## Substitute for HOUSE BILL No. 2281

By Committee on Health and Human Services

2-18

AN ACT concerning public health; relating to the established 988 suicide prevention and mental health crisis hotline; implementing such hotline in Kansas; authorizing the Kansas department for aging and disability services to provide oversight and support to Kansas hotline centers; prescribing hotline center duties for provision of services; duties for telecommunications service providers; imposing a 988 fee on telecommunications and other voice service; establishing the 988 suicide prevention and mental health crisis hotline fund and transferring moneys annually thereto from the state general fund; 988 coordinating council

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

Section. 1. Sections 1 through 10, and amendments thereto, shall be known and may be cited as the living, investing in values and ending suicide (LIVES) act.

- Sec. 2. As used in sections 1 through 10, and amendments thereto:
- (a) "Crisis-receiving and stabilization services" means short-term services with capacity for diagnosis, initial management, observation, crisis stabilization and follow-up referral services.
- (b) "Department" means the Kansas department for aging and disability services.
- (c) "Exchange telecommunications service" means the same as provided in K.S.A. 12-5363, and amendments thereto.
- (d) "Hotline" means the 988 suicide prevention and mental health crisis hotline or its successor maintained by the assistant secretary for mental health and substance use under 42 U.S.C. § 290bb-36c.
- (e) "Hotline center" means a 988 suicide prevention and mental health crisis hotline center, designated by the Kansas department for aging and disability services, participating in the national suicide prevention lifeline network to respond to statewide or regional 988 calls.
- (f) "Mobile crisis team" means a team of behavioral health professionals and peers that provide professional, community-based, crisis intervention services, including, but not limited to, de-escalation and stabilization for individuals who are experiencing a behavioral health crisis. Such services are separate and distinct from 911 emergency responses of emergency medical services or law enforcement.

- (g) "NSPL" means the national suicide prevention lifeline, the national network of local, certified crisis centers that provide free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours per day, seven days per week.
- (h) "Peer specialist" means an individual certified by the department to provide supportive services on the basis of such individual's personal, lived experience of mental illness or addiction and recovery.
- (i) "Provider" means the same as defined in K.S.A. 12-5363, and amendments thereto.
  - (j) "Secretary" means the secretary for aging and disability services.
  - (k) "Services" means behavioral health services.
- (1) "Service user" means any person who is provided exchange telecommunications service, wireless telecommunications service, VoIP service, prepaid wireless service or any other service capable of contacting a hotline center by dialing 988.
- (m) "VCL" means the veterans crisis line maintained by the United States secretary of veterans affairs under 38 U.S.C. § 1720F(h).
- (n) "VoIP service" means the same as provided in K.S.A. 12-5363, and amendments thereto.
- (o) "Wireless telecommunications service" means the same as provided in K.S.A. 12-5363, and amendments thereto.
  - Sec. 3. In accordance with 47 C.F.R. § 52.200:
  - (a) The Kansas department for aging and disability services shall:
  - (1) Prior to July 16, 2022:
- (A) Designate a hotline center or network of centers to provide crisis intervention services and care coordination to individuals accessing the hotline for 24 hours per day, seven days per week;
- (B) create a system for information sharing and communication between crisis and emergency response systems and hotline centers for the purpose of real-time crisis care coordination, including, but not limited to, deployment of crisis and outgoing services specific to a crisis response or 911 emergency responders when necessary;
  - (C) convene mobile crisis teams;
- (D) develop guidelines for deploying services, including mobile crisis teams, coordinating access to crisis-receiving and stabilization services or other local resources as appropriate, and providing referrals and follow-ups;
- (E) coordinate consistent public messaging regarding the hotline with NSPL, the department and the United States department of veterans affairs;
- (F) require training as established by NSPL for hotline center staff for servicing high-risk and specialized populations identified by the substance abuse and mental health services administration within the United States

 department of health and human services or transferring to appropriate specialized centers;

- (G) work with the Kansas department of health and environment and KanCare managed care organizations to develop plans for payment for KanCare members and uninsured services;
- (H) create an advisory board to provide guidance to the secretary and gather feedback and make recommendations for hotline centers, local counties and municipalities regarding the planning and implementation of the hotline:
  - (I) hire a statewide suicide prevention coordinator; and
  - (J) adopt rules and regulations to implement the provisions of this act.
  - (2) After July 16, 2022:
- (A) Consult with the advisory board to provide guidance to the secretary and gather feedback and make recommendations for hotline centers, local counties and municipalities regarding usage and services provided in response to calls to the hotline centers;
- (B) fund any uninsured services provided in response to the hotline if an individual receiving the services is uninsured or the services or the facility are not covered by an individual's insurance; and
- (C) at the beginning of each legislative session, submit an annual report of the hotline's usage and the services provided in response to calls to the hotline centers to the house of representatives standing committee on health and human services and the senate standing committee on public health and welfare or any successor committees.
  - (b) The hotline centers shall:
  - (1) Prior to July 16, 2022:
- (A) Establish an agreement with the NSPL for participation within the network;
- (B) meet any training requirements for hotline center staff established by the NSPL or the department in subsection (a);
- (C) enter into memorandums of understanding with local service providers to be deployed according to the guidelines established by the department in subsection (a);
- (D) coordinate access to crisis-receiving and stabilization services or other local resources as appropriate according to the guidelines established by the department in subsection (a);
- (E) provide referrals and follow-ups according to the guidelines established by the department in subsection (a);
- (F) work with the United States department of veterans affairs to route calls from self-designated veterans for the provision of VCL services; and
- 42 (G) meet any requirement set forth in subsection (b)(2), if the center has the capabilities to meet such provisions before July 16, 2022.

- (2) After July 16, 2022:
- (A) Receive all calls initiated by a service user dialing 988 from providers;
  - (B) deploy crisis services, including mobile crisis teams according to the guidelines established by the department in subsection (a);
  - (C) coordinate access to crisis-receiving and stabilization services or other local resources as appropriate according to guidelines established by the department in subsection (a);
- (D) provide referrals and follow-ups according to the guidelines established by the department in subsection (a);
- (E) continue to meet training requirements established by the NSPL and the department in subsection (a); and
- (F) continue to work with the United States department of veterans affairs to route calls from self-designated veterans for the provision of VCL services.
  - (c) Providers shall:
- (1) On and after July 1, 2022, collect fees and remit such fees to the 988 suicide prevention and mental health crisis hotline fund established pursuant to section 7, and amendments thereto.
  - (2) Prior to July 16, 2022:
- (A) Establish 988 as the unique number for suicide prevention and mental health crisis;
  - (B) transmit all calls initiated by a service user dialing 988 to the current toll-free access number for the NSPL;
  - (C) complete all changes necessary to implement the designation of the 988 dialing code; and
  - (D) establish a system for collecting fees and remitting such fees to the 988 suicide prevention and mental health crisis hotline fund established pursuant to section 7, and amendments thereto.
- (3) After July 16, 2022, direct all calls initiated by a user dialing 988 to hotline centers.
- Sec. 4. Except as provided by the Kansas tort claims act and except for action or inaction that constitutes gross negligence or willful and wanton misconduct, each provider, and employees, agents, suppliers and subcontractors thereof, and each seller, and employees, agents, suppliers and subcontractors thereof, shall not be liable for the payment of damages resulting directly or indirectly from the total or partial failure of any transmission to an emergency communication service or for damages resulting from the performance of installing, maintaining or providing 988 service.
- Sec. 5. (a) There is hereby imposed a 988 fee in the amount of \$.20 per month per subscriber account of any exchange telecommunications service, wireless telecommunications service, VoIP service or other voice

service capable of contacting a hotline center. Such fee shall not be imposed on prepaid wireless service. It shall be the duty of each exchange telecommunications service provider, wireless telecommunications service provider, VoIP service provider or other service provider to remit such fees to the department of revenue.

- (b) (1) Every billed service user shall be liable for the 988 fee until such fees have been paid to the exchange telecommunications service provider, wireless telecommunications service provider, VoIP service provider or other voice service provider. All providers shall have the duty to collect the fees imposed pursuant to this act.
- (2) The fee imposed by this section shall be added to and may be separately stated in billings for the subscriber account. If such fee is separately stated in billings, such fees shall be labeled "988 fee." A provider may combine the fee imposed by this section with the 911 fee imposed by K.S.A. 12-5369, and amendments thereto, into a single fee to be collected from the customer. If a provider elects to combine such fees, the combined fee shall be identified to the customer as the "911/988 fee" in billings for the subscriber account. If a provider elects to collect a single combined fee as provided in this paragraph, such provider shall report to the department of revenue on a form prescribed by the secretary of revenue the respective amounts of such remittance attributable to the 988 fee imposed by this section and the 911 fee imposed by K.S.A. 12-5369, and amendments thereto.
- (c) The provider shall have no obligation to take any legal action to enforce the collection of the fees imposed by this act. The provider shall provide annually to the department of revenue a list of the amount of uncollected 988 fees along with the names and addresses of those service users that carry a balance that can be determined by the provider to be nonpayment of such fees.
- (d) The 988 fees and the amounts required to be collected therefor are due monthly. The amount of such fees collected in one month by the provider shall be remitted to the department of revenue not more than 15 days after the close of the calendar month. On or before the 15<sup>th</sup> day of each calendar month following, a return for the preceding month shall be filed with the department of revenue. Such return shall be in such form and shall contain such information as required by the department of revenue. The provider required to file the return shall deliver the return together with a remittance of the amount of fees payable to the department of revenue. The provider shall maintain records of the amount of any such fees collected in accordance with this act for a period of three years from the time the fees are collected.
- (e) The department of revenue shall remit all 988 fees to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and

amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the 988 suicide prevention and mental health crisis hotline fund established pursuant to section 7, and amendments thereto.

- (f) The 988 fee imposed by this section shall be the only 988 funding obligation imposed with respect to exchange telecommunications service, wireless telecommunications service, VoIP service or other voice service in this state. No tax, fee, surcharge or other charge shall be imposed by this state, any political subdivision of this state or any intergovernmental agency for 988 funding purposes upon any provider or consumer with respect to the sale, purchase, use or provision of exchange telecommunications service, wireless telecommunications service, VoIP service or other voice service.
- Sec. 6. (a) There is hereby imposed a prepaid wireless 988 fee of 0.4% per retail transaction for prepaid wireless service.
- (b) The prepaid wireless 988 fee shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless 988 fee may be separately stated on an invoice, receipt or other similar document that is provided to the consumer by the seller or otherwise disclosed to the consumer. If such fee is stated separately on such documents, such fee shall be labeled "988 fee."
  - (c) For purposes of subsection (b):
- (1) A retail transaction that is conducted in person by a consumer in a business location of the seller shall be treated as occurring in this state if that business location is in this state; and
- (2) any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for the purposes of K.S.A. 79-3673(c)(3), and amendments thereto.
- (d) The prepaid wireless 988 fee is the liability of the consumer and not of the seller or any provider. The seller shall be liable to remit all prepaid wireless 988 fees that the seller collects from consumers pursuant to this section, including all such fees that the seller is deemed to collect where the amount of the charge has not been separately stated in an invoice, receipt or other similar document provided to the consumer by the seller.
- (e) A seller may combine the fee imposed by this section with the prepaid wireless 911 fee imposed by K.S.A. 12 5371, and amendments thereto, into a single fee collected from the customer. If a seller elects to combine such fees, the combined fee shall be identified to the customer as the "911/988 fee" on the invoice, receipt or other similar document provided to the customer by the seller. If a seller elects to collect a single combined fee as provided in this paragraph, such provider shall report to the department of revenue on a form prescribed by the secretary of

revenue the respective amounts of such remittance attributable to the prepaid wireless 988 fee imposed by this section and the prepaid wireless 911 fee imposed by K.S.A. 12-5371, and amendments thereto.

- (f) Prepaid wireless 988 fees collected by sellers shall be remitted to the department of revenue by electronic filing that is consistent with the provisions of article 36 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. The department of revenue shall establish registration and payment procedures for the collection of the prepaid wireless 988 fee.
- (g) To minimize additional costs to the department of revenue, the department of revenue may conduct audits of sellers in conjunction with sales and use tax audits. The department of revenue may initiate collection or audit procedures on individual sellers if necessary.
- (h) The department of revenue shall establish procedures for a seller to document that a sale is not a retail sale. Such procedures shall substantially coincide with procedures for documenting sale for resale transactions contained in article 36 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto.
- (i) The department of revenue shall remit all moneys collected from payment of the prepaid wireless 988 fee to the state treasurer in accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount into the state treasury to the credit of the 988 suicide prevention and mental health crisis hotline fund established by section 7, and amendments thereto.
- (j) The prepaid wireless 988 fee imposed by this section shall be the only 988 funding obligation imposed with respect to prepaid wireless telecommunications service in this state. No tax, fee, surcharge or other charge shall be imposed by this state, any political subdivision of this state or any intergovernmental agency for 988 funding purposes upon any provider or consumer with respect to the sale, purchase, use or provision of prepaid wireless telecommunications service.
- (k) As used in this section, "consumer," "prepaid wireless service," "retail transaction" and "seller" mean the same as defined in K.S.A. 2021 Supp. 12-5363, and amendments thereto, except that "seller" also includes a marketplace facilitator, as defined in K.S.A. 2021 Supp. 79-5601, and amendments thereto.
- Sec. 7. (a) There is hereby established in the state treasury the 988 suicide prevention and mental health crisis hotline fund to be administered by the secretary for aging and disability services.
  - (b) Moneys from the following sources shall be credited to the fund:
- (1) Revenue generated from the fees established in sections 5 and 6, and amendments thereto; and

- (2) amounts received from any public or private entity for the purposes of the fund.
- (c) On or before the 10<sup>th</sup> of each month, the director of accounts and reports shall transfer from the state general fund to the 988 suicide prevention and mental health crisis hotline fund, interest earnings based on:
- (1) The average daily balance of moneys in the 988 suicide prevention and mental health crisis hotline fund for the preceding month; and
- (2) the net earnings rate of the pooled money investment portfolio for the preceding month.
  - (d) Moneys credited to the fund shall be used only to pay expenses that are reasonably attributed to:
  - (1) Ensuring the efficient and effective routing of calls made to the 988 national suicide prevention and mental health crisis hotline to an appropriate crisis center; and
  - (2) personnel, the provision of acute mental health, crisis outreach and stabilization services by directly responding to the 988 national suicide prevention and mental health crisis hotline, public promotion, data collection and reporting.
  - (e) All expenditures from the fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or the secretary's designee.
  - (f) Moneys in the 988 suicide prevention and mental health crisis hotline fund shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the legislature that the fund shall remain intact and inviolate for the purposes set forth in this section, and moneys in the fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.
  - (g) On July 1, 2022, and on each July 1 thereafter, the director of accounts and reports shall transfer \$3,000,000 from the state general fund to the 988 suicide prevention and mental health crisis hotline fund. Such transfers shall be demand transfers from the state general fund.
  - Sec. 8. (a) On or before the first day of each regular session of the legislature, the secretary for aging and disability services shall submit a report to the house of representatives standing committees on appropriations, energy, utilities and telecommunications and health and human services and the senate standing committees on ways and means, utilities and public health and welfare, or any successor committees thereto, detailing outcomes related to implementation of the 988 suicide prevention and mental health crisis hotline in Kansas.
    - (b) The report required by this section shall include, but not be

limited to, key performance indicators.

- Sec. 9. Each school district that issues student identification cards to students in any of the grades six through 12 is encouraged to include on such student identification cards the 988 suicide prevention and mental health crisis hotline number or, if such hotline is not in operation, then a local, state or national suicide prevention hotline telephone number.
  - Sec. 10. (a) (1) There is hereby created the 988 coordinating council.
- (2) The 988 coordinating council shall monitor the delivery of 988 services, develop strategies for future enhancements to the 988 system and distribute available grant funds to organizations providing services as national suicide prevention lifeline centers. To the extent possible, the council shall include individuals with technical expertise regarding mental health crisis delivery services, call center technology and services and any other relevant subject matter.
- (b) (1) The 988 coordinating council shall consist of the following 15 voting members:
  - (A) 13 voting members appointed by the governor as follows:
- (i) Two members representing information technology personnel from governmental units;
  - (ii) one member representing the Kansas sheriff's association;
- 21 (iii) one member representing the Kansas association of chiefs of police;
  23 (iv) one member representing the Kansas association of community
  - (iv) one member representing the Kansas association of community mental health centers;
    - (v) one member representing interhab;
  - (vi) one member from the Kansas department for aging and disability services:
  - (vii) one member from the Kansas department for children and families;
  - (viii) one member recommended by the Kansas commission for the deaf and hard of hearing;
    - (ix) two members representing national suicide prevention lifeline centers located in counties with a population of fewer than 75,000; and
    - (x) two members representing national suicide prevention lifeline centers located in counties with a population greater than 75,000; and
    - (B) two voting members appointed by the legislative coordinating council, including one member of the house of representatives standing committee on appropriations and one member of the senate standing committee on ways and means.
  - (2) The 988 coordinating council shall also include the following nonvoting members appointed by the governor:
  - (A) One member representing rural telecommunications companies recommended by the Kansas rural independent telephone companies;

- (B) one member representing incumbent local exchange carriers with over 50,000 access lines;
  - (C) one member representing large wireless providers;
  - (D) one member representing VoIP providers;
- (E) one member recommended by the league of Kansas municipalities;
  - (F) one member recommended by the Kansas association of counties;
- (G) one member recommended by the Kansas geographic information systems policy board;
- (H) one member recommended by the Kansas office of information technology services; and
- (I) one member recommended by the mid-America regional council who is a resident of Kansas.
- (c) (1) Except as otherwise provided in this subsection, each voting member appointed to the council shall be appointed for a three-year term and until a successor is appointed and qualified. Of the 13 voting members appointed by the governor, five shall be appointed to an initial term of two years and five shall be appointed to an initial term of four years, as specified by the governor.
- (2) A voting member shall not serve longer than two successive threeyear terms. A voting member appointed as a replacement for another voting member may finish the term of the predecessor and may serve two additional successive terms.
- (d) The governor shall select the chairperson of the 988 coordinating council, who shall serve as chairperson at the pleasure of the governor. The chairperson shall serve subject to the direction of the council and ensure that policies adopted by the council are carried out. The chairperson shall serve as the liaison between the council and the federal substance abuse and mental health services administration. The chairperson shall preside over all meetings of the council and assist the council in effectuating the provisions of this act.
- (e) (1) The 988 coordinating council may adopt rules and regulations necessary to implement the provisions of this act, including, but not limited to:
- (A) Creating a uniform reporting form designating how moneys, including 988 fees, have been spent by the national suicide prevention lifeline centers;
- (B) requiring service providers to notify the council pursuant to subsection (g);
- (C) establishing standards for coordinating and purchasing equipment; and
- (D) recommending standards for general operations training of national suicide prevention lifeline center personnel.

- (2) The council shall not adopt any rules and regulations or impose any requirements that create a mandatory certification program of national suicide prevention lifeline centers operations or emergency communications personnel.
- (f) All expenses related to the council shall be paid from the 988 suicide prevention and mental health crisis hotline fund established by section 7, and amendments thereto. Not more than 2% of the total receipts from the 988 fees established by sections 5 and 6, and amendments thereto, shall be used to pay for administrative expenses of the council. Members of the council and other persons appointed to subcommittees by the council may receive reimbursement for meals and travel expenses, but shall serve without other compensation. Legislative members of the council shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of the council.
- (g) Every service provider shall submit contact information for the service provider to the council. Any service provider that has not previously provided wireless telecommunications service in this state shall submit contact information for the service provider to the council within three months of first offering wireless telecommunications services in this state.
- (h) (1) Each national suicide prevention lifeline center shall file an annual report with the council prior to March 1 demonstrating how such national suicide prevention lifeline center has spent the moneys earned from the 988 fee during the preceding calendar year. The council shall designate the content and form of such report and any associated documentation that is required to finalize such report.
- (2) If a national suicide prevention lifeline center fails to file and finalize an annual report, the council shall provide notice of such failure to the national suicide prevention lifeline center and the governing body of such national suicide prevention lifeline center. If such national suicide prevention lifeline center fails to file or finalize an annual report within 60 days of receiving such notice, 10% of each subsequent distribution of 988 fees to such national suicide prevention lifeline center shall be withheld and only distributed to such national suicide prevention lifeline center once the report has been submitted.
- (i) Upon a finding that a service provider has violated any provision of this act, the council may impose a civil penalty not to exceed \$10,000. No civil penalty shall be imposed pursuant to this section except upon the written order of the council. Such order shall state the violation, the penalty to be imposed and the right of the service provider to appeal to a hearing before the council. Within 15 days after service of the order, the service provider may make a written request to the council for a hearing

 thereon. Hearings under this subsection shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

- (j) Any action of the council pursuant to subsection (i) is subject to review in accordance with the Kansas judicial review act.
- (k) Any civil penalty recovered pursuant to this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount into the state treasury to the credit of the 988 suicide prevention and mental health crisis hotline fund established by section 7, and amendments thereto.
- (l) On or before the first day of each regular session of the legislature, the 988 coordinating council shall make and submit a report to the house of representatives standing committee on energy, utilities and telecommunications and the senate standing committee on utilities, or any successor committees thereto, that includes a detailed description of all expenditures made from 988 fees received by the national suicide prevention lifeline centers.
- Sec. 11. This act shall take effect and be in force from and after its publication in the statute book.