



EQUALITY ♦ LAW ♦ JUSTICE

Disability Rights Center of Kansas
214 SW 6th Avenue, Suite 100 ♦ Topeka, KS 66603
Phone: 785.273.9661 ♦ Toll Free: 1.877.776.1541
Toll Free TDD: 1.877.335.3725 ♦ Fax: 785-273-9414
www.drckansas.org info@drckansas.org

Testimony in Support of HB 2240
Senate Judiciary Committee
March 22, 2017

Chairman Wilborn and members of the Committee:

My name is Mike Burgess. I am the Director of Policy & Outreach at the Disability Rights Center of Kansas (DRC). DRC is a public interest legal advocacy organization that is part of a national network of federally mandated organizations empowered to advocate for Kansans with disabilities. DRC is the officially designated protection and advocacy system in Kansas. DRC is a private, 501(c)(3) nonprofit corporation, organizationally independent of state government and whose sole interest is the protection of the legal rights of Kansans with disabilities.

Mr. Chairman, thank you for the opportunity to submit testimony in support of HB 2240.

Last session I was not only opposed to a bill on this topic, but was very, very opposed to it. Believe it or not, I return to you this year as a proponent to the bill, but request that you make a minor change to it.

The bill now has much better due process provisions. While definitely not perfect, it is much improved compared to last year's bill. You will hear from the numerous other conferees about the merits of this bill, so I will focus on these change I would like for the committee to consider.

Proposed Change - Require specific data to be reported to the legislature and the public.

It has been my experience it is very important for the legislature to know whether a new program is working and how well it is working. Unless you put in the specific things you would like reported to you, you will get the narrative the agency wants to share with you, including the cherry picking of data points to make that point.

Now, please bear with me as I'm going to cover what is the worst case scenario under the bill.

I find it extremely concerning that without adding a reporting mechanism to this bill, you will potentially allow what could be a private, **for-profit entity** the ability to **deprive someone of their liberty for up to 8 days** (including the **legal ability to chemically restrain them**), and as long as they release the individual by the end of the 8th day, there is no mechanism in place to even know they detained a person for that long.

The scenario above is for the week of Thanksgiving if you are admitted on Sunday after 5 p.m. Under the bill the CICs have until the next day the court is open if the 72 hour limit is reached after 5 p.m. More likely this would happen for up to 6 days, if an individual was taken to the CIC after 5 p.m. on a Tuesday of any week.

Please see attachment #1 for suggested language that could be added to the bill.

Background

Fairly early in the advisory committee process two of the committee members (including a DRC attorney appointed to the advisory committee) had proposed data to be collected and reported and had hoped to raise that for discussion, but the numerous other items ended up taking substantially longer and the topic kept getting postponed for later meetings. The topic finally came up in the last 30 minutes of the final meeting of the committee. The advisory committee ran out of time to consider these and ultimately did not make a recommendation on this, but did include the fact they briefly discussed this topic in the report.

While there was generally broad consensus on the many aspects of the bill, this was one area the advisory committee was split. The attached amendment is largely the data the advisory committee recommended be reported by the CICs to KDADS.

Conclusion

There is definitely a need for additional crisis stabilization services in our communities. While I pointed out the worst case scenario earlier, I do want to reiterate my support for the bill. I just you to add specific reporting requirements to an otherwise comprehensive bill.

Thank you for the opportunity to share our support of the bill and recommended change with you. I would be happy to stand for questions at the appropriate time.

Attachment 1

New Sec. 15. The department for aging and disability services shall compile reports for each crisis intervention center. The department shall provide the reports to the governor and the standing committees on judiciary in the senate and the house of representatives annually, before the beginning of the regular legislative session. The department shall also publish such reports on its website annually, before the beginning of the regular legislative session. Such reports shall include, but not be limited to, the following:

- (a) The total number of people detained pursuant to the crisis intervention act:
 - (1) By law enforcement;
 - (2) by written application of an adult; and
 - (3) that were detained more than one time in the reporting period, including the total number of times each person was detained.
- (b) The total number of people released:
 - (1) Immediately following the evaluation by the behavioral health professional;
 - (2) between four and 24 hours after admission;
 - (3) between 24 and 48 hours after admission;
 - (4) between 48 and 72 hours after admission; and
 - (5) more than 72 hours after admission and before a commitment proceeding filed pursuant to K.S.A. 59-2957 or 59-29b57, and amendments thereto, was completed. This number shall include the total number of hours each person was detained if such person was detained for more than 72 hours.
- (c) The total number of people detained who were the subject of a commitment proceeding filed pursuant to K.S.A. 59-2957 or 59-29b57, and amendments thereto, who filed such petition and the result of such petition.
- (d) The total number of people detained who had a psychiatric advanced directive or a wellness recovery action plan in place at the time of admission to a crisis intervention center, and the number of such people who were asked about such directive or plan during admission to the center.
- (e) The total number of people detained who accessed peer supports during such detention.
- (f) The total number of people receiving medication pursuant to the crisis intervention act, including the number of people who refused medication and the number of people who were administered medication over objection.
- (g) The total number of serious injuries to or deaths of people detained pursuant to the crisis intervention act.