

KANSAS MENTAL HEALTH COALITION

An Organization Dedicated to Improving the Lives of Kansans with Mental Illnesses

Testimony presented by email to the Senate Judiciary Committee
SB 270

The Kansas Mental Health Coalition is opposed to SB 270 regarding mental status defenses; notice and procedure. Perhaps a better understanding of the motivations for the bill will help to develop a proposal that could achieve valid goals without further limiting options for individuals suffering from mental illness.

The Kansas Mental Health Coalition is dedicated to improving the lives of Kansans living with Mental Illnesses and Severe Emotional Disorders. We are consumer and family advocates, provider associations, direct services providers, pharmaceutical companies and others who share a common mission. At monthly roundtable meetings, participants develop and track a consensus agenda that provides the basis for legislative advocacy efforts each year. This format enables many groups, that would otherwise be unable to participate in the policy making process, to have a voice in public policy matters that directly affect the lives of their constituencies. The opportunity for dialogue and the development of consensus makes all of us stronger and more effective in achieving our mission.

At this point, members of the Coalition are still sending in their concerns about this bill. We have attempted to include some of the main points here:

Including within the definition of “mental status” the definition of *voluntary intoxication, compulsion, and use of force*, combines apples and oranges. It is not at all clear how this definition could exist within a section designed to address the presence of mental disease or defect. It appears to equate the presence of mental disease to the condition of someone who is voluntarily intoxicated because voluntary intoxication affects mental status.

It is our understanding that Kansas is one of four states that abolished the insanity defense and replaced it with KSA 22-3219. There is no option for a plea of “guilty but insane” or “not guilty by reason of insanity”. One pleads guilty, not guilty or no contest, whether mentally ill, suffering from a mental disease or disorder or not.

SB 270 limits the admission of evidence as it relates to the issue of intent or the issue of punishment. It would appear to dilute the rights of the mentally ill and does not take into consideration the complicating factors associated with getting a comprehensive mental evaluation. Persons with mental illness are often defended by assigned counsel, with heavy caseloads. The effects on privileged communications between the attorney and client are also of concern.

There is a national discussion regarding the increasing awareness that the mentally ill are often not treated in medical facilities, but incarcerated in jails and prisons that offer limited mental health services. This legislation seems likely to increase the population of mentally ill in jails and prisons. According to one defense attorney, “The proposed legislation further chills and discourages attorneys from pursuing issues related to the mental health of their clients (or worse adds conditions and requirements that will cause some defense attorneys not to bother with the effort).”

We urge a very critical review of the legislation before you, and ask you to oppose the bill as written.

Thank you for your consideration.

For More Information, Contact:

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