

2021 Kansas Statutes

59-29a10. Petitions for transitional or conditional release; procedure. (a) (1) If the secretary determines that the person's mental abnormality or personality disorder has significantly changed so that the person is not likely to engage in repeat acts of sexual violence if placed in transitional release, the secretary shall authorize the person to petition the court for transitional release. The petition shall be served upon the court and the attorney general. The court, upon service of the petition for transitional release, shall issue notice of a hearing to be scheduled within 30 days. The attorney general shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the attorney general's choice. The burden of proof shall be upon the attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and that if placed in transitional release is likely to engage in repeat acts of sexual violence.

(2) If, after the hearing, the court is convinced beyond a reasonable doubt that the person is not sufficiently safe to warrant transitional release, the court shall order that the person remain in secure commitment. Otherwise, the court shall order that the person be placed in transitional release.

(3) The provisions of K.S.A. 59-29a08 (i), (j) and (k), and amendments thereto, shall apply to a transitional release pursuant to this section.

(b) (1) If the secretary determines that the person's mental abnormality or personality disorder has significantly changed so that the person is not likely to engage in repeat acts of sexual violence if placed in conditional release, the secretary shall authorize the person to petition the court for conditional release. The petition shall be served upon the court and the attorney general. The court, upon service of the petition for conditional release, shall issue notice of a hearing to be scheduled within 30 days. The attorney general shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the attorney general's choice. The burden of proof shall be upon the attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and that if placed in conditional release is likely to engage in repeat acts of sexual violence.

(2) If, after the hearing, the court is convinced beyond a reasonable doubt that the person is not sufficiently safe to warrant conditional release, the court shall order that the person remain either in secure commitment or in transitional release. Otherwise, the court shall order that the person be placed in conditional release.

(3) The provisions of K.S.A. 59-29a18(h) and 59-29a19(a), (d) and (e), and amendments thereto, shall apply to a conditional release pursuant to this section.

History: L. 1994, ch. 316, § 10; L. 1995, ch. 193, § 8; L. 1998, ch. 198, § 5; L. 2003, ch. 152, § 6; L. 2015, ch. 95, § 9; L. 2017, ch. 83, § 2; July 1.