

Kansas Department of

Social and Rehabilitation Services

Gary Daniels, Acting Secretary

House Corrections and Juvenile Justice Committee
February 3, 2005

House Bill 2130

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Chairman Loyd and members of the committee, I am John Badger, chief legal counsel at SRS. I appreciate the opportunity to appear before you today in support of HB 2130 which allows for sharing of forensic mental health records.

In addition to other state and federal legal protections afforded psychiatric and substance abuse treatment records, K.S.A. 65-5601 through 65-5605 provide privileged status to those records, with important practice exceptions. SRS has requested limited changes to KSA 65-5603, part (13), expanding the ability to promote continuity of care by communicating treatment information and thus to more effectively meet the needs of a growing number of patients at the state psychiatric hospitals. The changes proposed in this bill – to allow the exchange of needed treatment-related information for patients being seen in state psychiatric hospitals or other treatment facilities, and also held in jails or correctional facilities – will assist practitioners in all of those arenas to be better informed about and thus better address the mental health needs of the patients involved. This will support both more efficient management of the person's treatment related issues and more effective treatment outcomes for the patient.

To explain the context of these patient needs: The number of individuals with significant mental illness associated with the criminal justice system has increased across the nation and continues to rise. In an October 2003 study which reported extensive data from states, the American Psychiatric Association and the United States Justice Department, the Human Rights Watch reported that:

- As many as one in five people in America's prisons and jails have mental illness
- The level of mental illness of people in those settings has been growing more severe in the past few years.

Social barriers and support needs, such as the lack of affordable housing, limited employment opportunities, substance abuse, limited access to affordable psychotropic medications, and challenges in accessing treatment especially in the rural communities increase the likelihood of increased involvement of the mentally ill with the criminal justice system.

Kansas has consistent experiences. According to the January 2004 Kansas Jail Survey completed by SRS and the Governor's Mental Health Services Planning Council - Forensic Subcommittee:

- 60 percent of respondents indicated there has been an increase in inmates with mental illness booked into county jails within the last five years,
- And many reported the severity of the mental illnesses had increased as well.

In its 2004 annual report, the Kansas Department of Corrections (KDOC) noted:

- 10 percent of 6000 offenders released annually are severely and persistently mentally ill;
- A total of 20 percent of released offenders require mental health care;
- At least 16 percent of all offenders in the KDOC require a psychotropic medication;
- Offenders with mental illness return to state correctional facilities on condition violations at the rate of 75-80 percent, compared to a rate of 40-45 percent for offenders without a mental illness.

The number of people being committed to Kansas' state psychiatric hospitals in direct connection with a pending criminal case likewise has risen significantly. In calendar years 2004,

- 369 people were admitted to state hospitals for forensic services – such as competency evaluation or treatment, treatment for people found not guilty of serious felony crimes because of mental disease, or similar services in connection with a criminal case.
- The number of forensic admissions at Osawatomie State Hospital has increased nearly twofold in the past two years.
- Larned State Hospital reports increased requests for forensic services and implemented a waiting list for people needing such services due to the growth.

In addition, people committed for forensic services often have complex, multiple mental illnesses and other significant life issues which require intense psychiatric care and careful discharge or other aftercare planning. Often people involved with pending criminal cases are necessarily sent back and forth between correctional facilities or jails and state psychiatric treatment facilities in order to fully assess and then respond to their psychiatric needs. When such a patient returns to a local jail or correctional facility, his or her mental illness can worsen if continuity of care is not in place. This in turn results in negative outcomes for the patient as well as inefficiency for the judicial system in getting the person's status assessed and adjudicated.

This concludes my testimony. I will be glad to stand for questions.