

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Judiciary** recommends **HB 2010** be amended on page 1, following line 6, by inserting:

"Section 1. K.S.A. 12-736 is hereby amended to read as follows: 12-736. (a) It is hereby declared to be the policy of the state of Kansas that persons with a disability shall not be excluded from the benefits of single family residential surroundings by any municipal zoning ordinance, resolution or regulation.

(b) For the purpose of this act:

(1) "Group home" means any dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of this state;

(2) "municipality" means any township, city or county located in Kansas;

(3) "disability" means, with respect to a person:

(A) A physical or mental impairment that substantially limits one or more of such person's major life activities;

(B) a record of having such an impairment; or

(C) being regarded as having such an impairment. Such term does not include current, illegal use of or addiction to a controlled substance, as defined in section 102 of the controlled substance act, 21 U.S.C. § 802; and

(4) "licensed provider" means a person or agency who provides mental health services

and is licensed by:

(A) The Kansas department for aging and disability services pursuant to K.S.A. 39-2001 et seq. or 65-425 et seq. ~~or K.S.A. 39-2001 et seq.~~, and amendments thereto; or

(B) the behavioral sciences regulatory board pursuant to K.S.A. 74-5301 et seq. or 75-5346 et seq. ~~or 74-5301 et seq.~~, and amendments thereto; or

(C) the state board of healing arts pursuant to K.S.A. 65-2801 et seq., and amendments thereto.

(c) (1) No mentally ill person shall be eligible for placement in a group home unless such person has been evaluated by a licensed provider and such provider determines that the mentally ill person is not dangerous to others and is suitable for group-home placement. A group home shall not be a licensed provider for the purposes of evaluating or approving for placement a mentally ill person in a group home.

(2) No person shall be eligible for placement in a group home if such person is: (A) Assigned to a community corrections program or a diversion program; (B) on parole from a correctional institution or on probation for a felony offense; or (C) in a state mental institution following a finding of mental disease or defect excluding criminal responsibility, pursuant to K.S.A. 22-3220 and 22-3221, and amendments thereto, and K.S.A. 2022 Supp. 21-5209, and amendments thereto.

(d) No person shall be placed in a group home under this act unless such dwelling is licensed as a group home by the Kansas department for aging and disability services or the department of health and environment.

(e) No municipality shall prohibit the location of a group home in any zone or area where single family dwellings are permitted. Any zoning ordinance, resolution or regulation that prohibits the location of a group home in such zone or area or that subjects group homes to regulations not applicable to other single family dwellings in the same zone or area is invalid.

Notwithstanding the provisions of this act, group homes shall be subject to all other regulations applicable to other property and buildings located in the zone or area that are imposed by any municipality through zoning ordinance, resolution or regulation, its building regulatory codes, subdivision regulations or other nondiscriminatory regulations.

(f) No person or entity shall contract or enter into a contract, restrictive covenant, equitable servitude or such similar restriction that would restrict group homes or their location in a manner inconsistent with the provisions of subsection (e).";

On page 5, following line 15, by inserting:

"Sec. 3. K.S.A. 2022 Supp. 22-3428a is hereby amended to read as follows: 22-3428a. ~~(+)(a)~~ Any person found not guilty, pursuant to K.S.A. ~~22-3220~~ and 22-3221, and amendments thereto, and K.S.A. 2022 Supp. 21-5209, and amendments thereto, who remains in the state security hospital or a state hospital for over one year pursuant to a commitment under K.S.A. 22-3428, and amendments thereto, shall be entitled annually to request a hearing to determine whether or not the person continues to be a mentally ill person. The request shall be made in writing to the district court of the county where the person is hospitalized and shall be signed by the committed person or the person's counsel. When the request is filed, the court shall give notice of the request to: ~~(a)~~ (1) The county or district attorney of the county in which the person was originally ordered committed; and ~~(b)~~ (2) the chief medical officer of the state security hospital or state hospital where the person is committed. The chief medical officer receiving the notice, or the officer's designee, shall conduct a mental examination of the person and shall send to the district court of the county where the person is hospitalized and to the county or district attorney of the county in which the person was originally ordered committed a report of the examination within 21 days from the date when notice from the court was received. Within 14 days after receiving the report of the examination, the county or district attorney receiving it may file a motion with the district court that gave the notice, requesting the court to change the venue

of the hearing to the district court of the county in which the person was originally committed, or the court that gave the notice on its own motion may change the venue of the hearing to the district court of the county in which the person was originally committed. Upon receipt of that motion and the report of the mental examination or upon the court's own motion, the court shall transfer the hearing to the district court specified in the motion and send a copy of the court's records of the proceedings to that court.

~~(2)~~(b) After the time in which a change of venue may be requested has elapsed, the court having venue shall set a date for the hearing, giving notice thereof to the county or district attorney of the county, the committed person and the person's counsel. The county or district attorney shall provide victim notification. If there is no counsel of record, the court shall appoint a counsel for the committed person. The committed person shall have the right to procure, at the person's own expense, a mental examination by a physician or licensed psychologist of the person's own choosing. If a committed person is financially unable to procure such an examination, the aid to indigent defendants provisions of article 45 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, shall be applicable to that person. A committed person requesting a mental examination pursuant to K.S.A. 22-4508, and amendments thereto, may request a physician or licensed psychologist of the person's own choosing and the court shall request the physician or licensed psychologist to provide an estimate of the cost of the examination. If the physician or licensed psychologist agrees to accept compensation in an amount in accordance with the compensation standards set by the board of supervisors of panels to aid indigent defendants, the judge shall appoint the requested physician or licensed psychologist; otherwise, the court shall designate a physician or licensed psychologist to conduct the examination. Copies of each mental examination of the committed person shall be filed with the court at least seven days prior to the hearing and shall be supplied to the county or district attorney receiving notice pursuant to this section and the committed person's counsel.

~~(3)~~(c) At the hearing the committed person shall have the right to present evidence and cross-examine the witnesses. The court shall receive all relevant evidence, including the written findings and recommendations of the chief medical officer of the state security hospital or state hospital where the person is under commitment, and shall determine whether the committed person continues to be a mentally ill person. At the hearing the court may make any order that a court is empowered to make pursuant to ~~subsections (3), (4) and (5)~~ of K.S.A. 22-3428(c), (d) and (e), and amendments thereto. If the court finds by clear and convincing evidence the committed person is not a mentally ill person, the court shall order the person discharged; otherwise, the person shall remain committed or be conditionally released. The county or district attorney shall provide victim notification regarding the outcome of the hearing.

~~(4)~~(d) Costs of a hearing held pursuant to this section shall be assessed against and paid by the county in which the person was originally ordered committed.";

Also on page 5, in line 16, before "K.S.A." by inserting "K.S.A. 12-736 and"; also in line 16, by striking "is" and inserting "and 22-3428a are";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, after the semicolon by inserting "housing; annual hearing on continued commitment;"; also in line 3, after "amending" by inserting "K.S.A. 12-736 and"; also in line 3, after "22-3428" by inserting "and 22-3428a"; in line 4, by striking "section" and inserting "sections"; and the bill be passed as amended.

Chairperson