

As Amended by Senate Committee

Session of 2020

SENATE BILL No. 333

By Committee on Judiciary

1-28

1 AN ACT concerning criminal procedure; relating to a defendant's
2 competency or incompetency to stand trial; involuntary commitment;
3 amending K.S.A. 22-3301 and K.S.A. 2019 Supp. 22-3302, 22-3303,
4 22-3305 and 59-2946 and repealing the existing sections.

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

7 Section 1. K.S.A. 22-3301 is hereby amended to read as follows: 22-
8 3301. (a) (1) For the purpose of this article, a person is "incompetent to
9 stand trial" when ~~he~~ *such person* is charged with a crime and, because of
10 mental illness or defect, is unable:

11 ~~(a)~~ (A) To understand the nature and purpose of the proceedings
12 against ~~him~~ *such person*; or

13 ~~(b)~~ (B) to make or assist in making ~~his~~ *such person's* defense.

14 (2) Whenever the words "competent," "competency," "incompetent"
15 and "incompetency" are used without qualification in this article, they
16 shall refer to the defendant's competency or incompetency to stand trial, as
17 defined in ~~subsection (1) of this section~~ *paragraph (1)*.

18 (b) *As used in this article, "likely to cause harm to self or others" and*
19 *"mentally ill person" mean the same as in K.S.A. 59-2946, and*
20 *amendments thereto.*

21 Sec. 2. K.S.A. 2019 Supp. 22-3302 is hereby amended to read as
22 follows: 22-3302. ~~(1)~~ (a) At any time after the defendant has been charged
23 with a crime and before pronouncement of sentence, the defendant, the
24 defendant's counsel or the prosecuting attorney may request a
25 determination of the defendant's competency to stand trial. If, upon the
26 request of either party or upon the judge's own knowledge and
27 observation, the judge before whom the case is pending finds that there is
28 reason to believe that the defendant is incompetent to stand trial the
29 proceedings shall be suspended and a hearing conducted to determine the
30 competency of the defendant.

31 ~~(2)~~ (b) If the defendant is charged with a felony, the hearing to
32 determine the competency of the defendant shall be conducted by a district
33 judge.

34 ~~(3)~~ ~~(A)~~ (c) (1) The court shall determine the issue of competency and
35 may impanel a jury of six persons to assist in making the determination.
36 The court may order a psychiatric or psychological examination of the

1 defendant. To facilitate the examination, the court may: ~~(a)~~ (A) Commit the
2 defendant to the state security hospital or any appropriate state, county,
3 private institution or facility for examination and report to the court,
4 except that the court shall not commit the defendant to the state security
5 hospital or any other state institution unless, prior to such commitment, the
6 director of a local county or private institution recommends to the court
7 and to the secretary for aging and disability services that examination of
8 the defendant should be performed at a state institution; ~~(b)~~ (B) designate
9 any appropriate psychiatric or psychological clinic, mental health center or
10 other psychiatric or psychological facility to conduct the examination
11 while the defendant is in jail or on pretrial release; or ~~(c)~~ (C) appoint two
12 qualified licensed physicians or licensed psychologists, or one of each, to
13 examine the defendant and report to the court.

14 ~~(B)~~ (2) If the court commits the defendant to an institution or facility
15 for the examination, the commitment shall be for a period not to exceed 60
16 days or until the examination is completed, whichever is the shorter period
17 of time. No statement made by the defendant in the course of any
18 examination provided for by this section, whether or not the defendant
19 consents to the examination, shall be admitted in evidence against the
20 defendant in any criminal proceeding.

21 ~~(C)~~ (3) Upon notification of the court that a defendant committed for
22 psychiatric or psychological examination under this subsection has been
23 found competent to stand trial, the court shall order that the defendant be
24 returned no later than seven days after receipt of the notice for proceedings
25 under this section. If the defendant is not returned within that time, the
26 county in which the proceedings will be held shall pay the costs of
27 maintaining the defendant at the institution or facility for the period of
28 time the defendant remains at the institution or facility in excess of the
29 seven-day period.

30 ~~(4)~~ (d) If the defendant is found to be competent, the proceedings
31 ~~which~~ that have been suspended shall be resumed. If the proceedings were
32 suspended before or during the preliminary examination, the judge who
33 conducted the competency hearing may conduct a preliminary
34 examination or, if a district magistrate judge was conducting the
35 proceedings prior to the competency hearing, the judge who conducted the
36 competency hearing may order the preliminary examination to be heard by
37 a district magistrate judge.

38 ~~(5)~~ (e) If the defendant is found to be incompetent to stand trial, the
39 court shall proceed in accordance with K.S.A. 22-3303, and amendments
40 thereto, *except if the court finds by clear and convincing evidence that the*
41 *defendant is not likely to attain competency to stand trial within six*
42 *months and is a mentally ill person solely because of alcohol or chemical*
43 *substance abuse, antisocial personality disorder, intellectual disability,*

1 *traumatic or acquired brain injury, organic personality syndrome or an*
2 *organic disorder, the court shall proceed in accordance with section 4, and*
3 *amendments thereto.*

4 ~~(6)~~ (f) If proceedings are suspended and a hearing to determine the
5 defendant's competency is ordered after the defendant is in jeopardy, the
6 court may either order a recess or declare a mistrial.

7 ~~(7)~~ (g) The defendant shall be present personally at all proceedings
8 under this section.

9 Sec. 3. K.S.A. 2019 Supp. 22-3303 is hereby amended to read as
10 follows: 22-3303. ~~(4)~~ (a) A defendant who is charged with a crime and is
11 found to be incompetent to stand trial shall be committed for evaluation
12 and treatment to any appropriate state, county, private institution or
13 facility. At the time of such commitment the institution of commitment
14 shall notify the county or district attorney of the county in which the
15 criminal proceedings are pending for the purpose of providing victim
16 notification. Any such commitment shall be for a period not to exceed 90
17 days. Within 90 days after the defendant's commitment to such institution,
18 the chief medical officer of such institution shall certify to the court
19 whether the defendant has a substantial probability of attaining
20 competency to stand trial in the foreseeable future. If such probability does
21 exist, the court shall order the defendant to remain in an appropriate state,
22 county, private institution or facility until the defendant attains competency
23 to stand trial or for a period of six months from the date of the original
24 commitment, whichever occurs first. If such probability does not exist, the
25 court shall order the secretary for aging and disability services to
26 commence involuntary commitment proceedings pursuant to article 29 of
27 chapter 59 of the Kansas Statutes Annotated, and amendments thereto.
28 ~~When a defendant is charged with any off-grid felony, any nondrug~~
29 ~~severity level 1 through 3 felony, or a violation of K.S.A. 21-3504, 21-~~
30 ~~3511, 21-3518, 21-3603 or 21-3719, prior to their repeal, or K.S.A. 2019~~
31 ~~Supp. 21-5505(b), 21-5506(b), 21-5508(b), 21-5604(b) or 21-5812(b), and~~
32 ~~amendments thereto, and commitment proceedings have commenced, for~~
33 ~~such proceeding, "mentally ill person subject to involuntary commitment~~
34 ~~for care and treatment" means a mentally ill person, as defined in K.S.A.~~
35 ~~59-2946(e), and amendments thereto, who is likely to cause harm to self~~
36 ~~and others, as defined in K.S.A. 59-2946(f)(3), and amendments thereto.~~
37 ~~The other provisions of K.S.A. 59-2946(f), and amendments thereto, shall~~
38 ~~not apply, except if the defendant is a mentally ill person solely because of~~
39 ~~alcohol or chemical substance abuse, antisocial personality disorder,~~
40 ~~intellectual disability, traumatic or acquired brain injury, organic~~
41 ~~personality syndrome or an organic disorder, in which case section 4, and~~
42 ~~amendments thereto, shall apply.~~

43 ~~(2)~~ (b) If a defendant who was found to have had a substantial

1 probability of attaining competency to stand trial, as provided in
2 subsection ~~(1)~~ (a), has not attained competency to stand trial within six
3 months from the date of the original commitment, the court shall order the
4 secretary for aging and disability services to commence involuntary
5 commitment proceedings pursuant to article 29 of chapter 59 of the Kansas
6 Statutes Annotated, and amendments thereto. ~~When a defendant is charged~~
7 ~~with any off-grid felony, any nondrug severity level 1 through 3 felony, or~~
8 ~~a violation of K.S.A. 21-3504, 21-3511, 21-3518, 21-3603 or 21-3719,~~
9 ~~prior to their repeal, K.S.A. 2019 Supp. 21-5505(b), 21-5506(b), 21-~~
10 ~~5508(b), 21-5604(b) or 21-5812(b), and amendments thereto, and~~
11 ~~commitment proceedings have commenced, for such proceeding,~~
12 ~~"mentally ill person subject to involuntary commitment for care and~~
13 ~~treatment" means a mentally ill person, as defined in K.S.A. 59-2946(e),~~
14 ~~and amendments thereto, who is likely to cause harm to self and others, as~~
15 ~~defined in K.S.A. 59-2946(f)(3), and amendments thereto. The other~~
16 ~~provisions of K.S.A. 59-2946(f), and amendments thereto, shall not apply,~~
17 ~~except if the defendant is a mentally ill person solely because of alcohol or~~
18 ~~chemical substance abuse, antisocial personality disorder, intellectual~~
19 ~~disability, traumatic or acquired brain injury, organic personality~~
20 ~~syndrome or an organic disorder, in which case section 4, and~~
21 ~~amendments thereto, shall apply.~~

22 ~~(3)~~ (c) When reasonable grounds exist to believe that a defendant
23 who has been adjudged incompetent to stand trial is competent, the court
24 in which the criminal case is pending shall conduct a hearing in
25 accordance with K.S.A. 22-3302, and amendments thereto, to determine
26 the person's present mental condition. Such court shall give reasonable
27 notice of such hearings to the prosecuting attorney, the defendant and the
28 defendant's attorney of record, if any. The prosecuting attorney shall
29 provide victim notification. If the court, following such hearing, finds the
30 defendant to be competent, the proceedings pending against the defendant
31 shall be resumed.

32 ~~(4)~~ (d) A defendant committed to a public institution under the
33 provisions of this section who is thereafter sentenced for the crime charged
34 at the time of commitment may be credited with all or any part of the time
35 during which the defendant was committed and confined in such public
36 institution.

37 New Sec. 4. (a) If the defendant is found incompetent to stand trial
38 and the court is required to proceed under this section, the court shall
39 review the nature of the charges. If the defendant is charged with a
40 misdemeanor offense or nonperson felony offense, the court shall dismiss
41 the criminal proceedings without prejudice and the county or district
42 attorney shall provide victim notification. If the defendant is charged with
43 a person felony offense, the court shall commit the defendant to the

1 custody of the secretary for aging and disability services.

2 (b) Within 90 days after the defendant's commitment to the secretary
3 for aging and disability services under subsection (a), the secretary shall
4 send to the court a written evaluation report. The report to the court shall
5 contain an opinion as to: (1) Whether the defendant is likely to cause harm
6 to self or others; and (2) recommendations of a placement, program or
7 community service plan involving the least restrictive setting appropriate
8 to meet the needs of the defendant and consistent with public safety. Upon
9 receipt of the report, the court shall set a hearing on the secretary's report.
10 The hearing shall be held within 30 days after the court receives the report.

11 (c) If the court finds by clear and convincing evidence that the
12 defendant is likely to cause harm to self or others, the court shall order the
13 least restrictive placement or conditions possible as necessary to protect
14 the public, which may include:

15 (1) Placing the defendant on conditional release in accordance with
16 section 6, and amendments thereto; or

17 (2) committing the defendant to the state security hospital or another
18 appropriate secure facility for treatment and safekeeping.

19 (d) If the court does not find that the defendant is likely to cause harm
20 to self or others, the court shall dismiss the criminal proceeding without
21 prejudice and discharge the defendant. The county or district attorney shall
22 provide victim notification regarding the outcome of the hearing.

23 (e) This section shall be a part of and supplemental to article 33 of
24 chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

25 New Sec. 5. (a) Whenever it appears to the secretary for aging and
26 disability services or the secretary's designee that a defendant placed
27 pursuant to section 4(c), and amendments thereto, is not likely to cause
28 harm to self or others in a less restrictive environment, the secretary or
29 secretary's designee may request that the district court order placement in a
30 less secure setting or discharge the defendant. Whenever it appears to the
31 secretary for aging and disability services or the secretary's designee that a
32 more restrictive setting is necessary, the secretary or secretary's designee
33 may request that the district court order placement in a more secure
34 setting.

35 (b) Before a change in placement, conditional release or discharge of
36 a defendant pursuant to subsection (a), the secretary or secretary's designee
37 shall submit a report to the court that includes:

38 (1) A description of the defendant's current course of treatment;

39 (2) a current assessment of the defendant's mental status or condition;

40 (3) recommendations for future treatment, if any; and

41 (4) recommendations regarding the requested change in placement,
42 conditional release or discharge.

43 (c) Upon receiving the report from the secretary or secretary's

1 designee, the district court shall order that a hearing be held on the
2 proposed change in placement, conditional release or discharge. The court
3 shall give notice of the hearing to the facility where the defendant is
4 placed, to the district or county attorney and to the defendant or the
5 defendant's attorney. The county or district attorney shall provide victim
6 notification regarding the hearing. The court may order the defendant to
7 undergo an evaluation by a person designated by the court. If the court
8 orders an evaluation, copies of the report shall be given to the district or
9 county attorney and to the defendant or the defendant's attorney at least
10 seven days prior to the hearing.

11 (d) At the hearing, the court shall receive all relevant evidence,
12 including the written findings and recommendations of the secretary or
13 secretary's designee, and shall determine whether the defendant's
14 placement shall be changed to a more or less restrictive setting or whether
15 the defendant shall be conditionally released pursuant to section 6, and
16 amendments thereto, or discharged pursuant to section 7, and amendments
17 thereto. The defendant shall have the right to present evidence at the
18 hearing and to cross-examine any witnesses called by the district or county
19 attorney. The county or district attorney shall notify any victims of the
20 outcome of the hearing.

21 New Sec. 6. (a)(1) If the court orders conditional release, the court
22 may order the defendant be placed in an appropriate facility or community
23 services program. ~~A defendant on conditional release shall be supervised~~
24 ~~by the district court probation and parole services.~~ The court may set
25 conditions to the release to ensure the defendant's well-being and the
26 public's safety.

27 ***(2) A defendant on conditional release shall be supervised by an***
28 ***individual appointed by the court who monitors the defendant's***
29 ***compliance with conditions imposed on the defendant's release, if any,***
30 ***and reports to the court as the court directs. The individual appointed by***
31 ***the court shall not be a court services officer.***

32 (b) In order to ensure the safety and welfare of a defendant who is to
33 be conditionally released and the citizenry of the state, the court may allow
34 the defendant to remain in custody at a facility under the supervision of the
35 secretary for aging and disability services for a period of time not to
36 exceed 45 days in order to permit sufficient time for the secretary or the
37 secretary's designee to prepare recommendations to the court for a suitable
38 reentry program for the defendant and allow adequate time for the county
39 or district attorney to provide victim notification. The reentry program
40 shall be specifically designed to facilitate the return of the defendant to the
41 community as a functioning, self-supporting citizen, and may include
42 appropriate supportive provisions for assistance in establishing residency,
43 securing gainful employment, undergoing needed vocational rehabilitation,

1 receiving marital and family counseling, and any other outpatient services
2 that appear beneficial.

3 (c) At any time during the conditional release period, a conditionally
4 released defendant, through the defendant's attorney, or the county or
5 district attorney may file a motion for modification of the conditions of
6 release, and the court shall hold an evidentiary hearing on the motion
7 within 14 days of its filing. The court shall give notice of the time for the
8 hearing to the defendant or the defendant's attorney and the county or
9 district attorney. If the court finds from the evidence presented at the
10 hearing that the conditional provisions of release should be modified or
11 vacated, the court shall so order.

12 (d) If at any time during the conditional release, the court is informed
13 that the defendant is not satisfactorily complying with the provisions of the
14 conditional release, the court, after a hearing for which notice has been
15 given to the county or district attorney and the defendant or the defendant's
16 attorney, may make orders:

17 (1) For additional conditions of release; or

18 (2) ordering that the defendant be placed in a more restrictive setting.

19 (e) This section shall be a part of and supplemental to article 33 of
20 chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

21 New Sec. 7. (a) Placement under section 4(c), and amendments
22 thereto, shall not exceed 24 months unless the court determines that the
23 defendant remains likely to cause harm to self or others.

24 (b) At least annually, or more frequently as the court deems
25 appropriate, the court shall conduct a hearing to review the status and
26 placement of the defendant. A hearing under section 5 or 6, and
27 amendments thereto, shall satisfy this requirement. The court may order
28 that the defendant undergo an evaluation by a person designated by the
29 court. If the court orders an evaluation, copies of the report shall be given
30 to the district or county attorney and to the defendant or the defendant's
31 attorney at least seven days prior to the hearing. If the court determines
32 that the defendant remains likely to cause harm to self or others, the court
33 shall determine whether the defendant's current placement and conditions
34 remain the least restrictive as necessary to protect the public. The court
35 may order such changes in placement and conditions as are in the
36 defendant's best interests and consistent with public safety.

37 (c) If at any time the court finds that the defendant is no longer a
38 mentally ill person or is no longer likely to cause harm to self or others,
39 the court shall dismiss the criminal case without prejudice unless the court
40 determines that the defendant has attained competency. The county or
41 district attorney shall provide victim notification. Before dismissal, the
42 court may order the defendant to undergo an evaluation to determine
43 whether the defendant has attained competency.

1 (d) This section shall be a part of and supplemental to article 33 of
2 chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

3 New Sec. 8. (a) When a criminal case is dismissed without prejudice
4 under this article, the period of limitation for the prosecution for the crime
5 charged shall not continue to run until the defendant has been determined
6 to have attained competency in accordance with K.S.A. 22-3302, and
7 amendments thereto.

8 (b) This section shall be a part of and supplemental to article 33 of
9 chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

10 Sec. 9. K.S.A. 2019 Supp. 22-3305 is hereby amended to read as
11 follows: 22-3305. (†) (a) Whenever involuntary commitment proceedings
12 have been commenced by the secretary for aging and disability services as
13 required by K.S.A. 22-3303, and amendments thereto, and the defendant is
14 not committed to a treatment facility as a patient, the defendant shall
15 remain in the institution where committed pursuant to K.S.A. 22-3303, and
16 amendments thereto. The secretary for aging and disability services shall
17 promptly notify the court and the county or district attorney of the county
18 in which the criminal proceedings are pending for the purpose of providing
19 victim notification, of the result of the involuntary commitment
20 proceeding.

21 (‡) (b) Whenever involuntary commitment proceedings have been
22 commenced by the secretary for aging and disability services as required
23 by K.S.A. 22-3303, and amendments thereto, and the defendant is
24 committed to a treatment facility as a patient but thereafter is to be
25 discharged pursuant to the care and treatment act for mentally ill persons,
26 the defendant shall remain in the institution where committed pursuant to
27 K.S.A. 22-3303, and amendments thereto, and the head of the treatment
28 facility shall promptly notify the court and the county or district attorney
29 of the county in which the criminal proceedings are pending for the
30 purpose of providing victim notification, that the defendant is to be
31 discharged.

32 (c) When giving notification to the court and the county or district
33 attorney pursuant to ~~subsection (1) or (2) this section~~, the treatment facility
34 shall include in such notification an opinion from the head of the treatment
35 facility as to whether or not the defendant is now competent to stand trial.
36 Upon request of the county or district attorney, the court may set a hearing
37 on the issue of whether or not the defendant has been restored to
38 competency. If such hearing request is granted, the county or district
39 attorney shall provide victim notification regarding the hearing date. If no
40 such request is made within 14 days after receipt of notice pursuant to
41 ~~subsection (1) or (2) this section~~, the court shall order the defendant to be
42 discharged from commitment and shall dismiss without prejudice the
43 charges against the defendant, ~~and the period of limitation for the~~

1 prosecution for the crime charged shall not continue to run until the
2 defendant has been determined to have attained competency in accordance
3 with K.S.A. 22-3302, and amendments thereto. The county or district
4 attorney shall provide victim notification regarding the discharge order.

5 Sec. 10. K.S.A. 2019 Supp. 59-2946 is hereby amended to read as
6 follows: 59-2946. When used in the care and treatment act for mentally ill
7 persons:

8 (a) "Discharge" means the final and complete release from treatment,
9 by either the head of a treatment facility acting pursuant to K.S.A. 59-
10 2950, and amendments thereto, or by an order of a court issued pursuant to
11 K.S.A. 59-2973, and amendments thereto.

12 (b) "Head of a treatment facility" means the administrative director of
13 a treatment facility or such person's designee.

14 (c) "Law enforcement officer" means the same as defined in K.S.A.
15 22-2202, and amendments thereto.

16 (d) (1) "Mental health center" means any community mental health
17 center as defined in K.S.A. 2019 Supp. 39-2002, and amendments thereto,
18 or a mental health clinic organized as a not-for-profit or a for-profit
19 corporation pursuant to K.S.A. 17-1701 through 17-1775, and
20 amendments thereto, or K.S.A. 17-6001 through 17-6010, and
21 amendments thereto, and licensed in accordance with the provisions of
22 K.S.A. 2019 Supp. 39-2001 et seq., and amendments thereto.

23 (2) "Participating mental health center" means a mental health center
24 that has entered into a contract with the secretary for aging and disability
25 services pursuant to the provisions of K.S.A. 39-1601 through 39-1612,
26 and amendments thereto.

27 (e) "Mentally ill person" means any person who is suffering from a
28 mental disorder that is manifested by a clinically significant behavioral or
29 psychological syndrome or pattern and associated with either a painful
30 symptom or an impairment in one or more important areas of functioning,
31 and involving substantial behavioral, psychological or biological
32 dysfunction, to the extent that the person is in need of treatment.

33 (f) (1) "Mentally ill person subject to involuntary commitment for
34 care and treatment" means a mentally ill person, as defined in subsection
35 (e), who also lacks capacity to make an informed decision concerning
36 treatment, is likely to cause harm to self or others, and whose diagnosis is
37 not solely one of the following mental disorders: Alcohol or chemical
38 substance abuse; antisocial personality disorder; intellectual disability;
39 *traumatic or acquired brain injury*; organic personality syndrome; or an
40 organic-~~mental~~ disorder.

41 (2) "Lacks capacity to make an informed decision concerning
42 treatment" means that the person, by reason of the person's mental
43 disorder, is unable, despite conscientious efforts at explanation, to

1 understand basically the nature and effects of hospitalization or treatment
2 or is unable to engage in a rational decision-making process regarding
3 hospitalization or treatment, as evidenced by an inability to weigh the
4 possible risks and benefits.

5 (3) "Likely to cause harm to self or others" means that the person, by
6 reason of the person's mental disorder: (A) Is likely, in the reasonably
7 foreseeable future, to cause substantial physical injury or physical abuse to
8 self or others or substantial damage to another's property, as evidenced by
9 behavior threatening, attempting or causing such injury, abuse or damage;
10 except that if the harm threatened, attempted or caused is only harm to the
11 property of another, the harm must be of such a value and extent that the
12 state's interest in protecting the property from such harm outweighs the
13 person's interest in personal liberty; or (B) is substantially unable, except
14 for reason of indigency, to provide for any of the person's basic needs,
15 such as food, clothing, shelter, health or safety, causing a substantial
16 deterioration of the person's ability to function on the person's own.

17 No person who is being treated by prayer in the practice of the religion
18 of any church that teaches reliance on spiritual means alone through prayer
19 for healing shall be determined to be a mentally ill person subject to
20 involuntary commitment for care and treatment under this act unless
21 substantial evidence is produced upon which the district court finds that
22 the proposed patient is likely in the reasonably foreseeable future to cause
23 substantial physical injury or physical abuse to self or others or substantial
24 damage to another's property, as evidenced by behavior threatening,
25 attempting or causing such injury, abuse or damage; except that if the harm
26 threatened, attempted or caused is only harm to the property of another, the
27 harm must be of such a value and extent that the state's interest in
28 protecting the property from such harm outweighs the person's interest in
29 personal liberty.

30 (g) "Patient" means a person who is a voluntary patient, a proposed
31 patient or an involuntary patient.

32 (1) "Voluntary patient" means a person who is receiving treatment at
33 a treatment facility pursuant to K.S.A. 59-2949, and amendments thereto.

34 (2) "Proposed patient" means a person for whom a petition pursuant
35 to K.S.A. 59-2952 or 59-2957, and amendments thereto, has been filed.

36 (3) "Involuntary patient" means a person who is receiving treatment
37 under order of a court or a person admitted and detained by a treatment
38 facility pursuant to an application filed pursuant to K.S.A. 59-2954(b) or
39 (c), and amendments thereto.

40 (h) "Physician" means a person licensed to practice medicine and
41 surgery as provided for in the Kansas healing arts act or a person who is
42 employed by a state psychiatric hospital or by an agency of the United
43 States and who is authorized by law to practice medicine and surgery

1 within that hospital or agency.

2 (i) "Psychologist" means a licensed psychologist, as defined by
3 K.S.A. 74-5302, and amendments thereto.

4 (j) "Qualified mental health professional" means a physician or
5 psychologist who is employed by a participating mental health center or
6 who is providing services as a physician or psychologist under a contract
7 with a participating mental health center, a licensed master's level
8 psychologist, a licensed clinical psychotherapist, a licensed marriage and
9 family therapist, a licensed clinical marriage and family therapist, a
10 licensed professional counselor, a licensed clinical professional counselor,
11 a licensed specialist social worker or a licensed master social worker or a
12 registered nurse who has a specialty in psychiatric nursing, who is
13 employed by a participating mental health center and who is acting under
14 the direction of a physician or psychologist who is employed by, or under
15 contract with, a participating mental health center.

16 (1) "Direction" means monitoring and oversight including regular,
17 periodic evaluation of services.

18 (2) "Licensed master social worker" means a person licensed as a
19 master social worker by the behavioral sciences regulatory board under
20 K.S.A. 65-6301 through 65-6318, and amendments thereto.

21 (3) "Licensed specialist social worker" means a person licensed in a
22 social work practice specialty by the behavioral sciences regulatory board
23 under K.S.A. 65-6301 through 65-6318, and amendments thereto.

24 (4) "Licensed master's level psychologist" means a person licensed as
25 a licensed master's level psychologist by the behavioral sciences regulatory
26 board under K.S.A. 74-5361 through 74-5373, and amendments thereto.

27 (5) "Registered nurse" means a person licensed as a registered
28 professional nurse by the board of nursing under K.S.A. 65-1113 through
29 65-1164, and amendments thereto.

30 (k) "Secretary" means the secretary for aging and disability services.

31 (l) "State psychiatric hospital" means Larned state hospital,
32 Osawatomie state hospital or Rainbow mental health facility.

33 (m) "Treatment" means any service intended to promote the mental
34 health of the patient and rendered by a qualified professional, licensed or
35 certified by the state to provide such service as an independent practitioner
36 or under the supervision of such practitioner.

37 (n) "Treatment facility" means any mental health center or clinic,
38 psychiatric unit of a medical care facility, state psychiatric hospital,
39 psychologist, physician or other institution or person authorized or
40 licensed by law to provide either inpatient or outpatient treatment to any
41 patient.

42 (o) The terms defined in K.S.A. 59-3051, and amendments thereto,
43 shall have the meanings provided by that section.

1 Sec. 11. K.S.A. 22-3301 and K.S.A. 2019 Supp. 22-3302, 22-3303,
2 22-3305 and 59-2946 are hereby repealed.

3 Sec. 12. This act shall take effect and be in force from and after its
4 publication in the statute book.