

Thank you, Mr. Chairman and committee members, for allowing me to speak on this important issue. I am a citizen of Kansas and I have serious concerns about the "CIA", AKA the Crisis Intervention Act and its effect on due process and civil rights, including the curtailing of liberty, the lack of immediate judicial review and forced seclusion and medication processes. I respect the many individuals who have devoted time and effort into this process to make a bill that will pass and I appreciate what they have accomplished, however, I disagree that this is ready for primetime and should at the very least be reworked as part of the Care and Treatment Act and not a freestanding act. Ethics and best practice standards should be weighed against the constitutionality of any language, section and/or bill and I have broken down my concerns into each section in short form to help shed light on that balance. This is a short synopsis and I would be willing to submit a more expansive testimonial on each individual or collective section for review, if so desired or directed by this committee. As a disclaimer, I am not a lawyer and as such, this testimony reflects my non-professional interpretation of the language in HB2240 as a citizen and the potential constitutional concerns, thereof. I do not believe this is a reasonable policy trajectory the state of Kansas should take regarding emergency involuntary detention, observation, and treatment. We currently have a Care and Treatment Act that gives strict guidance to law enforcement, behavioral and medical health professionals and the public that allows for flexible due process. This act would circumvent proper mechanisms through the argument of the inconvenient use of law enforcement resources and avoiding embarrassment or the hassle of getting prior authorization and judicial review, that would possibly infringe on the constitutional liberties and due process of Kansas citizens, whether in a crime related crisis or not. Limiting trauma is equal to not passing this bill

New Section 1

Optics of calling this the CIA are poor

New Section 2

(j) "Treatment" means any service intended to promote the mental health of the patient and rendered by a qualified professional, licensed or certified by the state to provide such service as an independent practitioner or under the supervision of such practitioner; and the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to persons with an alcohol or substance abuse problem.

Definition of mental health in statute? Intervention versus diagnosis intent?

(k) "Domestic partner" means a person with whom another person maintains a household and an intimate relationship, other than a person to whom such person is legally married.

Statistics on substance abuse, domestic violence between non-married intimate partners?

New Section 3

2nd amendment implications pertaining to Crisis Intervention Act versus Care and Treatment Act

New Section 4

No process in which patient is informed of option to apply for voluntary status as an involuntary patient. Does capacity imply voluntary status?

New Section 5

Eliminates filing of petition to district court

59-29b53 (b).....If a law enforcement officer detains a person pursuant to this subsection, the law enforcement officer shall file the petition provided for in subsection (a) of K.S.A. 59-29b57 and amendments thereto, by the close of business of the first day that the district court is open for the transaction of business or shall release the person. No person shall be detained by a law enforcement officer pursuant to this subsection in a nonmedical facility used for the detention of persons charged with or convicted of a crime unless no other suitable facility at which such person may be detained is willing to accept the person.

59-29b57. Petition for determination of whether person has alcohol or substance abuse problem; request for ex parte emergency custody order; content. (a) A verified petition to determine whether or not a person is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act may be filed in the district court of the county wherein that person resides or wherein such person may be found

New Section 6

No mandated form. Includes language that would allow this act to be initiated solely based on the belief that the person has a substance use/abuse disorder without a signature by a behavioral health professional or physician, that also would eliminate judicial review for 48 of observation and possible restraint, seclusion and/or forced medication.

New Section 7

Same as New Section 6. Also, this is ripe for abuse from scorned or disgruntled illegitimate lovers or at-risk family situations (Would only face possible misdemeanor: SEE BELOW)

New Section 8

Lack of judicial review at time of transfer to crisis intervention center

New Section 9

No automatic mechanisms to provide the patient with legal counsel vs just advising them of their rights. (Capacity)

New Section 10

The question of whether an involuntary patient can provide consent for experimental medication. (Care

and Treatment Act) ((controlled substances))

New Section 11

Seclusion used as punishment

New Section 12

(a) 2 How does this reflect communication with legal counsel? 12 No definition for generally accepted ethics and practices

(c) bill equates the willful deprivation of rights a class c misdemeanor instead of felonious behavior

New Section 13

2nd Amendment implications

Section 14

Any person who, for a corrupt consideration or advantage, or through malice, that makes or joins in making or advise the making of any false petition, report or order provided for in the crisis intervention is not charged with a felony even though the ability, opportunity and desire of the crime triangle is fulfilled and would curtail the liberty and due process of the individual that is to be detained

Other general concerns that may be applicable:

1. Criteria for stabilized and capacity definition
2. Evaluation time for medication response/efficacy i.e. side effects and procedure for ineffective medications.
- 3.No standard or requirements for data collection.
4. Potential for revolving door of involuntary detentions

Regardless of funding/Fiscal Note issues, I would urge this committee not to pass HB2240.

Thank you and I will stand for questions at the appropriate time.