

## HOUSE BILL No. 2600

By Committee on Corrections and Juvenile Justice

2-2

---

1 AN ACT concerning mental health information; relating to access by law  
2 enforcement officers; amending K.S.A. 2011 Supp. 65-5603 and  
3 repealing the existing section.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2011 Supp. 65-5603 is hereby amended to read as  
7 follows: 65-5603. (a) The privilege established by K.S.A. 65-5602, and  
8 amendments thereto, shall not extend to:

9 (1) Any communication relevant to an issue in proceedings to  
10 involuntarily commit to treatment a patient for mental illness, alcoholism  
11 or drug dependency if the treatment personnel in the course of diagnosis or  
12 treatment has determined that the patient is in need of hospitalization;

13 (2) an order for examination of the mental, alcoholic, drug  
14 dependency or emotional condition of the patient which is entered by a  
15 judge, with respect to the particular purpose for which the examination is  
16 ordered;

17 (3) any proceeding in which the patient relies upon any of the  
18 aforementioned conditions as an element of the patient's claim or defense,  
19 or, after the patient's death, in any proceeding in which any party relies  
20 upon any of the patient's conditions as an element of a claim or defense;

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

26 (5) any information necessary for the emergency treatment of a  
27 patient or former patient if the head of the treatment facility at which the  
28 patient is being treated or was treated states in writing the reasons for  
29 disclosure of the communication and makes such statement a part of the  
30 treatment or medical record of the patient;

31 (6) information relevant to protect a person who has been threatened  
32 with substantial physical harm by a patient during the course of treatment,  
33 when such person has been specifically identified by the patient, the  
34 treatment personnel believes there is substantial likelihood that the patient  
35 will act on such threat in the reasonable foreseeable future and the head of  
36 the treatment facility has concluded that notification should be given. The

1 patient shall be notified that such information has been communicated;

2 (7) any information from a state psychiatric hospital to appropriate  
3 administrative staff of the department of corrections whenever patients  
4 have been administratively transferred to a state psychiatric hospital  
5 pursuant to the provisions of K.S.A. 75-5209, and amendments thereto;

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

11 (9) any information to any state or national accreditation, certification  
12 or licensing authority, or scholarly investigator, but the head of the  
13 treatment facility shall require, before such disclosure is made, a pledge  
14 that the name of any patient or former patient shall not be disclosed to any  
15 person not otherwise authorized by law to receive such information;

16 (10) any information to the state protection and advocacy system  
17 which concerns individuals who reside in a treatment facility and which is  
18 required by federal law and federal rules and regulations to be available  
19 pursuant to a federal grant-in-aid program;

20 (11) any information relevant to the collection of a bill for  
21 professional services rendered by a treatment facility; ~~or~~

22 (12) any information sought by a coroner serving under the laws of  
23 Kansas when such information is material to an investigation or  
24 proceeding conducted by the coroner in the performance of such coroner's  
25 official duties. Information obtained by a coroner under this provision  
26 shall be used for official purposes only and shall not be made public unless  
27 admitted as evidence by a court or for purposes of performing the  
28 coroner's statutory duties;

29 (13) any communication and information by and between or among  
30 treatment facilities, correctional institutions, jails, juvenile detention  
31 facilities or juvenile correctional facilities regarding a proposed patient,  
32 patient or former patient for purposes of promoting continuity of care by  
33 and between treatment facilities, correctional institutions, jails, juvenile  
34 detention facilities or juvenile correctional facilities; the proposed patient,  
35 patient, or former patient's consent shall not be necessary to share  
36 evaluation and treatment records by and between or among treatment  
37 facilities, correctional institutions, jails, juvenile detention facilities or  
38 juvenile correctional facilities regarding a proposed patient, patient or  
39 former patient;

40 (14) the name, date of birth, date of death, name of any next of kin  
41 and place of residence of a deceased former patient when that information  
42 is sought as part of a genealogical study;

43 (15) any information concerning a patient or former patient who is a

1 juvenile offender in the custody of the juvenile justice authority when the  
2 commissioner of juvenile justice, or the commissioner's designee, requests  
3 such information; or

4 (16) ~~(a)~~ information limited to whether a person is or has been a  
5 patient of any treatment facility; within the last six months, such person  
6 having been lawfully ~~arrested~~ *detained* by a law enforcement officer *upon*  
7 *reasonable suspicion that such person is committing, has committed or is*  
8 *about to commit a misdemeanor or felony*, if such law enforcement officer  
9 has reasonable suspicion that such person is suffering from mental illness  
10 and such law enforcement officer has a reasonable belief that such person  
11 may benefit from treatment at a treatment facility rather than being placed  
12 in a correctional institution, jail, juvenile correctional facility or juvenile  
13 detention facility. Any communication and information obtained by any  
14 law enforcement officer regarding such person from such treatment facility  
15 shall not be disclosed except as provided by this section.

16 (b) As used in this subsection:

17 (1) "Correctional institution" means the same as prescribed in K.S.A.  
18 75-5202, and amendments thereto;

19 (2) "jail" means the same as prescribed in K.S.A. 2011 Supp. 38-  
20 3202, and amendments thereto;

21 (3) "juvenile correctional facility" means the same as prescribed in  
22 K.S.A. 2011 Supp. 38-3202, and amendments thereto;

23 (4) "juvenile detention facility" means the same as prescribed in  
24 K.S.A. 2011 Supp. 38-3202, and amendments thereto;

25 (5) "law enforcement officer" means the same as prescribed in K.S.A.  
26 22-2202, and amendments thereto; and

27 (6) "mental illness" means mental disease to such extent that a person  
28 so afflicted requires care and treatment for his own welfare, the welfare of  
29 others or the welfare of the community.

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

35 Sec. 2. K.S.A. 2011 Supp. 65-5603 is hereby repealed.

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

38