

2021 Kansas Statutes

59-29a06. Same; pretrial conference; trial; counsel, examiners and experts; indigent persons; jury, composition, peremptory challenges. (a) Within 60 days after the completion of any hearing held pursuant to K.S.A. 59-29a05, and amendments thereto, the court shall set the matter for a pretrial conference to establish a mutually agreeable date for trial to determine whether the person is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice and when the respondent will not be substantially prejudiced.

(b) In proceedings under this section, the person shall be entitled to the assistance of counsel and an independent examination pursuant to K.S.A. 60-235, and amendments thereto, and if the person is indigent, the court shall appoint counsel to assist such person. When the person wishes to be examined pursuant to K.S.A. 60-235, and amendments thereto, the examiner shall be permitted to have reasonable access to the person for the purpose of such examination, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court, upon the person's request, shall determine whether the services are necessary and reasonable compensation for such services. If the court determines that the services are necessary and the examiner's requested compensation for such services is reasonable, the court shall assist the person in obtaining an examiner to perform an examination or participate in the trial on the person's behalf. The court shall approve payment for such services upon the filing of a certified claim for compensation supported by a written statement specifying the time expended, services rendered, expenses incurred on behalf of the person and compensation received in the same case or for the same services from any other source.

(c) Notwithstanding K.S.A. 60-456, and amendments thereto, at any proceeding conducted under the Kansas sexually violent predator act, the parties shall be permitted to call expert witnesses. The facts or data in the particular case upon which an expert bases an opinion or inference may be those perceived by or made known to the expert at or before the hearing. If the facts or data are of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon the subject, such facts and data need not be admissible in evidence in order for the opinion or inference to be admitted.

(d) The person, the attorney general, or the judge shall have the right to demand that the trial be before a jury. Such demand for the trial to be before a jury shall be filed, in writing, at least four days prior to trial. Number and selection of jurors shall be determined as provided in K.S.A. 22-3403, and amendments thereto. If no demand is made, the trial shall be before the court.

(e) A jury shall consist of 12 jurors unless the parties agree in writing with the approval of the court that the jury shall consist of any number of jurors less than 12 jurors. The person and the attorney general shall each have eight peremptory challenges, or in the case of a jury of less than 12 jurors, a proportionally equal number of peremptory challenges.

(f) Notwithstanding any other provision of law to the contrary, the provisions of this section relating to jury trials shall not apply to proceedings for annual review or proceedings on a petition for transitional release, conditional release or final discharge.

History: L. 1994, ch. 316, § 6; L. 1995, ch. 193, § 5; L. 1999, ch. 71, § 1; L. 2003, ch. 152, § 3; L. 2011, ch. 92, § 3; L. 2012, ch. 59, § 2; L. 2015, ch. 95, § 6; July 1.