

Proponent Testimony on HB 2353
House Corrections & Juvenile Justice Committee
February 8, 2024

Chairman Owens and Members of the Committee,

House Bill 2353 was requested by KDADS in conjunction with the Assisted Outpatient Treatment (AOT) grant from the Substance Abuse and Mental Health Administration (SAMHSA). While the initial request to the statute was outlined in stipulation to the grant, as the AOT program entered its second year it became clear that the changes in HB 2353 were vital to the function of the program. Not only will these changes help the AOT program across Kansas, but they will help one of Kansas' most vulnerable populations by stopping the revolving door of "treat, street, and repeat".

AOT is a program that utilizes outpatient treatment orders to help those with serious mental illness (schizophrenia, bi-polar, and schizoaffective disorder) who have a repeat history of hospitalization, medical non-adherence, and many times do not realize they are ill. AOT is a civil court intervention that, in conjunction with local mental health centers, ensures that the participant receives the services they need and that the participant is required to participate in their treatment. It does need to be clear that AOT is a civil court process, and that criminal charges or incarceration are never used as a method of treatment persuasion. AOT prefers incentives such as gift cards, extended periods of time between court appearances, and a judge's words of praise.

The changes requested in HB 2353 have been requested by AOT stakeholders across the State. Each AOT program is county based and is led by an oversight committee consisting of local law enforcement, private attorneys, civil court judges, peer leaders, correctional facilities, mental health centers, and district attorneys. Currently AOT programs on KDADS grants are in Douglas, Ford, Cowley, Ellis, Riley, and Sumner Counties. Community launched programs are in Johnson, Wyandotte, and Sedgwick Counties. With Shawnee and Gove Counties in the beginning stages of development.

The changes to the AOT program included in HB 2353 include:

- Extending the ex parte emergency custody order from two days to three days
- Adding decompensation standards to the outpatient treatment order criteria
- Providing the directives and treatment plans to the court
- Extending initial outpatient treatment order from three to six months

Changes to the ex parte emergency custody order from two days to three days will help ensure that Kansans in need of care will receive it. The duration of emergency custody should factor in the time realistically needed to conduct a thorough evaluation to determine the need for inpatient or outpatient treatment. This may include time for an individual to detox. It should also consider the time needed to develop an appropriate discharge plan and make referrals to community-based services if an outpatient treatment is appropriate. A 72-hour hold period is the shortest amount of time realistically needed to stabilize the patient and, if the individual is not admitted, to discharge them with a long-term care plan. Ample research indicates that adequate stabilization and long-term care planning reduces the risk of suicide after discharge.

Adding decompensation standards to the outpatient treatment order criteria will enable mental health facilities and judicial districts to intervene before a person with a documented history of mental illness decompensates to a point of being a danger to themselves or others. Rather than focusing on a snapshot in time, inclusion of psychiatric deterioration as a basis for intervention allows the court to consider the more complete picture, including past patterns of behavior, to prevent foreseeable need for inpatient and outpatient treatment. Currently, because of the overlap in language in the outpatient and inpatient treatment, all individuals on outpatient treatment orders have come from an inpatient setting. Decompensation standards will allow professionals the ability to intervene before inpatient criteria is met and psychiatric hospitalization is needed.

Providing the directives and treatment plans to the court will give our civil court judges an additional tool to not only monitor a participant's progress but to ensure that the treatment facility is providing the appropriate level of care and services for the participant. All AOT Judges in Kansas participate in the program because they agreed to add the program to their docket out of a desire to help make a difference in the lives of these participants and their community. AOT Judges ensure that they are not only there to enforce the outpatient treatment order but to advocate for the participant, to do this properly they need to have access to the treatment plan.

Extending initial involuntary treatment for care order from three to six months will create more transparency and will allow the participant a more reasonable expectation of release. Studies have shown that on average AOT participants require a minimum six months to begin stabilizing on medications and in life. In Johnson County the average AOT participant is in the program for 10.5 months. KDADS pilot sites average 12 months to a successful graduation. While each individual is different and an AOT Judge may dismiss their treatment order at any time, having the expectation that the treatment order will last at least six months will allow the participant a more reasonable expectation of release. Currently, because existing statute is three months, participants just beginning the program begin disengaging with treatment under the expectation that they will be released before the three month is up. This causes a distraction at a crucial time in the AOT process.

While the AOT program is just beginning to be utilized across the State, Wyandotte and Johnson Counties have been showing amazing results for years. Their data shows that AOT participants do not fit one demographic, but all demographics and constantly show that AOT can avert roughly 70% of rehospitalization. Can create a program with a greater than 80% participation rate that leads to a greater than 70% reduction in recidivism. KDADS grantees are showing similar results. AOT is a program unlike any other. It brings together a community, adds wrap around services, and a civil court judge that cares, to persuade a person with a severe mental illness to receive the help they need and deserve.

We would be remiss in not recognizing the work that went into this bill by many stakeholders ranging from an AOT Judge, District Attorney Office, Association of Community Mental Health Centers, Disability Rights Center, and Mental Health of America – Heartland. It was a pleasure to work with you all over the interim to vet exactly what these statutory changes would mean in practice from various perspectives, resulting in the attached balloon amendment that makes changes to the psychiatric deterioration standards language.

Please consider passing HB 2353 so we can improve this incredible program, but most importantly get this small but often missed population the help they need to become stable and productive members of society. I am happy to answer any questions and share AOT success stories with the committee.

Respectfully,

Drew Adkins
Commissioner of Behavioral Health Services
Kansas Department for Aging & Disability Services