

# KANSAS MENTAL HEALTH COALITION

.....*Speaking with one voice to meet the critical needs of people with mental illness*

## Sentencing and Treatment of Kansans with Mental Illness

**Position:** The Kansas legislature should enact new law and amend existing statutes to allow any adult defendant (greater than 18 years of age or deemed by the court to be an adult) at the time of conviction or prior to sentencing to assert that the offense was committed as a result of mental illness and / or Post Traumatic Stress Disorder.

Under the provisions of the proposed legislation, the court would hold a hearing to determine:

- If the defendant suffers from a mental illness as defined by Kansas Statute 2012 HB2498, and
  - If the court determines the defendant has met the criteria established by the bill and the defendant's current crime and criminal history fall within a presumptive non-prison category under the sentencing guidelines, the court could order the defendant to undergo treatment, further
  - If the defendant is a veteran with veterans benefits, the bill would allow the court to order the defendant to undergo either inpatient or outpatient treatment at any treatment facility or program operated by the U.S. Department of Defense, the Federal Veterans' Administration, and the Kansas National Guard.
  - If a veteran without veterans benefits or not a veteran the bill would allow the court to order the defendant to undergo either inpatient or outpatient treatment at any certified mental illness treatment facility within the state of Kansas with the defendant paying for such services if able else the state will pay for the services.
- If the court determines the defendant has met the criteria established by the bill and the defendant's current crime and criminal history fall within a presumptive prison category under the sentencing guidelines the court shall order that any prison time or probation shall require appropriate therapeutic mental illness care to include but not limited to mental health counseling and mental health medications as prescribed by mental health professionals.
  - If the defendant is incarcerated and has Kansas Social Services, e.g. Medicaid, Food Stamps, etc., those services shall be suspended instead of being cancelled;
  - Prior to discharge from incarceration any offender living with mental illness shall be provided information linking them to the community they will be re-integrating to. The information shall include but not be limited to information about low-cost housing, employment, low-income services and mental health services. Any suspended Kansas Social Services shall be reinstated.
  - Further, if the offender has been provided therapeutic mental health medications and / or counseling while incarcerated, community mental health services shall be engaged to ensure that there is a continuation of the services.
- Kansas University and or Wichita State University shall provide audits of state and county correctional facilities to ensure that the therapeutic mental health requirements of the proposed legislation are complied with.
- All information about Veterans in Kansas correctional facilities (state or county) is either self-reported or not captured. The proposed legislation shall require that Court Services, working with the Kansas Commission on Veterans provide the veteran status and type of discharge to the court and the data made part of the defendant's profile.
- Implement warrantless apprehension so that law enforcement may take an individual who is in a behavioral crisis to a mental health treatment facility without arrest.
- Annual reports by state and county corrections are recommended by the legislation providing data to the Kansas Secretary of Aging and Disability or designee. The data shall include at least:
  - Estimated current population based on US Census Bureau data,
  - Average number of inmates in facilities of the State of Kansas or respective county throughout the reporting year,
  - Percentage of inmates with Mental Illness,
  - Percentage of inmates who are US Military Veterans,

*18 percent of Kansans suffer from Mental Illness according to the Substance Abuse and Mental Health Services Administration. The Kansas Department of Corrections reported that 38 percent of those incarcerated in state corrections facilities are Mentally Ill.*

- Percentage of Veteran inmates who are Mentally Ill,
- Percentage of Mentally Ill Veteran inmates who received less than an Honorable Discharge,
- Percentage of Mentally Ill Veteran inmates who received less than an Honorable Discharge and were convicted of a violent crime, and
- Average Daily Cost per inmate incarcerated.
- Any data not available shall be reported as '0' (the number zero) and an explanation provided.
- Data shall be provided in Microsoft Excel (2007 or later version).

**The Problem:** Kansas has all but eliminated Mental Health Hospitals and the budgets for Community Healthcare were cut 65% between FY07 and FY12. During this period suicide rates rose 30%. So with MH Hospitals all but eliminated those with Mental Illness either commit suicide or become incarcerated. The Kansas Department of Corrections and County Detention Centers are not equipped to care for the mentally ill. We must find a way to begin decreasing the number of Mentally Ill we incarcerate. According to data provided by the Association of Community Healthcare Centers on an average data the cost of treating Mental Illness is:

- \$428 at a State Psychiatric Hospital
- \$292 at a Psychiatric Residential Treatment Facility
- \$80 at Larned Correctional Mental Health Facility
- \$9 for Medicaid reimbursed community treatment.

The Healthcare Foundation of Greater Kansas City reports that the cost of **untreated** mental illness to the state of Kansas is approximated \$1.7 Billion.

**Why this matters:** Today the Criminal Justice System has little choice but to incarcerate Kansans with Mental Illness without any statutory requirement to provide therapeutic mental health care; counseling and or medications. Without treatment the mental health of incarcerated Kansans only gets worse and when released they typically are quickly right back in the system. By offering diversion and or therapeutic mental health care to those we incarcerate the goal is to decrease the percentage of Mentally Ill Kansans who are incarcerated and assist them to live healthier and more productive lives.

**The bottom line:** The cost of treated and or untreated mental illness is huge. We will pay for it one way or the other. By decreasing the number of incarcerated Kansans with Mental Illness those in corrections can do the job we need them to do and those with Mental Illness get the treatment they need.

**The rest of the story about incarcerated Kansans with Mental Illness and Veterans:**

In 2013 Kansas had 5,980 inmates in Kansas Department of Corrections facilities and there were over 8,000 inmates in County Detention facilities on any given day. The cost per day per inmate is \$67 for KDOC and over \$80 for County Detention facilities.

When it comes to incarcerated veterans KDOC relies on self-reporting. Studies by West Virginia and Ohio respectively show that self-reporting is not reliable: (<http://endveteranhomelessness.org/content/validation-self-reported-veteran-status-among-two-sheltered-homeless-populations-0> and <http://www.veterans.wv.gov/resources/news/Pages/Final-Report---Results-from-2012-Veterans-Survey.aspx>).

- Only 8% of those incarcerated in Kansas state corrections facilities reported that they were veterans and of those 66% are deemed to be mentally ill.
- 10% of the Veterans reported that they had less than an honorable discharge.
- 84% of the incarcerated mentally ill veterans have been convicted of violent crime.
- Kansas Counties do not capture any veteran data.
- **NO** data is captured or reported by any Federal Agency about the incidence of Veteran Mental Illness or Incarceration.

*Prepared by the Kansas Mental Health Coalition –  
 ...speaking with one voice to meet the critical needs of people with mental illness  
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## **Legislative Call to Action**

- ★ The Coalition will collaborate with the Corrections and Juvenile Justice Kansas House Committee chairman to formulate 2015 legislation to ensure that Kansans with mental illness are kept out of incarceration if possible and if incarcerated provided Therapeutic Mental Health care.
- ★ Require discharge planning.
- ★ Implement suspension of state services in lieu of cancellation.
- ★ Implement warrantless apprehension.
- ★ Urge Congress to require the Department of Justice to capture and report data about mental illness and incarceration of Veterans nationwide.

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