

SESSION OF 2024

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2353

As Amended by House Committee on
Corrections and Juvenile Justice

Brief*

HB 2353, as amended, would amend provisions in the Care and Treatment Act for Mentally Ill Persons (Act) to extend the time period a person may be held for treatment and to add conditions for which continued treatment may be ordered.

Time Extensions

Under continuing law, a court may, under certain circumstances, issues an *ex parte* emergency custody order set to expire at 5:00 p.m. the second day the court is open after the issuance. The bill would extend the expiration to the third day.

The bill would also extend the deadline for setting a hearing in response to a request for a temporary custody order or an emergency custody order that resulted from noncompliance with a patient's outpatient treatment order.

Finally, the bill would extend the time a court may order continued involuntary treatment of a person from three months to a maximum of six months in an initial order.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Outpatient Treatment Orders

Current law allows a court to order outpatient treatment in lieu of involuntary inpatient care and treatment if the court finds the patient, without treatment:

- Will meet the criteria for required inpatient care in the near future and is only likely to attend outpatient treatment under a court order; or
- Is likely to experience worsening symptoms caused by mental illness that would lead to the need for inpatient care and has previously refused mental health services in the community, due to their mental illness.

Additionally, continuing law allows a court order to state specific outpatient conditions to be followed by the patient, including directives and treatment required by the treating outpatient facility. The bill would require those directive and treatment plans to be provided to the court in writing within ten business days after the outpatient order is issued. Failure to provide such information to the court would not be considered grounds for dismissal of the order unless the failure was made in bad faith.

Technical Amendments

The bill would make various technical amendments to ensure consistency in statutory phrasing and to update statutory supplement references.

Background

The bill was requested for introduction by the House Committee on Judiciary by Representative S. Ruiz, on behalf of the Kansas Department for Aging and Disability Services (KDADS).

House Committee on Corrections and Juvenile Justice

In the House Committee hearing, **proponent** testimony was provided by representatives of the Association of Community Mental Health Centers of Kansas, Cicero Action, KDADS, and Mental Health America of the Heartland. The proponents stated the bill was requested in conjunction with a federal assisted outpatient treatment (AOT) grant. The proponents further stated the bill would ensure Kansans in need of care will receive needed services and that additional hold times would result in more time for evaluation and to develop discharge plans. It was also stated an amendment had been prepared with consultation amongst stakeholders that proposes alternative language regarding when a court may order outpatient treatment.

Written-only proponent testimony was provided by two district court judges; representatives of Bert Nash Community Mental Health Center, Disability Rights Center, Four County Mental Health Center, Johnson County Community Mental Health Center, Pawnee Mental Health Services; three representatives of National Alliance on Mental Illness (NAMI) Kansas; and a representative of NAMI Topeka.

No other testimony was provided.

The bill, as introduced, would have added language to current law concerning outpatient treatment criteria. The House Committee replaced that language with alternative provisions that had been drafted by stakeholders. The House Committee also adopted a technical amendment to update statutory supplement references.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, KDADS indicates the bill would not have a fiscal effect on agency operations. The increase to a 72-hour hold would increase treatment facility

costs, but in the long term, those costs would be offset by alleviating pressure on the State Hospitals and providers.

The Office of Judicial Administration indicates the bill could have a fiscal effect on expenditures of the Judicial Branch, but until the courts have operated under the provisions of the bill, an accurate estimate of its fiscal effect cannot be determined. Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

The Kansas Association of Counties indicates enactment of the bill would have a fiscal effect on counties if there are higher costs for transporting individuals to and from treatment.

Mental illness; Care and Treatment Act for Mentally Ill persons; custody order; hearing; outpatient; inpatient; involuntary