

{As Amended by House Committee of the Whole}

As Amended by House Committee

Session of 2017

HOUSE BILL No. 2240

By Committee on Judiciary

2-1

1 AN ACT concerning the care and treatment of certain persons; enacting
2 the crisis intervention act; amending K.S.A. 59-2953, 59-2980, 59-
3 29b53 and 59-29b80 and K.S.A. 2016 Supp. 39-2001, 39-2002, 39-
4 2003, 59-2978 and 59-29b78 and repealing the existing sections.

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

7 New Section 1. The provisions of sections 1 through 14, and
8 amendments thereto, shall be known and may be cited as the crisis
9 intervention act.

10 New Sec. 2. When used in the crisis intervention act:

11 (a) "Behavioral health professional" includes a physician, **physician**
12 **assistant**, psychologist, qualified mental health professional or licensed
13 addiction counselor.

, social worker

14 (b) "Head of a crisis intervention center" means the administrative
15 director of a crisis intervention center or a behavioral health professional
16 designated by such person.

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

19 (d) "Licensed addiction counselor" shall have the meaning ascribed to
20 it in K.S.A. 59-29b46(d), (e) or (f), and amendments thereto.

21 (e) "Crisis intervention center" means any entity licensed by the
22 Kansas department for aging and disability services that is open 24 hours a
23 day, 365 days a year, equipped to serve voluntary and involuntary
24 individuals in crisis due to mental illness, substance abuse or a co-
25 occurring condition, and that uses certified peer specialists.

26 (f) "Crisis intervention center service area" means the counties to
27 which the crisis intervention center has agreed to provide service.

28 (g) "Physician" means a person licensed to practice medicine and
29 surgery as provided for in the Kansas healing arts act or a person who is
30 employed by a state psychiatric hospital or by an agency of the United
31 States and who is authorized by law to practice medicine and surgery
32 within such hospital or agency.

33 (h) "Psychologist" means a licensed psychologist, as defined by
34 K.S.A. 74-5302, and amendments thereto.

1 (i) "Qualified mental health professional" shall have the meaning
2 ascribed to it in K.S.A. 59-2946(j), and amendments thereto.

3 (j) "Treatment" means any service intended to promote the mental
4 health of the patient and rendered by a qualified professional, licensed or
5 certified by the state to provide such service as an independent practitioner
6 or under the supervision of such practitioner; and the broad range of
7 emergency, outpatient, intermediate and inpatient services and care,
8 including diagnostic evaluation, medical, psychiatric, psychological and
9 social service care, vocational rehabilitation and career counseling, which
10 may be extended to persons with an alcohol or substance abuse problem.

11 (k) "Domestic partner" means a person with whom another person
12 maintains a household and an intimate relationship, other than a person to
13 whom such person is legally married.

14 (l) **"Physician assistant" means a person licensed to practice
15 medicine and surgery as a physician assistant by the state board of
16 healing arts.**

(m) "Social worker" shall mean a person
licensed under the social workers licensure act.

17 New Sec. 3. (a) The fact that a person has been detained for
18 emergency observation and treatment under this act shall not be construed
19 to mean that such person shall have lost any civil right such person would
20 otherwise have as a resident or citizen, any property right or legal capacity,
21 except as may be specified within any court order or as otherwise limited
22 by the provisions of this act or the reasonable policies which the head of a
23 crisis intervention center may, for good cause shown, find necessary to
24 make for the orderly operations of that facility. No person held in custody
25 under the provisions of this act shall be denied the right to apply for a writ
26 of habeas corpus. **No judicial action taken as part of the procedure
27 provided in section 8(c), and amendments thereto, shall constitute a
28 finding by the court.**

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

33 New Sec. 4. Nothing in this act shall be construed to prohibit a person
34 with capacity to do so from making an application for admission as a
35 voluntary patient to a crisis intervention center. Any person desiring to do
36 so shall be afforded an opportunity to consult with such person's attorney
37 prior to making any such application. If the head of the crisis intervention
38 center accepts the application and admits the person as a voluntary patient,
39 then the head of the crisis intervention center shall notify, in writing, the
40 person's legal guardian, if known.

41 New Sec. 5. (a) Any law enforcement officer who takes a person into
42 custody pursuant to K.S.A. 59-2953 or 59-29b53, and amendments
43 thereto, may transport such person to a crisis intervention center if the

1 authority to consent to such from the court which has venue over the
2 guardianship following a hearing held for that purpose;

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

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

13 (9) to contact or consult privately with the patient's physician or
14 psychologist, *qualified mental health professional* minister of religion,
15 including a Christian Science practitioner, legal guardian or attorney at any
16 time and if the patient is a minor, their parent;

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

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

23 (12) to be treated humanely consistent with generally accepted ethics
24 and practices.

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

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

43 (d) The provisions of this section do not apply to persons civilly