendments thereto, at any*
2 *trial conducted under K.S.A. 59-29a01 et seq., and amendments thereto,*
3 *the parties shall be permitted to call expert witnesses. The facts or data*
4 *in the particular case upon which an expert bases an opinion or*
5 *inference may be those perceived by or made known to the expert at or*
6 *before the hearing. If the facts or data are of a type reasonably relied*
7 *upon by experts in the particular field in forming opinions or inferences*
8 *upon the subject, such facts and data need not be admissible in evidence*
9 *in order for the opinion or inference to be admitted.*

10 ~~(e)~~(d) The person, the attorney general, or the judge shall have the
11 right to demand that the trial be before a jury. Such demand for the trial to
12 be before a jury shall be filed, in writing, at least four days prior to trial.
13 Number and selection of jurors shall be determined as provided in K.S.A.
14 22-3403, and amendments thereto. If no demand is made, the trial shall
15 be before the court.

16 ~~(d)~~(e) A jury shall consist of 12 jurors unless the parties agree in
17 writing with the approval of the court that the jury shall consist of any
18 number of jurors less than 12 jurors. The person and the attorney general
19 shall each have eight peremptory challenges, or in the case of a jury of
20 less than 12 jurors, a proportionally equal number of peremptory
21 challenges.

22 ~~(e)~~(f) The provisions of this section are not jurisdictional, and failure
23 to comply with such provisions in no way prevents the attorney general
24 from proceeding against a person otherwise subject to the provision of
25 K.S.A. 59-29a01 *et seq.*, and amendments thereto.

26 Sec. 2. K.S.A. 59-29a06 is hereby repealed.

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

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