

## HOUSE BILL No. 2639

By Committee on Corrections and Juvenile Justice

2-8

1 AN ACT concerning care and treatment of certain persons; enacting the  
2 emergency observation and treatment act; relating to mentally ill  
3 persons, persons with an alcohol or substance abuse problem and  
4 persons with co-occurring conditions; licensed crisis recovery centers;  
5 amending K.S.A. 59-2953, 59-2980, 59-29b53 and 59-29b80 and  
6 K.S.A. 2015 Supp. 59-2978 and 59-29b78 and repealing the existing  
7 sections.  
8

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

10 New Section 1. (a) The provisions of sections 1 through 9, and  
11 amendments thereto, shall be known and may be cited as the emergency  
12 observation and treatment act.

13 (b) It is hereby declared to be the public policy of the state of Kansas  
14 to limit the trauma sustained by individuals with mental illness, substance  
15 use disorders and those with co-occurring conditions that occurs when the  
16 person is involuntarily committed through the state court and hospital  
17 procedure. This act shall be liberally construed to effectuate that public  
18 policy.

19 New Sec. 2. When used in the emergency observation and treatment  
20 act:

21 (a) "Behavioral health professional" includes a physician,  
22 psychologist, qualified mental health professional or licensed addiction  
23 counselor.

24 (b) "Head of the treatment facility" means the administrative director  
25 of a licensed crisis recovery center treatment facility or a behavioral health  
26 professional designated by such person.

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

29 (d) "Licensed crisis recovery center" means any facility licensed by  
30 the Kansas department for aging and disability services that is open 24  
31 hours a day, 365 days a year, equipped to serve voluntary and involuntary  
32 individuals in crisis due to mental illness, substance abuse or a co-  
33 occurring condition.

34 (e) "Licensed crisis recovery center service area" means the counties  
35 which the licensed crisis recovery center has agreed to provide service to.

36 New Sec. 3. (a) In computing the date upon or by which any act must

1 be done or hearing held by under the provisions of the emergency  
2 observation and treatment act, the day on which an act or event occurred  
3 and from which a designated period of time is to be calculated shall not be  
4 included, but the last day in a designated period of time shall be included  
5 unless that day falls on a Saturday, Sunday or legal holiday, in which case  
6 the next day which is not a Saturday, Sunday or legal holiday shall be  
7 considered to be the last day.

8 (b) Unless the court orders otherwise, if the clerk's office is  
9 inaccessible on the last day for filing, then the time for filing is extended to  
10 the first accessible day that is not a Saturday, Sunday or legal holiday.

11 (c) "Legal holiday" means any day declared a holiday by the  
12 president of the United States, the congress of the United States or the  
13 legislature of this state, or any day observed by order of the Kansas  
14 supreme court. A half holiday is considered as other days and not as a  
15 holiday.

16 New Sec. 4. (a) The fact that a person may have voluntarily accepted  
17 any form of psychiatric treatment or treatment for an alcohol or substance  
18 abuse problem, or become subject to a court order entered under authority  
19 of the emergency observation and treatment act, shall not be construed to  
20 mean that such person shall have lost any civil right they otherwise would  
21 have as a resident or citizen, any property right or their legal capacity,  
22 except as may be specified within any court order or as otherwise limited  
23 by the provisions of this act or the reasonable rules and regulations which  
24 the head of a licensed crisis recovery center may, for good cause, find  
25 necessary to make for the orderly operations of that facility. No person  
26 held in custody under the provisions of this act shall be denied the right to  
27 apply for a writ of habeas corpus.

28 (b) There shall be no implication or presumption that a patient within  
29 the terms of this act is for that reason alone a person in need of a guardian  
30 or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3097,  
31 and amendments thereto.

32 New Sec. 5. (a) A licensed crisis recovery center may admit and  
33 detain any person 18 years of age or older who is presented for emergency  
34 observation and treatment upon written application of a law enforcement  
35 officer, behavioral health professional or other reliable individual having  
36 contact with such person as described in this section, except that a state  
37 psychiatric hospital shall not admit or detain any such person without a  
38 written statement from a qualified mental health professional authorizing  
39 such admission.

40 (b) An emergency observation and treatment application shall be  
41 made on a form set forth by the secretary for aging and disability services  
42 or a locally-developed form approved by the secretary. The original  
43 application shall be kept in the regular course of business with the law

1 enforcement agency, behavioral health professional or individual, and a  
2 copy shall be provided to the licensed crisis recovery center and to the  
3 patient. The application shall include, but not be limited to, the following:

4 (1) The name and address of the person to be admitted for emergency  
5 observation and treatment, if known;

6 (2) a statement that the law enforcement officer, behavioral health  
7 professional or other reliable individual has reason to believe and does  
8 believe that:

9 (A) Such person is a mentally ill person subject to involuntary  
10 commitment for care and treatment, as defined in K.S.A. 59-2946, and  
11 amendments thereto, is a person with an alcohol or substance abuse  
12 problem subject to involuntary commitment for care and treatment, as  
13 defined in K.S.A. 59-29b46, and amendments thereto, or is a person with  
14 co-occurring conditions; and

15 (B) because of such mental illness, alcohol or substance abuse  
16 problem or co-occurring condition is likely to cause harm to self or others  
17 unless such person is immediately transported for emergency observation  
18 and treatment, including a specific description of the risk of harm;

19 (3) a statement that the law enforcement officer, behavioral health  
20 professional or other reliable individual has reason to believe and does  
21 believe that the risk of harm is imminent unless such person is  
22 immediately transported for emergency observation and treatment;

23 (4) a statement that the law enforcement officer, behavioral health  
24 professional or other reliable individual's beliefs are derived from specific  
25 recent behavior, acts, attempts or threats that were observed by or reliably  
26 reported to such individual, including:

27 (A) A detailed description of the specific recent behavior, acts,  
28 attempts or threats; and

29 (B) the name and relationship to the person in need of emergency  
30 observation and treatment of any individual who reported or observed the  
31 specific recent behavior, acts, attempts or threats; and

32 (5) such person's psychiatric history as reported by or known to the  
33 law enforcement officer, behavioral health professional or other reliable  
34 individual.

35 (c) A likelihood of harm to self or others may be demonstrated by:

36 (1) The person's behavior, acts, attempts or threats observed by the  
37 law enforcement officer, behavioral health professional or other reliable  
38 individual; or

39 (2) evidence of severe emotional distress and deterioration in the  
40 person's condition to the extent that the person cannot remain at liberty.

41 (d) A law enforcement officer, behavioral health professional or other  
42 reliable individual may form the belief that a person meets the criteria for  
43 emergency observation and treatment from:

1 (1) The behavior, acts, attempts or threats of such person or the  
2 circumstances under which such person is found; or

3 (2) the representation of any credible individual.

4 New Sec. 6. A law enforcement officer who takes a person into  
5 custody pursuant to the emergency observation and treatment act shall  
6 immediately transport the person to a licensed crisis recovery center if  
7 such officer is in a licensed crisis recovery center service area. The  
8 licensed crisis recovery center shall not refuse to accept any person for  
9 treatment if such person is brought to the licensed crisis recovery center by  
10 a law enforcement officer and such officer's jurisdiction is in the licensed  
11 crisis recovery center's service area. If a law enforcement officer is not in a  
12 licensed crisis recovery center service area, then the officer shall follow  
13 the procedures set forth in the care and treatment act for mentally ill  
14 persons or the care and treatment act for persons with an alcohol or  
15 substance abuse problem.

16 New Sec. 7. (a) If the requirements of section 5, and amendments  
17 thereto, are satisfied, then a law enforcement officer, behavioral health  
18 professional or other reliable person is not required to seek an ex parte  
19 order pursuant to the care and treatment act for mentally ill persons or the  
20 care and treatment act for persons with an alcohol or substance abuse  
21 problem prior to presenting a person to a licensed crisis recovery center  
22 pursuant to the emergency observation and treatment act.

23 (b) The head of the treatment facility shall evaluate a person admitted  
24 pursuant to the emergency observation and treatment act within four hours  
25 of admission and at appropriate intervals thereafter as determined by best  
26 practices.

27 (c) The head of the treatment facility shall discharge a person  
28 admitted pursuant to the emergency observation and treatment act as soon  
29 as the individual is deemed appropriate to return to the community safely,  
30 and, except as provided in subsection (d), not later than 72 hours after  
31 admission.

32 (d) If the head of the treatment facility determines that a person  
33 admitted pursuant to the emergency observation and treatment act may be  
34 a mentally ill person or a person with an alcohol or substance abuse  
35 problem subject to involuntary commitment proceedings, and because of  
36 such person's mental illness or alcohol or substance abuse problem is  
37 likely to cause harm to self or others if not detained longer than 72 hours,  
38 then the head of the treatment facility shall file the appropriate petition  
39 pursuant to the care and treatment act for mentally ill persons or the care  
40 and treatment act for persons with an alcohol or substance abuse problem  
41 and find appropriate placement for the individual, including, but not  
42 limited to, community hospitals equipped to take involuntary  
43 commitments or the designated state hospital.

1 New Sec. 8. (a) Every patient being treated in any licensed crisis  
2 recovery center, in addition to all other rights preserved by the provisions  
3 of the emergency observation and treatment act, shall have the following  
4 rights:

5 (1) To wear the patient's own clothes, keep and use the patient's own  
6 personal possessions, including toilet articles, and keep and be allowed to  
7 spend the patient's own money;

8 (2) to communicate by all reasonable means with a reasonable  
9 number of persons at reasonable hours of the day and night, including both  
10 to make and receive confidential telephone calls, and by letter, both to mail  
11 and receive unopened correspondence, except that if the head of the  
12 treatment facility should deny a patient's right to mail or to receive  
13 unopened correspondence under the provisions of subsection (b), such  
14 correspondence shall be opened and examined in the presence of the  
15 patient;

16 (3) to conjugal visits if facilities are available for such visits;

17 (4) to receive visitors in reasonable numbers and at reasonable times  
18 each day;

19 (5) to refuse involuntary labor other than the housekeeping of the  
20 patient's own bedroom and bathroom, provided that nothing herein shall be  
21 construed so as to prohibit a patient from performing labor as a part of a  
22 therapeutic program to which the patient has given their written consent  
23 and for which the patient receives reasonable compensation;

24 (6) not to be subject to such procedures as psychosurgery,  
25 electroshock therapy, experimental medication, aversion therapy or  
26 hazardous treatment procedures without the written consent of the patient;

27 (7) to have explained, the nature of all medications prescribed, the  
28 reason for the prescription and the most common side effects and, if  
29 requested, the nature of any other treatments ordered;

30 (8) to communicate by letter with the secretary for aging and  
31 disability services, the head of the treatment facility and any court,  
32 attorney, physician, psychologist, qualified mental health professional,  
33 licensed addiction counselor or minister of religion, including a Christian  
34 Science practitioner. All such communications shall be forwarded at once  
35 to the addressee without examination and communications from such  
36 persons shall be delivered to the patient without examination;

37 (9) to contact or consult privately with the patient's physician or  
38 psychologist, qualified mental health professional, licensed addiction  
39 counselor, minister of religion, including a Christian Science practitioner,  
40 legal guardian or attorney at any time and if the patient is a minor, such  
41 patient's parent;

42 (10) to be visited by the patient's physician, psychologist, qualified  
43 mental health professional, licensed addiction counselor, minister of

1 religion, including a Christian Science practitioner, legal guardian or  
2 attorney at any time and if the patient is a minor, such patient's parent;

3 (11) to be informed orally and in writing of such patient's rights under  
4 this section upon admission to a treatment facility; and

5 (12) to be treated humanely, consistent with generally accepted ethics  
6 and practices.

7 (b) The head of the treatment facility may, for good cause only,  
8 restrict a patient's rights under this section, except that the rights  
9 enumerated in subsection (a)(5) through (12), and the right to mail any  
10 correspondence which does not violate postal regulations, shall not be  
11 restricted by the head of the treatment facility under any circumstances.  
12 Each treatment facility shall adopt regulations governing the conduct of all  
13 patients being treated in such treatment facility, which regulations shall be  
14 consistent with the provisions of this section. A statement explaining the  
15 reasons for any restriction of a patient's rights shall be immediately entered  
16 on such patient's medical record and copies of such statement shall be  
17 made available to the patient, and to the patient's attorney. In addition,  
18 notice of any restriction of a patient's rights shall be communicated to the  
19 patient in a timely fashion.

20 (c) Any person willfully depriving any patient of the rights protected  
21 by this section, except for the restriction of such rights in accordance with  
22 the provisions of subsection (b) or in accordance with a properly obtained  
23 court order, shall be guilty of a class C misdemeanor.

24 New Sec. 9. Any person or law enforcement agency, governing body,  
25 licensed crisis recovery center, community mental health center or  
26 personnel acting in good faith and without negligence shall be free from  
27 all liability, civil or criminal, which might arise out of acting pursuant to  
28 the emergency observation and treatment act. Any person who, for a  
29 corrupt consideration or advantage, or through malice, shall make or join  
30 in making or advise the making of any false petition, report or order  
31 provided for in the emergency observation and treatment act shall be guilty  
32 of a class A misdemeanor.

33 Sec. 10. K.S.A. 59-2953 is hereby amended to read as follows: 59-  
34 2953. (a) Any law enforcement officer who has a reasonable belief formed  
35 upon investigation that a person is a mentally ill person and because of  
36 such person's mental illness is likely to cause harm to self or others if  
37 allowed to remain at liberty may take the person into custody without a  
38 warrant. *If the officer is in a licensed crisis recovery center service area,*  
39 *as defined in section 2, and amendments thereto, the officer may transport*  
40 *the person to such licensed crisis recovery center. If the officer is not in a*  
41 *licensed crisis recovery center service area, as defined in section 2, and*  
42 *amendments thereto, or does not choose to transport the person to such*  
43 *licensed crisis recovery center, then the officer shall transport the person to*

1 a treatment facility where the person shall be examined by a physician or  
2 psychologist on duty at the treatment facility, except that no person shall  
3 be transported to a state psychiatric hospital for examination, unless a  
4 written statement from a qualified mental health professional authorizing  
5 such an evaluation at a state psychiatric hospital has been obtained. If no  
6 physician or psychologist is on duty at the time the person is transported to  
7 the treatment facility, the person shall be examined within a reasonable  
8 time not to exceed 17 hours. If a written statement is made by the  
9 physician or psychologist at the treatment facility that after preliminary  
10 examination the physician or psychologist believes the person likely to be  
11 a mentally ill person subject to involuntary commitment for care and  
12 treatment and because of the person's mental illness is likely to cause harm  
13 to self or others if allowed to remain at liberty, and if the treatment facility  
14 is willing to admit the person, the law enforcement officer shall present to  
15 the treatment facility the application provided for in ~~subsection (b) of~~  
16 K.S.A. 59-2954(b), and amendments thereto. If the physician or  
17 psychologist on duty at the treatment facility does not believe the person  
18 likely to be a mentally ill person subject to involuntary commitment for  
19 care and treatment the law enforcement officer shall return the person to  
20 the place where the person was taken into custody and release the person  
21 at that place or at another place in the same community as requested by the  
22 person or if the law enforcement officer believes that it is not in the best  
23 interests of the person or the person's family or the general public for the  
24 person to be returned to the place the person was taken into custody, then  
25 the person shall be released at another place the law enforcement officer  
26 believes to be appropriate under the circumstances. The person may  
27 request to be released immediately after the examination, in which case the  
28 law enforcement officer shall immediately release the person, unless the  
29 law enforcement officer believes it is in the best interests of the person or  
30 the person's family or the general public that the person be taken elsewhere  
31 for release.

32 (b) If the physician or psychologist on duty at the treatment facility  
33 states that, in the physician's or psychologist's opinion, the person is likely  
34 to be a mentally ill person subject to involuntary commitment for care and  
35 treatment but the treatment facility is unwilling to admit the person, the  
36 treatment facility shall nevertheless provide a suitable place at which the  
37 person may be detained by the law enforcement officer. If a law  
38 enforcement officer detains a person pursuant to this subsection, the law  
39 enforcement officer shall file the petition provided for in ~~subsection (a) of~~  
40 K.S.A. 59-2957(a), and amendments thereto, by the close of business of  
41 the first day that the district court is open for the transaction of business or  
42 shall release the person. No person shall be detained by a law enforcement  
43 officer pursuant to this subsection in a nonmedical facility used for the

1 detention of persons charged with or convicted of a crime.

2 Sec. 11. K.S.A. 2015 Supp. 59-2978 is hereby amended to read as  
3 follows: 59-2978. (a) Every patient being treated in any treatment facility,  
4 in addition to all other rights preserved by the provisions of this act, shall  
5 have the following rights:

6 (1) To wear the patient's own clothes, keep and use the patient's own  
7 personal possessions including toilet articles and keep and be allowed to  
8 spend the patient's own money;

9 (2) to communicate by all reasonable means with a reasonable  
10 number of persons at reasonable hours of the day and night, including both  
11 to make and receive confidential telephone calls, and by letter, both to mail  
12 and receive unopened correspondence, except that if the head of the  
13 treatment facility should deny a patient's right to mail or to receive  
14 unopened correspondence under the provisions of subsection (b), such  
15 correspondence shall be opened and examined in the presence of the  
16 patient;

17 (3) to conjugal visits if facilities are available for such visits;

18 (4) to receive visitors in reasonable numbers and at reasonable times  
19 each day;

20 (5) to refuse involuntary labor other than the housekeeping of the  
21 patient's own bedroom and bathroom, provided that nothing herein shall be  
22 construed so as to prohibit a patient from performing labor as a part of a  
23 therapeutic program to which the patient has given their written consent  
24 and for which the patient receives reasonable compensation;

25 (6) not to be subject to such procedures as psychosurgery,  
26 electroshock therapy, experimental medication, aversion therapy or  
27 hazardous treatment procedures without the written consent of the patient  
28 or the written consent of a parent or legal guardian, if such patient is a  
29 minor or has a legal guardian provided that the guardian has obtained  
30 authority to consent to such from the court which has venue over the  
31 guardianship following a hearing held for that purpose;

32 (7) to have explained, the nature of all medications prescribed, the  
33 reason for the prescription and the most common side effects and, if  
34 requested, the nature of any other treatments ordered;

35 (8) to communicate by letter with the secretary for aging and  
36 disability services, the head of the treatment facility and any court,  
37 attorney, physician, psychologist, *qualified mental health professional* or  
38 minister of religion, including a Christian Science practitioner. All such  
39 communications shall be forwarded at once to the addressee without  
40 examination and communications from such persons shall be delivered to  
41 the patient without examination;

42 (9) to contact or consult privately with the patient's physician or  
43 psychologist, *qualified mental health professional*, minister of religion,



1 including a Christian Science practitioner, legal guardian or attorney at any  
2 time and if the patient is a minor, their parent;

3 (10) to be visited by the patient's physician, psychologist, *qualified*  
4 *mental health professional*, minister of religion, including a Christian  
5 Science practitioner, legal guardian or attorney at any time and if the  
6 patient is a minor, their parent;

7 (11) to be informed orally and in writing of their rights under this  
8 section upon admission to a treatment facility; and

9 (12) to be treated humanely consistent with generally accepted ethics  
10 and practices.

11 (b) The head of the treatment facility may, for good cause only,  
12 restrict a patient's rights under this section, except that the rights  
13 enumerated in subsections (a)(5) through (a)(12), and the right to mail any  
14 correspondence which does not violate postal regulations, shall not be  
15 restricted by the head of the treatment facility under any circumstances.  
16 Each treatment facility shall adopt regulations governing the conduct of all  
17 patients being treated in such treatment facility, which regulations shall be  
18 consistent with the provisions of this section. A statement explaining the  
19 reasons for any restriction of a patient's rights shall be immediately entered  
20 on such patient's medical record and copies of such statement shall be  
21 made available to the patient or to the parent, or legal guardian if such  
22 patient is a minor or has a legal guardian, and to the patient's attorney. In  
23 addition, notice of any restriction of a patient's rights shall be  
24 communicated to the patient in a timely fashion.

25 (c) Any person willfully depriving any patient of the rights protected  
26 by this section, except for the restriction of such rights in accordance with  
27 the provisions of subsection (b) or in accordance with a properly obtained  
28 court order, shall be guilty of a class C misdemeanor.

29 (d) The provisions of this section do not apply to persons civilly  
30 committed to a treatment facility as a sexually violent predator pursuant to  
31 K.S.A. 59-29a01 et seq., and amendments thereto.

32 Sec. 12. K.S.A. 59-2980 is hereby amended to read as follows: 59-  
33 2980. Any person *or law enforcement agency, governing body, community*  
34 *mental health center or personnel* acting in good faith and without  
35 negligence shall be free from all liability, civil or criminal, which might  
36 arise out of acting pursuant to this act. Any person who for a corrupt  
37 consideration or advantage, or through malice, shall make or join in  
38 making or advise the making of any false petition, report or order provided  
39 for in this act shall be guilty of a class A misdemeanor.

40 Sec. 13. K.S.A. 59-29b53 is hereby amended to read as follows: 59-  
41 29b53. (a) Any law enforcement officer who has a reasonable belief  
42 formed upon investigation that a person may be a person with an alcohol  
43 or substance abuse problem subject to involuntary commitment and is

1 likely to cause harm to self or others if allowed to remain at liberty may  
2 take the person into custody without a warrant. *If the officer is in a*  
3 *licensed crisis recovery center service area, as defined in section 2, and*  
4 *amendments thereto, the officer may transport the person to such licensed*  
5 *crisis recovery center. If the officer is not in a licensed crisis recovery*  
6 *center service area, as defined in section 2, and amendments thereto, or*  
7 *does not choose to transport the person to such licensed crisis recovery*  
8 *center, then the officer shall transport the person to a treatment facility or*  
9 *other facility for care or treatment where the person shall be examined by a*  
10 *physician or psychologist on duty at the facility. If no physician or*  
11 *psychologist is on duty at the time the person is transported to the facility,*  
12 *the person shall be examined within a reasonable time not to exceed 17*  
13 *hours. If a written statement is made by the physician or psychologist at*  
14 *the facility that after preliminary examination the physician or*  
15 *psychologist believes the person likely to be a person with an alcohol or*  
16 *substance abuse problem subject to involuntary commitment for care and*  
17 *treatment and is likely to cause harm to self or others if allowed to remain*  
18 *at liberty, and if the facility is a treatment facility and is willing to admit*  
19 *the person, the law enforcement officer shall present to that treatment*  
20 *facility the application provided for in ~~subsection (b) of~~ K.S.A. 59-*  
21 *29b54(b), and amendments thereto. If the physician or psychologist on*  
22 *duty at the facility does not believe the person likely to be a person with an*  
23 *alcohol or substance abuse problem subject to involuntary commitment for*  
24 *care and treatment, the law enforcement officer shall return the person to*  
25 *the place where the person was taken into custody and release the person*  
26 *at that place or at another place in the same community as requested by the*  
27 *person or if the law enforcement officer believes that it is not in the best*  
28 *interests of the person or the person's family or the general public for the*  
29 *person to be returned to the place the person was taken into custody, then*  
30 *the person shall be released at another place the law enforcement officer*  
31 *believes to be appropriate under the circumstances. The person may*  
32 *request to be released immediately after the examination, in which case the*  
33 *law enforcement officer shall immediately release the person, unless the*  
34 *law enforcement officer believes it is in the best interests of the person or*  
35 *the person's family or the general public that the person be taken elsewhere*  
36 *for release.*

37 (b) If the physician or psychologist on duty at the facility states that,  
38 in the physician's or psychologist's opinion, the person is likely to be a  
39 person with an alcohol or substance abuse problem subject to involuntary  
40 commitment for care and treatment but the facility is unwilling or is an  
41 inappropriate place to which to admit the person, the facility shall  
42 nevertheless provide a suitable place at which the person may be detained  
43 by the law enforcement officer. If a law enforcement officer detains a

1 person pursuant to this subsection, the law enforcement officer shall file  
2 the petition provided for in ~~subsection (a) of~~ K.S.A. 59-29b57(a), and  
3 amendments thereto, by the close of business of the first day that the  
4 district court is open for the transaction of business or shall release the  
5 person. No person shall be detained by a law enforcement officer pursuant  
6 to this subsection in a nonmedical facility used for the detention of persons  
7 charged with or convicted of a crime unless no other suitable facility at  
8 which such person may be detained is willing to accept the person.

9 Sec. 14. K.S.A. 2015 Supp. 59-29b78 is hereby amended to read as  
10 follows: 59-29b78. (a) Every patient being treated in any treatment facility,  
11 in addition to all other rights preserved by the provisions of this act, shall  
12 have the following rights:

13 (1) To wear the patient's own clothes, keep and use the patient's own  
14 personal possessions including toilet articles and keep and be allowed to  
15 spend the patient's own money;

16 (2) to communicate by all reasonable means with a reasonable  
17 number of persons at reasonable hours of the day and night, including both  
18 to make and receive confidential telephone calls, and by letter, both to mail  
19 and receive unopened correspondence, except that if the head of the  
20 treatment facility should deny a patient's right to mail or to receive  
21 unopened correspondence under the provisions of subsection (b), such  
22 correspondence shall be opened and examined in the presence of the  
23 patient;

24 (3) to conjugal visits if facilities are available for such visits;

25 (4) to receive visitors in reasonable numbers and at reasonable times  
26 each day;

27 (5) to refuse involuntary labor other than the housekeeping of the  
28 patient's own bedroom and bathroom, provided that nothing herein shall be  
29 construed so as to prohibit a patient from performing labor as a part of a  
30 therapeutic program to which the patient has given their written consent  
31 and for which the patient receives reasonable compensation;

32 (6) not to be subject to such procedures as psychosurgery,  
33 electroshock therapy, experimental medication, aversion therapy or  
34 hazardous treatment procedures without the written consent of the patient  
35 or the written consent of a parent or legal guardian, if such patient is a  
36 minor or has a legal guardian provided that the guardian has obtained  
37 authority to consent to such from the court which has venue over the  
38 guardianship following a hearing held for that purpose;

39 (7) to have explained, the nature of all medications prescribed, the  
40 reason for the prescription and the most common side effects and, if  
41 requested, the nature of any other treatments ordered;

42 (8) to communicate by letter with the secretary for aging and  
43 disability services, the head of the treatment facility and any court,

1 attorney, physician, psychologist, *licensed addiction counselor* or minister  
2 of religion, including a Christian Science practitioner. All such  
3 communications shall be forwarded at once to the addressee without  
4 examination and communications from such persons shall be delivered to  
5 the patient without examination;

6 (9) to contact or consult privately with the patient's physician or  
7 psychologist, *licensed addiction counselor*; minister of religion, including  
8 a Christian Science practitioner, legal guardian or attorney at any time and  
9 if the patient is a minor, their parent;

10 (10) to be visited by the patient's physician, psychologist, *licensed*  
11 *addiction counselor*; minister of religion, including a Christian Science  
12 practitioner, legal guardian or attorney at any time and if the patient is a  
13 minor, their parent;

14 (11) to be informed orally and in writing of their rights under this  
15 section upon admission to a treatment facility; and

16 (12) to be treated humanely consistent with generally accepted ethics  
17 and practices.

18 (b) The head of the treatment facility may, for good cause only,  
19 restrict a patient's rights under this section, except that the rights  
20 enumerated in subsections (a)(5) through (a)(12), and the right to mail any  
21 correspondence which does not violate postal regulations, shall not be  
22 restricted by the head of the treatment facility under any circumstances.  
23 Each treatment facility shall adopt regulations governing the conduct of all  
24 patients being treated in such treatment facility, which regulations shall be  
25 consistent with the provisions of this section. A statement explaining the  
26 reasons for any restriction of a patient's rights shall be immediately entered  
27 on such patient's medical record and copies of such statement shall be  
28 made available to the patient or to the parent, or legal guardian if such  
29 patient is a minor or has a legal guardian, and to the patient's attorney. In  
30 addition, notice of any restriction of a patient's rights shall be  
31 communicated to the patient in a timely fashion.

32 (c) Any person willfully depriving any patient of the rights protected  
33 by this section, except for the restriction of such rights in accordance with  
34 the provisions of subsection (b) or in accordance with a properly obtained  
35 court order, shall be guilty of a class C misdemeanor.

36 Sec. 15. K.S.A. 59-29b80 is hereby amended to read as follows: 59-  
37 29b80. Any person *or law enforcement agency, governing body,*  
38 *community mental health center or personnel* acting in good faith and  
39 without negligence shall be free from all liability, civil or criminal, which  
40 might arise out of acting pursuant to this act. Any person who for a  
41 corrupt consideration or advantage, or through malice, shall make or join  
42 in making or advise the making of any false petition, report or order  
43 provided for in this act shall be guilty of a class A misdemeanor.

1       Sec. 16. K.S.A. 59-2953, 59-2980, 59-29b53 and 59-29b80 and  
2 K.S.A. 2015 Supp. 59-2978 and 59-29b78 are hereby repealed.

3       Sec. 17. This act shall take effect and be in force from and after its  
4 publication in the statute book.