

Kari M. Bruffett, Secretary

Sam Brownback, Governor

To: Committee on Corrections and Juvenile Justice
From: Kim Lynch, KDADS Senior Litigation Counsel
Date: February 18, 2015
Subject: SB 220, Battery against a mental health employee

Chairman Smith and members of the Committee:

I appreciate the opportunity to present testimony in support of increasing the severity level for crimes of battery against a mental health employee. This legislation will provide an important enhancement to the protection of Kansas Department for Aging and Disability Services (KDADS) employees, contractors and their employees who provide care for or otherwise interact with persons served at state hospitals and institutions including committed sexually violent predators.

KDADS previously provided testimony in support of SB 12 which among other changes would amend the same statute to include changes in the definition of mental health employee to encompass KDADS contractors working in state hospitals and institutions.

While KDADS supports the severity level increase, we have a couple of changes we would like to see added to the bill. Specifically,

As drafted the bill enhances the severity level based on the status of the offender rather than the seriousness of the offense: At page 4 line 7 the bill provides a severity level enhancement from the current level 7 (*which is presumptive probation so no prison unless the offender has 2 or more prior person felonies*) to severity level 3 (*which ranges from 55 to 247 months in prison or for SVPs who have at least one prior person felony, the range would likely be 89 to 247 months in prison.*)

We are concerned that all offenders convicted of battery of a mental health employee receive the same enhanced severity level based on the seriousness of the offense; not simply those who may be working on a unit where violent sex predators are housed. We propose basing the severity level 3 enhancement on the seriousness of offense instead of the status of the offender.

Missing from the statute is any mention of aggravated battery of a mental health employee. Perhaps a distinction could be made between battery and aggravated battery and the severity levels associated with each as is done throughout the rest of the statute.

We appreciate the Committee considering our concerns and suggested changes. At this time, I will stand for questions.