

HOUSE BILL No. 2549

By Committee on Health and Human Services

1-25

1 AN ACT concerning mental health services; determinations of  
 2 competency; commitment for treatment; Larned state hospital and  
 3 Osawatimie state hospital catchment areas; amending K.S.A. 2017  
 4 Supp. 22-3302~~1~~ 22-3303 and ~~39-1602~~ and repealing the existing  
 5 sections. and 22-3303  
 6

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

7 Section 1. K.S.A. 2017 Supp. 22-3302 is hereby amended to read as  
 8 follows: 22-3302. (1) At any time after the defendant has been charged  
 9 with a crime and before pronouncement of sentence, the defendant, the  
 10 defendant's counsel or the prosecuting attorney may request a  
 11 determination of the defendant's competency to stand trial. If, upon the  
 12 request of either party or upon the judge's own knowledge and  
 13 observation, the judge before whom the case is pending finds that there is  
 14 reason to believe that the defendant is incompetent to stand trial the  
 15 proceedings shall be suspended and a hearing conducted to determine the  
 16 competency of the defendant.

17 (2) If the defendant is charged with a felony, the hearing to determine  
 18 the competency of the defendant shall be conducted by a district judge.

19 (3) (4) The court shall determine the issue of competency and may  
 20 impanel a jury of six persons to assist in making the determination. The  
 21 court may order a psychiatric or psychological examination of the  
 22 defendant. To facilitate the examination, the court may: (a) ~~If the~~  
 23 ~~defendant is charged with a felony;~~ Commit the defendant to the state  
 24 security hospital or any *appropriate state, county or* private institution or  
 25 *facility* for examination and report to the court; ~~or, if the defendant is~~  
 26 ~~charged with a misdemeanor; commit the defendant to any appropriate~~  
 27 ~~state, county or private institution for examination and report to the court,~~  
 28 except that the court shall not commit the defendant to the state security  
 29 hospital or any other state institution unless, prior to such commitment, the  
 30 director of a local county or private institution recommends to the court  
 31 and to the secretary ~~of social and rehabilitation for aging and disability~~  
 32 services that examination of the defendant should be performed at a state  
 33 institution; (b) designate any appropriate psychiatric or psychological  
 34 clinic, mental health center or other psychiatric or psychological facility to  
 35 conduct the examination while the defendant is in jail or on pretrial  
 36

1 to self and others, as defined in ~~subsection (f)(3)~~ of K.S.A. 59-2946(f)(3),  
2 and amendments thereto. The other provisions of ~~subsection (f)~~ of K.S.A.  
3 59-2946(f), and amendments thereto, shall not apply.

4 (3) When reasonable grounds exist to believe that a defendant who  
5 has been adjudged incompetent to stand trial is competent, the court in  
6 which the criminal case is pending shall conduct a hearing in accordance  
7 with K.S.A. 22-3302, and amendments thereto, to determine the person's  
8 present mental condition. Such court shall give reasonable notice of such  
9 hearings to the prosecuting attorney, the defendant and the defendant's  
10 attorney of record, if any. The prosecuting attorney shall provide victim  
11 notification. If the court, following such hearing, finds the defendant to be  
12 competent, the proceedings pending against the defendant shall be  
13 resumed.

14 (4) A defendant committed to a public institution under the provisions  
15 of this section who is thereafter sentenced for the crime charged at the time  
16 of commitment may be credited with all or any part of the time during  
17 which the defendant was committed and confined in such public  
18 institution.

19 ~~Sec. 3. K.S.A. 2017 Supp. 39-1602 is hereby amended to read as~~  
20 ~~follows: 39-1602. As used in K.S.A. 39-1601 through 39-1612, and~~  
21 ~~amendments thereto:~~

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

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

40 (c) ~~"Mental health center" means any community mental health~~  
41 ~~center organized pursuant to the provisions of K.S.A. 19-4001 to through~~  
42 ~~19-4015, inclusive, and amendments thereto, or mental health clinic~~  
43 ~~organized pursuant to the provisions of K.S.A. 65-211 to through 65-215.~~

1 ~~inclusive, and amendments thereto, and licensed in accordance with the~~  
2 ~~provisions of K.S.A. 75-3307b and amendments thereto.~~

3 ~~(d) "Secretary" means the secretary for aging and disability services.~~

4 ~~(e) "Department" means the Kansas department for aging and~~  
5 ~~disability services.~~

6 ~~(f) "State psychiatric hospital" means Osawatimie state hospital,~~  
7 ~~Rainbow mental health facility or Larned state hospital.~~

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

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

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

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

20 ~~(h) "Screening" means the process performed by a participating~~  
21 ~~community mental health center, pursuant to a contract entered into with~~  
22 ~~the secretary under K.S.A. 39-1610, and amendments thereto, to determine~~  
23 ~~whether a person, under either voluntary or involuntary procedures, can be~~  
24 ~~evaluated or treated, or can be both evaluated and treated, in the~~  
25 ~~community or should be referred to the appropriate state psychiatric~~  
26 ~~hospital for such treatment or evaluation or for both treatment and~~  
27 ~~evaluation.~~

28 ~~(i) "Osawatimie state hospital catchment area" means, except as~~  
29 ~~otherwise defined by rules and regulations of the secretary adopted~~  
30 ~~pursuant to K.S.A. 39-1612, and amendments thereto, the area composed~~  
31 ~~of the following counties: Allen, Anderson, Atchison, Bourbon, Brown,~~  
32 ~~Butler, Chase, Chautauqua, Cherokee, Clay, Coffey, Cowley, Crawford,~~  
33 ~~Doniphan, Douglas, Elk, Franklin, Geary, Greenwood, Jackson, Jefferson,~~  
34 ~~Jewell, Johnson, Labette, Leavenworth, Linn, Lyon, Marshall, Miami,~~  
35 ~~Mitchell, Montgomery, Morris, Nemaha, Neosho, Osage, Pottawatomie,~~  
36 ~~Republic, Riley, Sedgewick, Shawnee, Wabanssee, Washington, Wilson,~~  
37 ~~Woodson and Wyandotte.~~

38 ~~(j) "Larned state hospital catchment area" means, except as otherwise~~  
39 ~~defined by rules and regulations of the secretary adopted pursuant to~~  
40 ~~K.S.A. 39-1612, and amendments thereto, the area composed of the~~  
41 ~~following counties: Barber, Barton, Cheyenne, Clark, Comanche, Decatur,~~  
42 ~~Dickinson, Edwards, Ellis, Ellsworth, Finney, Ford, Gove, Graham, Grant,~~  
43 ~~Gray, Greeley, Hamilton, Harper, Harvey, Haskell, Hodgeman, Kearny,~~



1 Kingman, Kiowa, Lane, Lineoah, Logan, Marion, McPherson, Meade,  
2 Morton, Ness, Norton, Osborne, Pawnee, Phillips, Pratt, Rawlins, Reno,  
3 Rice, Rooks, Rush, Russell, Saline, Scott, Seward, Sheridan, Sherman,  
4 Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Wallace and  
5 Wichita.

6 ~~(d)~~ (f) "Catchment area" means the Osawatimie state hospital  
7 catchment area or the Larned state hospital catchment area.

8 ~~(d)~~ (f) "Participating mental health center" means a mental health  
9 center which has entered into a contract with the secretary for aging and  
10 disability services to provide screening, treatment and evaluation, court-  
11 ordered evaluation and other treatment services pursuant to the care and  
12 treatment act for mentally ill persons, in keeping with the phased concept  
13 of the mental health reform act.]

14 Sec. 4. K.S.A. 2017 Supp. 22-3302~~22-3303 and 39-1602~~are hereby 3.  
15 repealed. and 22-3303

16 Sec. 5. This act shall take effect and be in force from and after its 4.  
17 publication in the statute book.