



DEPARTMENT OF SOCIAL  
AND REHABILITATION SERVICES

Don Jordan, Secretary

**Senate Ways & Means Committee**

**March 13, 2009**

**SB 310- Transitional Release/Conditional Release  
of Sexually Violent Predators**

**Disability & Behavioral Health Services**

**Ray Dalton, Deputy Secretary**

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# **SB 310 – Transitional Release/Conditional Release of Sexually Violent Predators**

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Chairman Emler and members of the Committee, I am Ray Dalton, Deputy Secretary of Social and Rehabilitation Services. Thank you for the opportunity to talk with you today about SB 310.

As you know this bill will affect the Transitional House Services (THS) provided under the Sexual Predator Treatment Program operated by SRS. I would like to first just provide a quick over view of the entire program and then provide some information concerning the Transition portion of the program.

## **Overview**

The Sexual Predator Treatment Program (SPTP) was established in 1994 by the Sexual Predator Act (K.S.A. 59-29A01) to provide treatment for convicted sex offenders who have finished their prison sentences, and who have been civilly committed by the courts to the SPTP inpatient treatment program at Larned State Hospital (LSH). The SPTP was given a dual mission. First, SPTP's goal is to protect the public from any further victimization by sexual offenders committed to the program. Second, SPTP is required to provide a program of treatment which meets the constitutionally required Turay Standards, which are attached, and would assist motivated offenders to reduce their risk for re-offense to the point that they could safely live in open society and become contributing citizens.

The SPTP is comprised of 7 phases of treatment: 1) orientation and preliminary identification of issues; 2) academic learning of principles; 3) application of principles; 4) completion of inpatient issues and development of a relapse prevention plan; 5) reintroduction to open society and preparation of transition; and two transitional phases; phase 6) demonstration of ability to perform transition tasks (getting a job, paying bills, outpatient therapy, etc.) and 7) formal transition (ordered by the Court). Phases 1 through 5 are located at LSH; phases 6 and 7 are located at Osawatomie State Hospital.

## **Transitional Phases 6 and 7**

Phases Six and Seven are on the grounds of Osawatomie State Hospital. Experience has shown that the movement to a new environment, with a new set of rules, responsibilities and privileges, presents a significant challenge to the SPTP resident. We believe these phases are a key component of our program mandate of no new victims, as it provides an environment where the residents are given enough freedom to determine if they have successfully changed, while still providing enough oversight and structure to ensure the protection of Kansas citizens.



Phase Six represents the opportunity for the resident to demonstrate, in a way that protects the safety of Kansas citizens, that he can translate the skills he began to acquire in Phases 1- 5, to a real-world environment. The goal of Phase Six is to gauge the ability of the resident to safely handle responsibilities of society such as finding employment, managing income, paying bills and structuring one's own time. THS staff initially escort the resident to group and individual therapy, job interviews, medical appointments, etc. Eventually, as the resident earns greater responsibility through his behavior, a resident will simply be transported to and from his job and other appointments. To advance from this phase, a resident must maintain the following: a daily activities log acceptable to THS staff; positive reports, for at least 6 months, from his therapy provider; involvement, for at least 3 consecutive months, in a healthy support activity approved by his therapist; employment for at least 6 consecutive months; satisfactory living and self-management skills, as judged by THS staff; and pass any scheduled maintenance polygraphs.

Phase Seven - Phase Six may be seen as the dress rehearsal for Phase Seven. Phase Seven is formally called Transition and must be approved by the Court. The goal of Phase Seven is for the resident to demonstrate to the Court that his risk for reoffending has declined to the point where he may safely be given his Conditional Release. This is accomplished by the resident living in an apartment separate from the rest of THS, though still on the grounds of the hospital. The resident is also encouraged to purchase his own transportation at this point. The resident operates somewhat independently of the program, though still subject to polygraphs, review of his daily log, random spot checks and contacts with his employer. During this phase, the resident must do the following tasks: successfully complete any maintenance polygraphs; continue to maintain all the tasks of Phase Six – employment, a budget, etc; show evidence of the development of a support network; development of a conditional release plan, which must be approved by the Court; identification of treatment providers and polygraphist who will provide regular reports to the Court once the resident has been placed in Conditional Release; and approval by the Court for Conditional Release.

### **Information concerning Transitional Phase Residents.**

Residents at THS will typically, spend several years there. The duration of a resident's stay at THS depends primarily on his response to treatment, compliance with program rules and ability to adapt to the challenges of a constructive lifestyle.

A total of 19 residents have been referred from SPTP at Larned State Hospital to THS. Seven individuals have been returned to the Larned campus as unsuccessful for various reasons. Approximately one third of the residents who are referred to THS are found to be unready to progress further at that time. This is an indication the system is working as it should, since a primary goal of THS is to identify the readiness, or not, of a resident to move back into the community.

Two residents have completed Transitional Release and Conditional Release (both granted by the Court) and achieved Final Release.

Three residents are in Conditional Release status now. There are no reporting requirements back to the program about residents who achieved conditional or final release. At this point a person is not under supervision of the SPTP. SPTP does not possess definitive data on these individuals.

One of the residents who achieved final release lives on his family farm near Springfield, Missouri and the other lives in Sedgwick County.

Two residents were referred to THS and subsequently released by the courts for technical, legal reasons. As a result, these individuals are considered to have never been mandated to SPTP. To our knowledge, one of



these persons lives in Sedgwick County and another is in prison in Missouri for a sexual offense committed after he was released from all supervision and treatment.

The three residents who have completed Transitional Release are on conditional release and are being supervised by the courts. We believe one individual resides in Miami County, one in Butler County and one in Johnson County.

No residents from SPTP who have been in Conditional Release have ever been charged with any new offenses.

There are presently eight residents assigned to various step levels within the THS program. Of those eight, one is presently off-grounds for medical reasons.

### **Growth of the Program**

Both the SPTP on the Larned Campus as well as the THS on the OSH campus have been growing, as I have testified to you before, along with the reasons why.

SRS recognizes the importance of thoughtful and prudent planning when it comes to the operation and expansion of THS, for the sake of public safety. SRS has taken steps around the expansion of THS beyond the grounds of OSH, while being mindful of the laws regarding K.S.A. 59-29a11.

In 2005, SRS made attempts in both Douglas and Leavenworth counties to develop a community based, group home for SPTP residents in transition who were older, frail, and required 24/7 assistance with daily living skills. This was SRS' first attempt at expanding the THS concept into the community beyond the grounds of SRS owned property.

In January, 2005 an experienced community based provider of persons with special needs was awarded the contract to provide one on one 24/7 care to one elderly SPTP resident who had reached the Transitional Living Phase of the SPTP program. The group home was located in rural Leavenworth County. Leavenworth County successfully filed an injunction to cease operation based on the technicality that the group home had not sought a zoning permit to operate a group home for sex predators. The group home was closed less than 24 hours of its opening. The case was appealed to the Kansas Supreme Court and the decision from the 1st District Court was upheld.

During the 2006 Legislative session, SB 506 was passed that amended KSA 59-29a11 that made sex predator transitional release and conditional release facilities subject to zoning ordinances, resolutions or regulations, building codes, etc. These amendments also put restrictions on where such facilities can be located – not within 2,000 feet of a licensed child care facility, registered family day care home, places of worship, any residence in which a child under 18 resides, schools, etc.

In August 2006, SRS issued a Request for Proposal (RFP) for a community based provider and group home that included the new laws outlined in K.S.A. 59-29a11, there were no responses to this RFP. In October 2006, another RFP was issued, two responses were received, neither met the requirements of K.S.A. 59-29a11 and they were unable to follow through with timely plans to meet those requirements.



So as you can see the following language from the KSA 59-29a11, has added additional limitations in our ability to find other locations for the transitional services program.

*“KSA 59-29a11 (b) No transitional release or conditional release facility or building shall be located within 2,000 feet of a licensed child care facility, registered family day care home, an established place of worship, any residence in which a child under 18 years of age resides, or real property of any school upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any grades one through 12. This subsection shall not apply to any state correctional institution or facility.*

*(c) Transitional release or conditional release facilities or buildings shall be subject to all 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, such municipality’s building regulatory codes, subdivision regulations or other nondiscriminatory regulations.”*

We would ask that if this bill is passed the restrictions in paragraphs (b) and (c) be reconsidered in order for us to have a better chance of finding additional areas for transitional house services.

I will end by reiterating our understanding of the importance of thoughtful and prudent planning when it comes to the operation and expansion of THS, for the sake of public safety.

I will be glad to answer any questions you might have.