

# Kansas Juvenile Justice Workgroup Final Report: Executive Summary

## Workgroup Policy Recommendations

The Workgroup came to consensus on 40 data-driven, fiscally sound policy recommendations. If enacted together, the policies are projected to reduce the average daily out-of-home population by at least 62 percent from projected levels by 2021, creating \$81 million in funding over five years for reinvestment in evidence-based options to hold youth accountable in the community, reduce recidivism, and improve other outcomes. The Workgroup recommends that all of the costs averted be reinvested in evidence-based practices and programs in the community that will help Kansas youth become law-abiding and productive citizens of the state.

### ***Prevent deeper juvenile justice system involvement***

#### **Provide swift, appropriate responses to youth behavior**

- Provide law enforcement with additional tools for responding to youth behavior by establishing statewide criteria for an optional “notice to appear” citation program
- Enhance and standardize pre-court and post-file diversion to ensure swift and consistent responses to youth behavior

#### **Target the use of pre-adjudication detention for higher-level youth**

- Focus the use of pre-adjudication detention on youth who pose a higher likelihood of rearrest or failure to appear at a subsequent court hearing, and incentivize the development and use of local alternatives to detention

### ***Protect public safety by focusing system resources***

#### **Focus residential beds on youth who pose the greatest public safety risk**

- Tailor eligibility for removal from the home, and limit the length of time youth may spend both out of home in residential facilities and under the court’s jurisdiction over the course of an individual case

#### **Hold youth accountable through stronger community supervision**

- Develop a statewide system of structured, community-based graduated responses to incentivize compliance through a continuum of swift and certain sanctions and rewards
- Improve case planning to streamline service referrals and reduce inefficiencies

### ***Sustain effective practices through oversight and reinvestment***

#### **Reinvest in evidence-based community alternatives to reduce reoffending and improve outcomes**

- Reinvest all costs averted from reductions in out-of-home placement into evidence-based sanctions and services in the community

#### **Ensure juvenile justice professionals receive effective training**

- Provide comprehensive training on evidence-based practices to professionals who work in the juvenile justice system
- Improve the quality of juvenile defense

#### **Incentivize better system performance through oversight and data collection**

- Increase data collection and sharing across all parts of the system and develop performance measures to track outcomes
- Establish an oversight entity to monitor reforms, study additional areas in need of improvement, and review and report performance data to state leadership

# Kansas Juvenile Justice Workgroup Final Report: Executive Summary

## Overview:

Established in June 2015, the bipartisan, inter-branch Kansas Juvenile Justice Workgroup consisted of 17 representatives from all parts of the juvenile justice system, including judges, district/county attorneys, law enforcement, public defenders, the Kansas Department of Corrections (KDOC), and legislators from both parties and chambers. The Workgroup undertook a comprehensive analysis of the state's juvenile courts and corrections system and reached consensus on a set of data-driven recommendations to improve outcomes for Kansas. If adopted, the recommendations would:

- Protect public safety and hold juvenile offenders accountable;
- Contain taxpayer costs by focusing system resources on the most serious offenders; and
- Improve outcomes for youth, families, and communities in Kansas.

## Workgroup Findings

1. **As crime falls, the juvenile justice system does not keep pace:** While the juvenile arrest rate in Kansas dropped more than 50 percent from 2004 to 2013, the state's community supervision and residential commitment populations have not fallen at the same rate. In particular, the out-of-home placement population did not mirror the drop in the juvenile arrest rate, declining by roughly half as much (24 percent). The Workgroup found that youth spend more time on supervision, cycle through a greater number of facilities, go missing from facilities at a higher rate, and remain out of home longer than they did a decade ago.
2. **Lower-level offenders make up a greater share of the out-of-home population:** The proportion of youth placed out of home for misdemeanors has grown over the past decade, accounting for roughly two-thirds of youth placed on Case Management supervision—primarily in costly state-funded residential facilities—and one-third of youth placed in the Juvenile Correctional Facilities (JCF). More than 90 percent of Case Management and JCF youth had two or fewer prior adjudications when they were placed in custody.
3. **Bed costs are high:** More than two-thirds (over \$53 million) of the KDOC juvenile services budget is spent on out-of-home placements at a cost of as much as \$89,000 per year per youth—10 times the cost of probation.
4. **Evidence-based services in the community are scarce:** Research shows evidence-based alternative services and sanctions in the community reduce reoffending. However, the Workgroup found that the courts lack access to these evidence-based alternatives, leading to higher costs, less public safety, and poorer outcomes for youth, families, and communities.
5. **Lack of standardization leads to disparate outcomes:** The Workgroup found wide variation among counties and judicial districts in how youth flow into and through the system. An absence of statutory guidance or standardized assessment of a youth's risks and criminogenic needs leads to geographically disparate use of out-of-home placements across the state.
6. **Information sharing is insufficient and inconsistent:** A lack of comprehensive outcome data collection impedes the accountability necessary to incentivize better system performance.
7. **Out-of-home placement and longer lengths of stay do not reduce reoffending for most youth:** Research demonstrates that out-of-home placements generally do not reduce reoffending and can actually increase recidivism for certain youth. Holding youth accountable through evidence-based alternative sanctions and services such as strengthened community supervision and substance abuse and mental health treatment improves public safety at a much lower cost.<sup>1</sup>

<sup>1</sup> Andrews et al., 2006; Andrews et al., 1990; Dowden et al., 1999; Lipsey, 2009; Lowenkamp & Latessa, 2005; Mulvey et al., 2010; Nagin et al., 2009; Smith et al., 2002; Vieira et al., 2009; Villettaz et al., 2006.

SESSION OF 2016

CONFERENCE COMMITTEE REPORT BRIEF  
SENATE BILL NO. 367

As Agreed to March 23, 2016

**Brief\***

SB 367 would create and amend law related to the Kansas juvenile justice system, as follows.

***Case, Probation, and Detention Length Limits***

Effective July 1, 2017, the bill would establish the following overall case length limits for juvenile offenders to remain under the jurisdiction of the court:

- For misdemeanors, up to 12 months;
- For low-risk and moderate-risk offenders adjudicated for a felony, up to 15 months (subject to provision below); and
- For high-risk offenders adjudicated for a felony, up to 18 months (subject to provision below).

There would be no overall case length limit for a juvenile adjudicated for a felony that would constitute an off-grid felony or nondrug severity level 1 through 4 felony, if committed by an adult.

If a juvenile is adjudicated for multiple counts, the maximum overall case length would be calculated based on the most severe count or any other count at the court's

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

discretion. Multiple adjudicated counts would not be run consecutively. If a juvenile is adjudicated for multiple cases simultaneously, the court would run those cases concurrently.

Once the overall case length limit expires, the court's jurisdiction would terminate and could not be extended.

The court would establish a specific probation term based on the most serious adjudicated count and the results of the risk and needs assessment, and the probation term could not exceed the overall case length limit. The bill would establish the following probation length limits:

- Low-risk and moderate-risk offenders adjudicated for a misdemeanor and low-risk offenders adjudicated for a felony, up to 6 months;
- High-risk offenders adjudicated for a misdemeanor and moderate-risk offenders adjudicated for a felony, up to 9 months; and
- High-risk offenders adjudicated for a felony, up to 12 months.

Probation could be extended if a juvenile needs time to complete an evidence-based program determined to be necessary based on the results of a validated risk and needs assessment. Probation also could be extended for good cause, as follows:

- For up to one month for low-risk offenders;
- For up to three months for moderate-risk offenders; and
- For up to six months for high-risk offenders.

The bill would require data regarding probation extensions to be reported quarterly to the Kansas Juvenile Justice Oversight Committee (described below), which would

be required to study the use of and effectiveness of the probation extensions.

Prior to the initial extension, the court would be required to find and enter into the written record the criteria permitting extension. Extensions would be granted incrementally and could not exceed the overall case length limit.

The probation term limits would not apply to adjudications for any off-grid crime, rape, aggravated criminal sodomy, or second-degree murder. Offenders with these adjudications could be placed on probation for a term consistent with the overall case length limit.

The court would be required to establish a specific term of detention when placing a juvenile in detention, which could not exceed the overall case length limit. There would be a cumulative detention limit of 45 days over the course of the offender's case, except there would be no cumulative detention limit for juveniles adjudicated for an off-grid felony or nondrug severity level 1 through 4 person felony.

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this brief.]

### ***Graduated Responses for Technical Violations***

The bill requires the Kansas Department of Corrections (KDOC) to consult with the Supreme Court in adopting rules and regulations by January 1, 2017, for a statewide system of structured community-based graduated responses for technical probation violations, conditional release violations, and sentence condition violations to be used by community supervision officers. The responses would include sanctions that are swift and certain to address violations based on the severity of the violation and incentives to encourage positive behaviors, while taking into account the juvenile's risks and needs.

Community supervision officers would use these responses based upon the results of a risk and needs assessment of the juvenile. A technical probation violation could be considered by the court for revocation only if it is a third or subsequent technical violation, there are prior documented failed responses, and the community supervision officer has determined and documented that graduated responses will not suffice. Unless the juvenile poses a significant risk of physical harm to another or damage to property, the community supervision officer would issue a summons rather than request a warrant for such a violation. The statute governing issuance of warrants to take a juvenile into custody would be amended, effective July 1, 2017, to reflect this limitation on warrants, to remove a reference to placement, and to specify that the warrant's designation of where the juvenile is to be taken is to be made pursuant to the statute governing the procedure for taking a juvenile into custody.

The community supervision officer responsible for oversight of a juvenile on probation would be required to develop a case plan with the juvenile and the juvenile's family. The Department for Children and Families (DCF) and the local board of education could participate in the development of the case plan when appropriate. The case plan would incorporate the results of the risk and needs assessment, referrals to programs, and documentation of violations and graduated responses, and it would clearly define the role of each person or agency working with the juvenile. If the juvenile is later committed to the custody of the Secretary of Corrections (Secretary), the case plan would be shared with the juvenile correctional facility (JCF).

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this brief.]

### ***Reintegration Plan***

Effective July 1, 2017, if the court places a juvenile outside the home at a dispositional hearing and no reintegration plan is part of the record of the hearing, a written reintegration plan would be prepared by the person with custody (or, if directed by the court, a community supervision officer) and submitted to the court within 15 days of the initial order of the court. If the persons necessary for the success of the plan do not agree, the person or entity with custody would be required to notify the court and the court to set a hearing.

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this brief.]

### ***Immediate Intervention; Multidisciplinary Team; Alternative Means of Adjudication***

Effective January 1, 2017, a court would be required to appoint a multidisciplinary team to review cases where a juvenile fails to substantially comply with the development of the immediate intervention plan. This team could be a standing team or could be appointed for a specific juvenile. The Supreme Court would be required to appoint a multidisciplinary team facilitator in each judicial district, and could appoint a convener and facilitator for a multiple-district multidisciplinary team.

The team facilitator would be required to invite the following to be part of the team: the juvenile; the juvenile's parents, guardians, or custodial relative; the superintendent of schools or designee; a clinician who has training and experience coordinating behavioral or mental health treatment for juveniles, if such clinician is available; and any other person or agency representative who is needed to assist in providing recommendations for the particular needs of the juvenile and family. Any invited person could decline to serve and would incur no civil liability for declining.

Effective January 1, 2017, KDOC would be required to collaborate with the Office of Judicial Administration (OJA) to develop standards and procedures to guide the administration of an immediate intervention process and programs and alternative means of adjudication, including contact requirements, parent engagement, graduated response and discharge requirements, and process and quality assurance.

[Note: Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this brief.]

#### ***Youth Residential Facilities***

Effective January 1, 2018, the Secretary of Corrections would be allowed to contract for up to 50 non-foster home beds in youth residential facilities for placement of juvenile offenders under certain circumstances specified elsewhere in the bill (and described later in this brief). The Secretary would be directed to contract with facilities with high success rates and that decrease recidivism rates, consider contracting for bed space across the entire state, and give priority to existing facilities that are able to meet the Secretary's requirements.

[Note: Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this brief.]

#### ***Kansas Juvenile Justice Oversight Committee***

The bill would establish the Kansas Juvenile Justice Oversight Committee to oversee the implementation of reforms in the juvenile justice system. The Oversight Committee's 19 members would be the Governor or designee; one Representative appointed by the Speaker of the House; one Representative appointed by the House Minority Leader; one Senator appointed by the Senate

President; one Senator appointed by the Senate Minority Leader; the Secretary of Corrections or designee; the Secretary for Children and Families or designee; the Commissioner of Education or designee; the KDOC Deputy Secretary of Juvenile Services or designee; the KDOC Director of Community-Based Services or designee; two district court judges appointed by the Chief Justice; one chief court services officer appointed by the Chief Justice; one member of the OJA appointed by the Chief Justice; one juvenile defense attorney appointed by the Chief Justice; one juvenile crime victim advocate appointed by the Governor; one member of a local law enforcement agency appointed by the Attorney General; one attorney from a prosecuting attorney's office appointed by the Attorney General; and one member from a community corrections agency appointed by the Governor. The bill would require these appointments be made by September 1, 2016, and the Committee would be required to meet within 60 days of appointment and at least quarterly thereafter. The Committee would select a chairperson and vice-chairperson, with ten members constituting a quorum. Appointed members of the Committee would serve for two-year terms and be eligible for reappointment. KDOC staff would be required to provide assistance as requested by the Committee and provide administrative assistance to facilitate the organization of the Committee's meetings.

The Committee would be charged with various duties related to the performance, evaluation, and improvement of the juvenile justice system, and it would be required to issue an annual report containing specified information to the Governor, Senate President, Speaker of the House, and Chief Justice on or before November 30, beginning in 2017.

The bill would require KDOC and the Committee to explore methods of exchanging confidential data among all parts of the juvenile justice system under certain conditions and constraints specified by the bill. KDOC would be authorized to use grant funds, allocated state funds, or any other accessible funding necessary to create a data

exchange system. All state and local programs involved in the care of juveniles involved in the juvenile justice system or the child in need of care system would be required to cooperate in the development and utilization of such system.

### ***Training***

The bill would require KDOC, in conjunction with the OJA, to provide not less than semi-annual training on evidence-based programs and practices. This training would be mandatory for all individuals who work with juveniles adjudicated or participating in an immediate intervention, including community supervision officers, juvenile intake and assessment workers, juvenile corrections officers, and any individual who works with juveniles through a contracted organization providing services to juveniles.

OJA would be required to designate or develop a training protocol for judges, county and district attorneys, and defense attorneys who work in juvenile court. OJA would be required to provide annual reports to the Legislature and to the Oversight Committee with data regarding completion of this training, including the number of judges and attorneys listed above who did and did not complete the training.

The Attorney General would be required to collaborate with the Kansas Law Enforcement Training Center and the State Board of Education to promulgate rules and regulations by January 1, 2017, creating skill development training for responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system. Such training would include information on adolescent development, risk and needs assessments, mental health, diversity, youth crisis intervention, substance abuse prevention, trauma-informed responses, and other evidence-based practices in school policing to mitigate student juvenile justice exposure. The superintendent (or designee) of each school district and any law enforcement officer assigned

primarily to a school would be required to complete this training.

### ***Immediate Intervention Development / Grants***

Effective January 1, 2017, KDOC would be required to create a plan and provide funding to incentivize the development of immediate intervention programs. Funds allocated for such plan could be used only to make grants to immediate intervention programs that adhere to the standards and procedures for such programs developed pursuant to the bill, and would have to be based on the number of persons served and other requirements established by KDOC. The plan could include requirements for grant applications, organizational characteristics, reporting and auditing criteria, and other eligibility and accountability standards.

Existing law would be amended to add "community-based alternatives to detention" to the list of purposes for which the Secretary may make grants to counties for juvenile community corrections services.

### ***Funds***

The bill would rename the Juvenile Detention Facilities Fund the "Juvenile Alternatives to Detention Fund" and would change its purpose from the retirement of debt of facilities for the detention of juveniles or the construction, renovation, remodeling, or operational costs of facilities for the detention of juveniles to the development and operation of community-based alternatives to detention. The definition of "operational costs" would be amended to include the costs of operating community-based alternatives to detention for juveniles. The bill would amend statutes related to driver's license exam fees, reinstatement fees for failure to comply with a traffic citation, municipal court costs, and municipal court assessments to reflect the change to the Fund's name.

The bill also would create the Kansas Juvenile Justice Improvement Fund, to be administered by KDOC. All expenditures from the Improvement Fund would be for the development and implementation of evidence-based community programs and practices for juvenile offenders and their families by community supervision offices, including juvenile intake and assessment, court services, and community corrections. On or before June 30 of each year, the Secretary would be required to determine and certify to the Director of Accounts and Reports the amount in each account of the State General Fund of a state agency that the Secretary has determined is an actual or projected cost savings due to cost avoidance from decreased reliance on incarceration in a JCF or youth residential center (YRC) placement, with a baseline calculated on the cost of incarceration and placement in FY 2015. This certified amount would then be transferred to the Improvement Fund. Prioritization of moneys from the Fund would be given to regions demonstrating a high rate of out-of-home placement of juvenile offenders *per capita* that have few existing community-based alternatives. During FY 2017 and FY 2018, the Secretary would be required to transfer an amount not to exceed \$8,000,000 from appropriated moneys, from any available special revenue fund, or from funds budgeted for the purposes of facilitating the development and implementation of new community placements in conjunction with the reduction in out-of-home placements. The Fund and any moneys transferred pursuant to this section could only be used for the purposes of the section, and the bill would state the Legislature's intent that the Fund and Fund moneys remain intact and inviolate for the purposes set forth in this section.

The bill would amend statutes governing allotments and percentage reductions by the Governor to exempt the Fund from the provisions of those statutes.

### ***Community Integration Programs***

KDOC would be required to develop, for use by the courts, community integration programs for juveniles who are ready to transition to independent living. These programs would be designed to prepare juveniles to become socially and financially independent from such program.

[*Note:* Amendments related to these provisions are made in other areas of the bill, as noted elsewhere in this brief.]

### ***Earned Time and Earned Discharge***

The statute governing computation of sentence would be amended to incorporate the addition of overall case length limits and to require earned time calculations be incorporated in sentence calculation. New law would require the Secretary of Corrections to promulgate rules and regulations by January 1, 2017, regarding earned time calculations for purposes of determining a juvenile's release date.

The Supreme Court would be required to consult with KDOC to establish rules for a system of earned discharge for juvenile probationers, to be applied by all community supervision officers. Earned discharge credits would be awarded to a probationer for each full calendar month of compliance with terms of supervised probation, pursuant to these rules.

### ***Supervision Fee***

The bill would remove a provision prohibiting early release from supervision until the supervision fee has been paid.

### ***Code for Care of Children Amendments***

Effective July 1, 2019, various statutes within the Revised Kansas Code for Care of Children (CINC Code) would be amended to remove "juvenile detention facility" from the definition of "secure facility." Juvenile detention facilities would be removed as a placement option under the CINC Code, unless the child is also alleged to be a juvenile offender and the placement is authorized under the Juvenile Code.

### ***Juvenile Code Amendments***

The bill would make numerous amendments to various statutes within the Revised Kansas Juvenile Justice Code (Juvenile Code). [Note: Some of the additions and amendments made to the juvenile code by the bill are discussed under other headings related to specific topics, rather than under this heading.]

### ***Definitions***

The definitions section of the Juvenile Code would be amended to:

- Add definitions for "community supervision officer," "detention risk assessment tool," "evidence-based," "graduated responses," "immediate intervention," "overall case length limit," "probation," "reintegration plan," "secretary," and "technical violation";
- Amend definitions for "institution," "juvenile intake and assessment worker," "juvenile offender," and "risk assessment tool" (changing its title to "risk and needs assessment" and amending the definition);
- Amend various definitions to update statutory references or change references to reflect the

assumption of the duties of the Juvenile Justice Authority (JJA) and the Commissioner of Juvenile Justice by KDOC and the Secretary of Corrections, pursuant to 2013 Executive Reorganization Order 42; and

- Remove the definition for “sanctions house.”

#### *Jurisdiction*

Effective July 1, 2017, the statute governing jurisdiction would be amended to add the overall case length limit and to remove order of assignment to community corrections as events that will end the court’s jurisdiction, and to modify another event from conviction of a new felony while incarcerated in a JCF to conviction of a crime as an adult. The term “aftercare” would be changed to “conditional release.” The bill would replace a provision prohibiting continued placement of a juvenile as a child in need of care if adjudicated for a felony or a second or subsequent misdemeanor with a provision requiring the Secretary for Children and Families to address issues of abuse and neglect by parents and prepare parents for the child’s return home and requiring court services, community corrections, and KDOC to address the risks and needs of the juvenile offender according to the risk and needs assessment. The Secretary for Children and Families would be required to collaborate with KDOC to furnish services ordered in the child in need of care proceeding during the time of any placement in the custody of the Secretary of Corrections.

#### *Juvenile Offender Information*

Effective July 1, 2017, the definition of “juvenile offender information” (for the purposes of reporting to the central repository by juvenile justice agencies) would be amended to specify certain data that must be included related to the use of the detention risk assessment tool, individual-level data for

juveniles on probation, costs for juveniles on probation, individual-level data regarding juvenile filings, risk and needs assessment override data, violation data for juveniles on probation, and certain information for juveniles in immediate intervention plans.

#### *Juvenile Taken into Custody*

Effective January 1, 2017, the statute governing when and how a juvenile may be taken into custody would be amended to remove the current authority given a court services officer, juvenile community corrections officer, or other person authorized to supervise juveniles to take a juvenile into custody when there is probable cause to believe the juvenile has violated a term of probation or placement. The authority of these officers to arrest a juvenile or request a juvenile's arrest without a warrant for violation of a condition of release would be removed and replaced with authority to request a warrant by giving the court a written statement that the juvenile has violated a condition of conditional release from detention or probation for the third or subsequent time and that the juvenile poses a significant risk of physical harm to another or damage to property. An existing provision directing that a juvenile taken into custody be brought to an intake and assessment worker, before the court, or to another designated official or facility would be replaced with a provision directing that the juvenile be brought to the custody of the juvenile's parent or other custodian, unless there are reasonable grounds to believe such action would not be in the best interests of the child or would pose a risk to public safety or property. If the juvenile can not be so delivered, the officer may issue a notice to appear or contact and deliver the juvenile to an intake and assessment worker for completion of the intake and assessment process. Provisions giving certain officials and workers discretionary authority to release the juvenile in the absence of court order or upon completion of the intake and assessment process would be changed to

make release mandatory. A provision allowing a person 18 years of age or older taken into custody for a juvenile offense to be detained in jail if detention is necessary would be changed to permit such detention only if the person is eligible for detention and all suitable alternatives have been exhausted.

This statute would be further amended by adding provisions allowing a law enforcement officer who detains a juvenile who is not immediately taken to juvenile intake and assessment services (intake and assessment) to serve a written notice to appear on the juvenile that includes specified information, including the location and phone number of the intake and assessment office where the juvenile will need to appear. The juvenile or a parent or guardian would be required to contact the intake and assessment office specified in the notice within 48 hours, excluding weekends and holidays. Before release, the juvenile would be required to give a written promise to call within the specified time by signing the notice. The officer would retain the original notice and a copy would be given to the juvenile and a parent or guardian, and then the juvenile would be released. The officer would be required to cause a complaint to be filed with juvenile intake and assessment services charging the crime stated in the notice to appear, with a copy to be provided to the district or county attorney. If the juvenile fails to contact intake and assessment as required in the notice to appear, intake and assessment would be required to notify the district or county attorney. The bill would allow the notice to appear and the complaint to be provided to the juvenile in a single citation.

#### *Criteria for Detention*

Effective January 1, 2017, the existing criteria for detention and removing a child from the custody of a parent would be replaced with the following criteria: a court could not order removal from a parent's custody without first finding that a detention risk assessment has assessed the juvenile as

detention-eligible, or there are grounds to override the results of the detention risk assessment and the court finds probable cause that community-based alternatives to detention are insufficient to secure the presence of the juvenile at the next hearing (as shown by the record) or protect the safety of another person or property. The court would be required to state the basis for these findings in writing. Community-based alternatives to detention could include release on a promise to appear; release to a parent, guardian, or custodian upon the youth's assurance; release with reasonable restrictions; release to a voluntary or mandatory court-ordered community supervision program; or release with electronic monitoring with various levels of restriction. Placement in a juvenile detention center would be prohibited where it is due solely to a lack of supervision alternatives or service options; a parent avoiding legal responsibility; a risk of self-harm; contempt of court; violation of a valid court order; or technical violations of conditional release, unless there is probable cause the juvenile poses a significant risk of harm to others or damage to property, or the applicable graduated responses or sanctions protocol allows such placement.

#### *Placement in Jail*

Effective January 1, 2017, the statute prohibiting placement in a jail except in certain specified circumstances would be amended to make it subject to the statutes governing criteria for detention and procedures when a juvenile is taken into custody. Under the provisions of this bill, those statutes permit placement in a jail only for a person over the age of 18 who is eligible for detention, when all suitable alternatives have been exhausted. The statute also would be amended to remove a reference to youth residential facilities.

### *Extended Detention; Hearings*

Effective July 1, 2017, the statute governing extended detention and detention hearings would be amended to narrow the justification for extended detention to the criteria listed in the statute setting forth the criteria for detention. The bill would add detention risk assessment tool results to the evidence that may be considered by the court at the detention hearing, and would require the court to record any reasons for overriding a detention risk assessment tool score. A provision allowing temporary custody where the court determines detention is not necessary but release to the custody of a parent would not be in the best interests of the juvenile would be removed. A provision would be added requiring a detention review hearing at least every 14 days that a juvenile is in detention, except for juveniles charged with an off-grid felony or nondrug severity level 1 through 4 felony.

### *First Appearance and Immediate Intervention*

Effective January 1, 2017, the statute governing the first appearance would require that a juvenile appearing without an attorney be informed of the right to be offered an immediate intervention.

### *Immediate Intervention*

Effective January 1, 2017, the statute governing immediate intervention programs would be amended to replace a provision allowing a county or district attorney to adopt a policy and establish guidelines for an immediate intervention program with a requirement that the director of juvenile intake and assessment services collaborate with the county or district attorney to adopt a policy and establish guidelines for an immediate intervention process, which may include information on offenders beyond those required by the statute. The court, county or district attorney, director, and

other relevant individuals or organizations would be required to develop local programs for certain purposes. (Currently, the court, county or district attorney, and director are allowed to develop local programs at their discretion.) The list of purposes for such programs would be amended to include direct referral of cases to immediate intervention, rather than to certain other programs; require juvenile intake and assessment services, rather than the county or district attorney, to adopt policies and guidelines for issuance of summons; allow immediate intervention program providers to directly purchase services for the juvenile and juvenile's family; and remove conditions on an intake and assessment worker's release of a juvenile prior to a detention hearing.

The statute would be further amended by removing limitations on eligibility for immediate intervention programs and a provision regarding a stipulation of facts. A provision would be added requiring a juvenile who goes through the intake and assessment process be offered the opportunity to participate in an immediate intervention program and avoid prosecution if the juvenile is charged with a misdemeanor or unlawful voluntary sexual relations, has no prior adjudications, and the offer is made pursuant to guidelines developed under this statute. A juvenile with fewer than two prior adjudications could also participate in such a program if referred for immediate intervention by the county or district attorney after review of the case to determine if the case should be referred for immediate intervention or designation for alternative means of adjudication. The county or district attorney would be required to consider any recommendation of a juvenile intake and assessment worker, court services officer, or community corrections officer.

A juvenile referred to immediate intervention would be required to work with court services, community corrections, juvenile intake and assessment services, or any other designated entity to develop an immediate intervention plan, which could be supervised by any of these entities or unsupervised. The county or district attorneys office would not be required to supervise juveniles participating in an

immediate intervention program. The plan could last no longer than six months from the date of referral, unless it requires completion of a mental health or substance abuse evidence-based program that extends longer, in which case the plan could be extended up to two additional months. Upon satisfactory compliance with the plan, the juvenile would be discharged and the charges dismissed at the end of the plan period. If the juvenile fails to satisfactorily comply with the plan, the case would be referred to a multidisciplinary team for review within seven days, and the team could revise and extend the plan or terminate the case as successful. The plan could be extended for no more than four additional months. If the juvenile fails to satisfactorily comply with the revised plan, the intake and assessment worker, court services officer, or community corrections officer overseeing the immediate intervention would refer the case to the county or district attorney for consideration.

*Prosecution as an Adult and Extended Juvenile Jurisdiction  
Prosecution*

The statute governing prosecution as an adult and extended juvenile jurisdiction would be amended to limit the option to designate a proceeding as an extended jurisdiction juvenile prosecution (EJJP) to cases involving an off-grid felony or a nondrug severity level 1 through 4 person felony. A provision placing the burden of proof on the juvenile to rebut EJJP in certain cases would be removed. The bill would replace a provision requiring good cause be shown to prosecute a juvenile as an adult with a requirement that the presumption that a juvenile is a juvenile be rebutted by a preponderance of the evidence. The age for adult prosecution of a juvenile would be raised from 12 to 14. The bill would remove existing presumptions that a juvenile is an adult based upon certain ages, crime severity levels, or other factors. Provisions allowing a juvenile to be bound over to the district judge where there is probable cause a felony has been committed and attaching authorization for prosecution

as an adult to future prosecutions upon conviction would be removed.

The statute governing sentencing for EJJP and options upon violation of a condition of a juvenile sentence under EJJP would be amended to stay the execution of an adult criminal sentence on the condition the juvenile substantially comply with the juvenile sentence, rather than on the condition the juvenile not violate the juvenile sentence. A provision allowing revocation of the stay and juvenile sentence without notice would be removed, and a revocation hearing would be required in all cases.

Other statutes would be amended to reflect the changes to EJJP.

#### *Post-Adjudication Orders and Hearings*

The statute governing post-adjudication orders and hearings would be amended to require the court to order one or more of the tools listed in the section unless information from a risk and needs assessment is available. The bill would add a provision giving the court authority to compel an assessment by the Secretary for Aging and Disability Services if a psychological or emotional evaluation of the juvenile indicates the juvenile requires acute inpatient mental health or substance abuse treatment, and the results of this assessment could inform a treatment and payment plan pursuant to the same eligibility process for non-court-involved youth. The bill would require a summary of the results from a risk and needs assessment be provided to the court post-adjudication and predisposition to be used to inform supervision levels. OJA and KDOC would be required to adopt a single, uniform risk and needs assessment to be used across the state. Cutoff scores to determine risk levels for juveniles would be established by OJA and the Secretary, in consultation with the Oversight Committee, and training on the assessment would be required for all administrators. The bill would require data to be collected on the results of the

assessment to inform a validation study on the Kansas juvenile justice population to be conducted by June 30, 2020.

### *Sentencing Alternatives*

Effective July 1, 2017, the statute governing sentencing alternatives would be amended to require a sentencing alternative be imposed for a fixed period (which could not extend beyond the overall case length limit) pursuant to the placement matrix and the probation terms set by the bill. A provision regarding findings and determinations made pursuant to statutes repealed by the bill would be removed.

The sentencing alternatives would be amended as follows:

- The probation alternative would be made subject to the new probation provisions established by the bill and would require any juvenile placed on probation be supervised according to the results of the risk and needs assessment. Placement of juveniles to community corrections for probation supervision would be limited to juveniles who are determined to be moderate, high, or very high risk on an assessment using the cutoff scores established by the Secretary and OJA;
- The alternative to place the juvenile in the custody of a parent or other suitable person would be amended to exclude placement in a group home or other licensed child care facility;
- The alternative to place the child in the custody of the Secretary of Corrections for placement and permanency planning would be amended to sunset on January 1, 2018;
- The sanctions house alternative would be changed to commitment to detention for no longer than 30

days for a violation of a non-technical condition of sentence; and

- The alternative to commit the juvenile to confinement in a JCF would be amended to allow placement in a JCF or a youth residential facility. (Placement in a youth residential facility would be subject to a rebuttable presumption created in the placement matrix statute, discussed below.) This alternative also would be amended to require the judge to make a written finding that the juvenile poses a significant risk of harm to another or damage to property. The juvenile would have to otherwise be eligible for commitment under the placement matrix, and an order for a period of conditional release would be changed from mandatory to the court's discretion. Conditional release would be limited to a maximum of six months and would be subject to graduated responses. A provision requiring a permanency hearing within seven days after the juvenile's release would be removed.

The required use of a risk assessment tool would be expanded to all sentencing, and the bill would require the results of the assessment be used to inform orders made pursuant to the placement matrix or the new probation provisions. Provisions related to commitment to a sanctions house would be changed to provisions for detention. Commitment to detention would be limited to violation of sentencing conditions where all other alternatives have been exhausted, and the court would have to find the juvenile poses a significant risk of harm to another or damage to property, is charged with a new felony offense, or violates conditional release. Detention would not be permitted for solely technical violations of probation, contempt, a violation of a valid court order, to protect from self-harm, or due to any state or county failure to find adequate alternatives. Cumulative detention use would be limited to a maximum of

45 days and the overall case length, pursuant to the new provisions of the bill set forth above.

Provisions would be added to this section allowing the court to order a short-term alternative placement of a juvenile in an emergency shelter, therapeutic foster home, or community integration program if the juvenile has been adjudicated of aggravated human trafficking, rape, commercial sexual exploitation of a child, sexual exploitation of a child, aggravated indecent liberties with a child (if the victim is less than 14 years of age), or an attempt of one of those offenses, and the victim resides in the same home as the juvenile; a community supervision officer in consultation with DCF determines an adequate safety plan (including the physical and psychological well-being of the victim) cannot be developed to keep the juvenile in the same home; and there are no relevant child in need of care issues that would permit a case to be filed under the CINC Code. The presumptive term of commitment would not extend beyond three months and the overall case length, but could be modified. If a child is placed outside the child's home under this provision, and no reintegration plan is made a part of the hearing records, a written reintegration plan would have to be prepared and submitted to the court within 15 days of the initial order of the court.

Finally, a provision would be added to this section requiring the court to calculate the overall case length limit and enter this limit into the written record when one or more of the sentencing options in the section are imposed.

#### *Modification of a Sentence*

The statute governing modification of a sentence would be amended to make any modified sentence subject to the overall case length limit created by the bill. Provisions setting forth the procedure for a court to rescind an order granting custody to a parent would be replaced with a provision allowing the court, if it determines there is probable cause to

believe that the juvenile is a child in need of care, to refer the matter to the county or district attorney to file a child in need of care petition and to refer the family to DCF for services. A provision would be added allowing the court to authorize participation in a community integration program, if it finds the juvenile needs a place to live but there is not probable cause that the child is a child in need of care, or if the child is emancipated or over the age of 17.

### *Placement Matrix*

Effective July 1, 2017, the placement matrix for commitment to a JCF would be amended to require a written finding before such placement that the juvenile poses a significant risk of harm to another or damage to property. A departure sentence provision would be removed, and the term of commitment would be subject to the overall case length limit.

The serious offender I category would be amended to remove nondrug severity level 5 and 6 person felonies and drug severity level 1 through 3 felonies and place these into a new serious offender II category, for which an offender could be committed for a term of 9 to 18 months with no aftercare.

The existing serious offender II category would become serious offender III, and the permissible term of commitment for this category would be lowered from 9-18 months to 6-12 months. Aftercare would be removed and commitment would be allowed only if a juvenile is assessed as high-risk.

The existing serious offender III category would become serious offender IV, and the permissible term of commitment would be lowered from 9-18 months to 6-12 months. Aftercare and departure provisions would be removed and a commitment would be allowed only if a juvenile is assessed as high-risk.

The chronic offender I category would be amended to lower the maximum permissible term from 18 to 12 months, remove aftercare and departure provisions, and allow commitment only if a juvenile is assessed as high-risk.

The chronic offender II and III categories would be removed.

The bill would establish a rebuttable presumption that all offenders in the chronic offender category and offenders between 10 and 14 years of age in the serious offender II, III, or IV categories shall be placed in the custody of the Secretary for placement in a youth residential facility instead of placement in a JCF. The presumption could be rebutted by a finding on the record that the juvenile offender poses significant risk of physical harm to another.

Conditional release provisions would be amended to allow the court to order a period of conditional release limited to six months and subject to graduated responses, with a presumption upon release that the juvenile shall be returned home, unless the case plan recommends a different reentry plan. The bill would remove commitment to a JCF as an option upon violation of the requirements of conditional release and would change a reference to "sanctions" to "detention."

The bill would remove the definition of "placement failure" and a provision allowing a juvenile committed to a JCF to be adjudicated to a consecutive term of imprisonment for an offense committed while in the facility.

A provision requiring the Secretary to work with the community would be broadened in scope from community placements for chronic offender III to development of evidence-based practices and programs to ensure the JCF is not frequently utilized.

### *Probation or Placement Condition Violations*

Effective July 1, 2017, the statute governing the procedure upon violation of condition of probation or placement would be amended to require any report filed by the county or district attorney, the current custodian of the juvenile offender, or the victim of the offense to be filed with the assigned community supervision officer, rather than with the court. The community supervision officer would then review the report before filing to determine whether it is eligible for review by the court. The statute would be amended to reflect the requirement for probable cause to believe the juvenile poses a significant risk of physical harm to another or damage to property before a warrant could be issued. Some references to "placement" would be removed. The bill's overall case length limit and limits on court review for technical violations would be incorporated into the state. A procedure for removing a juvenile from the custody of a parent would be removed.

### *Departure Sentencing*

Effective July 1, 2017, the statute governing departure sentence procedure would be amended to limit its application to juveniles sentenced to a JCF as a violent offender and to incorporate by reference the departure sentence limits and provisions contained in the new law regarding overall case length limits and the amendments to the sentencing placement matrix. Accordingly, the bill would remove the existing departure limits contained in this section. The bill would require the judge to enter the substantial and compelling reasons for a departure into the written record.

### *Commitment to a JCF*

Effective January 1, 2017, the statute governing commitment to a JCF would be amended to add a provision requiring a case plan be developed, with input from the

juvenile and the juvenile's family, for every juvenile sentenced to a JCF. For a juvenile committed for violating a condition of sentence, the case plan developed with the community supervision officer would be revised to reflect the new disposition. DCF, the local school district in which the juvenile offender will be residing, and community supervision officers would be allowed to participate in the development or revision of the case plan, when appropriate, and the case plan would incorporate the results of the risk and needs assessment and the program and education to complete while in custody. The case plan would have to clearly define the role of each person or agency working with the juvenile. The case plan would include a reentry section, detailing services, education, supervision, or any other elements necessary for a successful transition, as well as information on reintegration of the juvenile into the juvenile's family or, if reintegration is not viable, another viable release option. For a juvenile to be placed on conditional release, the case plan would be developed with the community supervision officer.

#### *Conditional Release Procedure*

Effective July 1, 2017, the statute governing conditional release procedure would be amended to allow the person in charge of a JCF to include a specified period of time to complete conditional release, if such release has previously been ordered. A reference to "case management officer" would be changed to "supervision officer." A court reviewing the notice of a proposed conditional release would be required to review the terms of any case plan. A provision applicable to acts committed before July 1, 1999, would be removed.

#### *Failure to Obey Conditions of Release*

Effective July 1, 2017, the statute governing failure to obey conditions of release would be amended to incorporate the new prohibition on court consideration of such failure until

a third or subsequent failure. The bill would require referral from the supervising officer before the county or district attorney could file a report with the court, and would add a requirement that the juvenile's history of violations be included in the report. The bill would remove the option for the court to order, upon finding a condition of release has been violated, that the juvenile be returned to the JCF to serve the incarceration and aftercare term.

#### *Discharge from Commitment*

Effective July 1, 2017, the statute governing discharge from commitment would be amended to incorporate the maximization of the overall case length limit as a condition requiring discharge of the juvenile by the Secretary.

#### *Notification of Pending Release*

Effective July 1, 2017, the statute governing notification of pending release and the procedure by which a county attorney, district attorney, or the court may move to determine if the juvenile should continue to be retained would be amended; it would change the determination to be made at such hearing from whether the juvenile should be retained to whether the juvenile should be placed on conditional release, if not previously ordered by the court. If the court orders a period of conditional release following the hearing, the supervision of the juvenile would be limited to six months of conditional release and subject to the overall case length limit. A definition of "maximum term of imprisonment" would be removed, as it would not be needed under the new procedures.

#### *Alternative Means of Adjudication*

Effective July 1, 2017, the statute governing alternative means of adjudication would be amended to change the

eligibility for adjudication under the section from a juvenile committing a misdemeanor to a juvenile with fewer than two adjudications. The term "diversion" would be changed to "immediate intervention," and a provision would be added allowing a juvenile designated for alternative adjudication to be referred to an immediate intervention program. The bill would remove a provision allowing the court in an alternative adjudication proceeding to remove a juvenile from the home and place the child in the temporary custody of the Secretary for Children and Families or any person, other than the child's parent, willing to accept temporary custody. A reference to "placement failure" would be removed from a provision regarding use of the adjudication on a subsequent offense.

#### *Further Juvenile Code Statutes Repealed*

Effective July 1, 2017, the bill would repeal statutes allowing removal of a juvenile from custody of a parent.

#### **Schools**

Effective July 1, 2017, the School Safety and Security Act would be amended to require boards of education to include in their annual school safety and security reports information regarding arrests and referrals to law enforcement or juvenile intake and assessment services made in connection to criminal acts the school is required to report under continuing law. The bill would also add a requirement that the data in the report include an analysis according to race, gender, and any other relevant information.

The bill would further amend the Act to direct the State Board of Education (SBOE) to require that the superintendent of schools (or designee) in each school district develop, approve, and submit to the SBOE a memorandum of understanding developed in collaboration with relevant stakeholders (including law enforcement agencies, the courts, and the county and district attorneys), establishing clear

guidelines for referral of school-based behaviors to law enforcement or the juvenile justice system, with the goal of reducing such referrals and protecting public safety. The SBOE would be required to provide an annual report to KDOC and OJA compiling school district compliance and summarizing the content of each memorandum of understanding.

Statutory provisions governing reporting of certain student behavior to law enforcement, reporting of certain criminal behavior on school property or at a school-supervised activity, powers of campus police officers, and reporting of inexcusable absences from school would be amended to make such provisions subject to the terms of the memorandum of understanding.

#### ***Juvenile Intake and Assessment***

Effective January 1, 2017, the statute governing the juvenile intake and assessment system would be amended to require a juvenile intake and assessment worker (worker) to make both release and referral determinations once a juvenile is taken into custody. The bill would specify that the worker may collect required information either in person or via two-way audio or audio-visual communication, would clarify information collected would be the results from a standardized detention risk assessment tool rather than "a standardized risk assessment tool," and would add "if detention is being considered for the juvenile." The list of required information would be amended to add "results of other assessment instruments as approved by the Secretary." The bill would remove a provision requiring the worker to believe release of the child to a parent's, legal guardian's, or other appropriate adult's custody would be in the best interests of the child and not be harmful before making such release. The bill would specify additional non-exclusive conditions that could be imposed on conditional release and would change an existing condition from "inpatient treatment" to "outpatient treatment." Stay in a shelter facility or a

licensed attendant care center would be limited to a maximum of 72 hours.

Language requiring the Supreme Court to establish a juvenile intake and assessment system would be removed, as the system has been established.

The bill would add immediate intervention programs to the possible referrals by the worker and would specify in the continuing option to refer to the county or district attorney that such referral may be made with or without a recommendation for consideration for alternative adjudication or immediate intervention.

The bill would replace a provision allowing the Commissioner of Juvenile Justice to adopt rules and regulations regarding local creation of risk assessment tools with a provision requiring the Secretary of Corrections, in conjunction with OJA, to develop, implement, and validate a statewide detention risk assessment tool. The assessment would be required for each youth under consideration for detention and could be conducted only by a trained worker. The Secretary and OJA would be required to establish cutoff scores to determine eligibility for placement in a JDF or for referral to a community-based alternative to detention. Data regarding the use of the tool would have to be collected and reported. The bill would require the assessment to include an override function that could be approved by the court for use under certain circumstances so that the worker or the court could override the assessment score to direct placement in a short-term shelter facility, a community-based alternative to detention, or a JDF. The override would be required to be documented, include a written explanation, and receive approval from the director of the intake and assessment center or the court. If a juvenile is eligible for detention or referral to a community-based alternative to detention, the person with detention authority would retain discretion to release the juvenile if other, less restrictive measures would be adequate.

The bill would require every worker be trained in evidence-based practices, including risk and needs assessment, individualized diversions, graduated responses, family engagement, trauma-informed care, substance abuse, mental health, and special education.

### ***Juvenile Corrections Advisory Boards***

The statute governing the membership of juvenile corrections advisory boards would be amended to add to the membership a juvenile defense representative, who would be required to be a practicing juvenile defense attorney in the judicial district and be selected by the judge of the district court who is assigned the juvenile court docket. The requirements of the boards would be amended to add adherence to the goals of the Juvenile Code and coordination with the Oversight Committee created by the bill.

The bill would create new law requiring the boards to annually consider the availability of treatment programs, programs creating alternatives to incarceration for juvenile offenders, mental health treatment, and the development of risk assessment tools (if they do not currently exist) for use in determining pretrial release and probation supervision levels. The board would be required to provide an annual report by October 1 to KDOC and the Oversight Committee created by the bill detailing the costs of programs needed in the board's judicial district to reduce the out-of-home placement of juvenile offenders and improve the recidivism rate of juvenile offenders.

### ***Technical Amendments***

Throughout the bill, technical amendments would be made to update or correct statutory cross-references, remove irrelevant dates, and update references to reflect the assumption of the duties of the JJA and the Commissioner of

Juvenile Justice by KDOC and the Secretary of Corrections, pursuant to 2013 Executive Reorganization Order 42.

### **Conference Committee Action**

The Conference Committee agreed to SB 367, as amended by the House Committee on Corrections and Juvenile Justice, with the following changes:

- Reduce good-cause probation extensions for low-risk offenders from two months to one month and for moderate-risk offenders from four months to three months;
- Require collection of data regarding probation extensions and reporting of such data to the Oversight Committee;
- Require the Oversight Committee to study sight and sound separation in youth residential facilities between CINC's with an open juvenile offender case and CINC's without an open juvenile offender case;
- Specify that certain programs, models, needs, and resources required (or for which study is required) by the bill be evidence-based;
- Restore OJA involvement in setting risk level cutoff scores;
- Modify the language added by the House Committee limiting placement of juvenile offenders to community corrections for probation supervision to higher-risk felony offenders by removing the felony qualification; and

- For conflict reconciliation purposes, add language regarding KPERS and allotments that was already enacted by 2016 House Sub. for SB 161.

## **Background**

In 2015, Governor Brownback, Chief Justice Nuss, the Senate President, the Senate Minority Leader, the Speaker of House, and the House Minority Leader appointed 17 representatives from all parts of the Kansas juvenile justice system, as well as legislators from both parties and chambers, to the Kansas Juvenile Justice Workgroup and charged the Workgroup with developing policy recommendations to advance three goals: promote public safety and hold juvenile offenders accountable; control taxpayer costs; and improve outcomes for youth, families, and communities in Kansas. The Public Safety Performance Project of The Pew Charitable Trusts and the Crime and Justice Institute at Community Resources for Justice provided technical assistance to the Workgroup.

The Workgroup met throughout the second half of 2015, analyzing the Kansas juvenile justice system; reviewing key data from OJA, DCF, and KDOC; and gathering input from stakeholders, including law enforcement, crime victims, judges, county and district attorneys, and service providers. The Workgroup also reviewed current research on reducing recidivism and effective policies and practices from other jurisdictions.

In November 2015, the Workgroup issued its final report, including 40 policy recommendations. The final report and a summary may be found on the KDOC website. The policy recommendations in the report served as the basis for SB 367, as introduced.

The bill was introduced by the Senate Committee on Corrections at the request of Senator Smith, who served on the Juvenile Justice Workgroup.

At the hearing before the Senate Committee, several members of the Workgroup testified in support of the bill. These members included the director of Juvenile Community Corrections in Cowley County, a former Secretary of Corrections, the director of Johnson County Department of Corrections, a district court judge and district magistrate judge who hear juvenile cases, a juvenile defense attorney, the Director of Community Based Services at KDOC, and the Deputy Secretary for Juvenile Services at KDOC. Additional proponents who testified included representatives of Keys for Networking, National Alliance on Mental Illness, Kansas Appleseed Center for Law and Justice, Kansas Association of Community Action Programs, Kansas Community Corrections Association, and KDOC.

Members of the Workgroup submitting written testimony supporting the bill included Senator Smith and an assistant county attorney who prosecutes juveniles. Additional written proponent testimony was submitted by representatives of the American Civil Liberties Union of Kansas, Association of Community Mental Health Centers of Kansas, Kansas Association of Criminal Defense Lawyers, Kansas Action for Children, Kansas Big Brothers and Big Sisters, Kansas Center for Economic Growth, Kansans United for Youth Justice, and National Juvenile Defender Center; and by a Kentucky county attorney, a South Dakota sheriff, a South Dakota judge, a Shawnee County juvenile defender, a national crime victim advocate, and state senators from South Dakota and Kentucky.

Conferees testifying in opposition to the bill included the Johnson County District Attorney on behalf of his office and on behalf of the Kansas County and District Attorneys Association (KCDAA), a representative of the Sedgwick County District Attorney's Office, a district judge on behalf of the Kansas District Judges Association, the director of the Southwest Regional Juvenile Detention Center, the executive director of The Villages, Inc., a representative of Kansas Association of Court Services Officers, and a citizen.

Written testimony opposing the bill was submitted by the county or district attorneys (or representatives of their offices) from the following counties: Anderson, Douglas, Finney, Leavenworth, Osage, and Shawnee.

Members of the Workgroup testifying as neutral conferees included a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs' Association and a representative of the OJA. Additional neutral conferees included a district court judge who hears juvenile cases, representatives of the Children's Alliance and DCF, and a representative of the Kansas Association of School Boards, Kansas School Superintendents Association, and United School Administrators of Kansas. Written neutral testimony was received from a representative of the Kansas Association of Addiction Professionals.

The Senate Committee adopted amendments:

- Removing a prohibition added by the bill on court services supervision of a child in need of care in the custody of a person other than a parent;
- Creating statutory speedy trial and preliminary hearing rights for juvenile offenders;
- Adding a community corrections agency representative to the Oversight Committee and changing the law enforcement representative from a state to a local law enforcement agency representative;
- Allowing the local school district to participate in case planning, rather than the Department of Education;
- Delaying or further delaying the effective date of various new sections and amendments;

- Removing overall case length limits for certain felonies;
- Adding the possibility of damage to property by a juvenile as a factor to consider in various circumstances;
- Requiring KDOC and the Oversight Committee to explore methods of exchanging confidential data within the juvenile system;
- Requiring a notice to appear and complaint be provided in a single citation;
- Restoring existing terms and provisions for violent offender I and II that would have been removed or amended by the bill as introduced;
- Creating a new category of serious offender II and adjusting the other categories accordingly;
- Adjusting the clinician requirement for multidisciplinary teams;
- Removing a provision in the bill as introduced providing oversight of attorneys representing juveniles;
- Restoring language related to youth residential facilities in the Juvenile Code;
- Adjusting the ability of a court to extend probation for completion of an evidence-based program;
- Removing limits on cumulative detention for certain offense severity levels that would have been established by the bill as introduced;
- Requiring certain prioritization of funds related to the Kansas Juvenile Justice Improvement Fund, specifying the baseline related to the Fund, and

requiring monitoring of the prioritization plan by the Oversight Committee; and

- Requiring sight and sound separation in youth residential facilities between juveniles with open cases and other children.

The Senate Committee of the Whole adopted amendments delaying the effective date of the case, probation, and detention length limits until July 1, 2017, and reinstating the option for EJJ (removed by the bill as introduced), with some modifications to eligibility, burden of proof, and procedure.

At the hearing before the House Committee on Corrections and Juvenile Justice, members of the Workgroup testifying in support of the bill included Senator Smith, the Deputy Secretary for Juvenile Services at KDOC, the Director of Community Based Services at KDOC, an assistant county attorney (Norton County) who prosecutes juveniles, the director of Juvenile Community Corrections in Cowley County, a district court judge (10<sup>th</sup> Judicial District) and district magistrate judge (28<sup>th</sup> Judicial District) who hear juvenile cases, the director of Johnson County Department of Corrections, a juvenile defense attorney, and a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs' Association. Additional proponents who testified included private citizens and representatives of Keys for Networking, National Alliance on Mental Illness, Kansas Appleseed Center for Law and Justice, Kansas Association of Community Action Programs, Kansas Community Corrections Association, Kansas Big Brothers and Big Sisters, and KDOC.

A former Secretary of Corrections who served on the Workgroup submitted written testimony supporting the bill. Additional written proponent testimony was submitted by representatives of the American Civil Liberties Union of Kansas, Kansas Association of Criminal Defense Lawyers, Kansas Action for Children, Kansas Center for Economic

Growth, and Association of Community Mental Health Centers of Kansas, as well as by a Kentucky county attorney, Kentucky and South Dakota state senators, South Dakota and Georgia state judges, and a national crime victim advocate.

Conferees testifying in opposition to the bill included the Sedgwick County District Attorney on behalf of his office and on behalf of the KCDA, a district judge on behalf of the Kansas District Judges Association, the Johnson County District Attorney, a representative of Kansas Association of Court Services Officers, an assistant county attorney (Thomas County), the director of the Southwest Regional Juvenile Detention Center, the executive director of The Villages, Inc., and the director of Pratt County Achievement Place.

Written testimony opposing the bill was submitted by multiple citizens; a Pratt law enforcement officer; representatives of Children's Alliance, Pratt Area Chamber of Commerce, 20<sup>th</sup> Judicial District Juvenile Services, and Pratt County Achievement Place; and county or district attorneys (or representatives of their offices) from the following counties: Anderson, Finney, Ford, Grant, Gray, Greeley, Hamilton, Kearny, Morton, Osage, Scott, Seward, Sherman, Stanton, Wallace, and Wichita.

A representative of OJA who served on the Workgroup testified as a neutral conferee. Additional neutral conferees included a representative of DCF, a citizen, and a representative of the Kansas Association of School Boards, Kansas School Superintendents Association, and United School Administrators of Kansas. Written neutral testimony was received from a representative of the Kansas Association of Addiction Professionals.

The House Committee adopted multiple amendments (including several adapted from proposed amendments by KCDA and OJA) to:

- Clarify prioritization of Juvenile Justice Improvement Fund moneys, state such moneys are to be used only for the purposes set forth in the bill, and exempt the Fund from allotments and percentage reductions;
- Change the appointing authority for the local law enforcement agency and prosecuting attorney's office representatives on the Oversight Committee from the Governor to the Attorney General; change the appointment deadline for all members from January 1, 2017, to September 1, 2016; and require the first meeting within 60 days, rather than 90 days;
- Require the Oversight Committee to identify training models, needs, and resources, and make appropriate recommendations; analyze and investigate gaps in the juvenile justice system; explore alternatives to out-of-home placement of juvenile offenders in youth residential facilities; and include in its annual report data pertaining to the completion of training on evidence-based practices in juvenile justice;
- Require KDOC staff to provide support to the Oversight Committee;
- Strike the Senate Committee provisions adding speedy trial and preliminary hearing rights and restore language from the bill, as introduced, requiring the Oversight Committee to review these and other juvenile due process rights;
- Strike a provision requiring utilization of the Kansas Criminal Justice Information System in exchanging confidential juvenile justice system data;
- Strike language requiring the Supreme Court to establish a juvenile intake and assessment system,

as such system has been established, and add the results of other assessment instruments approved by the Secretary to the information a juvenile intake and assessment worker must collect;

- Allow the Secretary to contract for up to 50 non-foster home beds in youth residential facilities, add conditions for placement in such facilities, remove the sunset date for the definition of "youth residential facility," strike the sight and sound separation requirement for such facilities added by the Senate Committee (the Conference Committee report would require study of this topic), and change the sunset date for a placement option with the custody of the Secretary of Corrections from July 1 to January 1, 2018;
- Allow probation to be extended for good cause (this amendment would be modified by the Conference Committee report);
- Extend the cumulative detention limit from 30 days to 45 days;
- Require Advisory Boards to make certain annual considerations and reports to KDOC and the Oversight Committee;
- Make provision of a single citation permissive rather than mandatory;
- Extend the time in which a detention review hearing is required to 14 days and exempt certain high-severity-level offenses from the requirement;
- Specify that county and district attorneys are not required to supervise juveniles in an immediate intervention program;
- Extend the maximum term of immediate intervention plans from four to six months;

- Change the entity responsible for establishing risk level cutoff scores from OJA and KDOC to the Secretary, in consultation with the Oversight Committee (this amendment would be modified by the Conference Committee report);
- Limit placement of juvenile offenders to community corrections for probation supervision to higher-risk felony offenders;
- Clarify provisions regarding short-term alternative placement of a juvenile;
- Clarify the procedure for reporting an alleged violation of condition of probation or of a court-ordered placement; and
- Make various technical amendments.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, OJA estimates additional expenditures of \$402,400 from the State General Fund (SGF), including funds for 3.00 additional full-time-equivalent (FTE) employees, would be required to implement the bill in FY 2017. This amount would include \$207,400 for salaries and wages, \$85,000 to develop and use a risk-based assessment tool, and \$110,000 for training expenses. Additionally, the bill would decrease some duties currently assumed by some Judicial Branch employees but increase the duties performed by other Judicial Branch employees.

DCF indicates it cannot estimate how many additional children would come into custody. The annual cost for each child in foster care is \$25,000, including \$21,400 from the SGF.

The Attorney General would need additional expenditures of \$2,500 from the SGF in FY 2017 for operating expenditures for supplies and travel to comply with the bill.

The Kansas Department of Education would require additional SGF expenditures of \$90,102 in FY 2017 to implement the bill, including \$81,602 for an additional 1.00 FTE position to coordinate the bill's provisions and \$8,500 for other operating expenditures.

The Kansas Sentencing Commission states the bill would have no effect on adult prison admissions or the Commission's workload.

KDOC states the bill would have no fiscal effect on agency operations. The Division of the Budget estimates there would be a fiscal effect on KDOC due to the provisions establishing the Kansas Juvenile Justice Improvement Fund, which would be administered by KDOC, but the Division cannot estimate a fiscal effect at this time. The Division of the Budget requested fiscal effect information from other state agencies and will issue a revised fiscal note to reflect any additional information that is received.

Any fiscal effect associated with the bill is not reflected in *The FY 2017 Governor's Budget Report*.

The League of Kansas Municipalities and the Kansas Association of Counties indicate enactment of the bill could create additional expenses due to new duties for county attorneys and local law enforcement officials, but they cannot estimate a fiscal effect at this time.

Revised Kansas Juvenile Justice Code; juvenile offenders; case length limits; probation length limits; cumulative detention limits; graduated responses; reintegration plans; immediate intervention; multidisciplinary team; alternative adjudication; youth residential facilities; Juvenile Justice Oversight Committee; training; grants; Juvenile Alternative to Detention Fund; Kansas Juvenile Justice Improvement Fund; community integration programs; Kansas Department of Corrections; earned time; earned discharge; supervision fee; jurisdiction; juvenile offender information; juvenile taken into custody; criteria for detention; jail placement; extended detention; first appearance; prosecution as adult; extended juvenile jurisdiction prosecution; post-adjudication orders and hearings; sentencing alternatives; juvenile correctional facilities; modification of sentence; placement matrix; probation or placement condition violations; departure sentencing; conditional release; notification of pending release; School Safety and Security Act; reporting; school district memorandum of understanding; juvenile intake and assessment;

juvenile corrections advisory boards; Code for Care of Children; secure facility;  
juvenile detention facility

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SESSION OF 2017

**SECOND CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE SUBSTITUTE FOR SENATE BILL NO. 42**

As Agreed to May 9, 2017

**Brief\***

House Sub. for SB 42 would create and amend law related to the Kansas juvenile justice system and the changes made to the system by 2016 SB 367, as follows.

[Note: House Sub. for SB 42 would amend several statutory provisions that, pursuant to amendments made or new statutes created by 2016 SB 367, have not yet taken effect. Such amendments to future versions of existing statutes or to new statutes that have not yet taken effect are noted in this brief.]

***Absconding from Supervision***

The bill would amend the Revised Kansas Juvenile Justice Code (Juvenile Code) statute requiring community-based graduated responses for technical violations of probation to state that absconding from supervision shall not be considered a technical violation of probation and to allow a court to issue a warrant after reasonable efforts to locate a juvenile who has absconded are unsuccessful. The statute governing overall case length limits (effective July 1, 2017) would be amended to provide that probation term limits and overall case length limits shall be tolled during any time that a juvenile has absconded from supervision while on probation.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/klrd>

The statute governing failure to obey conditions of conditional release (version effective July 1, 2017) would be amended to add absconding from supervision as an event allowing the supervising officer to file a report with the court describing the alleged violation and the juvenile's history of violations. (Continuing law would then allow the court, following notice and hearing, to find a violation and modify or impose additional conditions of release.)

The statute governing when a juvenile may be taken into custody would be amended to add absconding from supervision as an event allowing a supervising officer to request a warrant, and the statute governing issuance of warrants (version effective July 1, 2017) would be amended to allow a court to issue a warrant commanding the juvenile be taken into custody if there is probable cause to believe the juvenile has absconded from supervision. The statute governing violation of conditions of probation or placement (version effective July 1, 2017) would be amended to add absconding from supervision to the findings enabling a court to extend or modify the terms of probation or placement or enter another sentence.

### ***Immediate Intervention Programs***

The bill would amend the statute regarding confidential data exchange for the juvenile justice system to require the Kansas Department of Corrections (KDOC) to establish and maintain a statewide searchable database containing information regarding juveniles who participate in an immediate intervention program. County and district attorneys, judges, community supervision officers, and juvenile intake and assessment workers would have access to the database and would be required to submit necessary data to the database. KDOC would be required to, in consultation with the Office of Judicial Administration (OJA), adopt rules and regulations to implement the database.

The statute governing immediate intervention programs would be amended to exclude any juvenile charged with a sex offense from a provision requiring the opportunity for participation in an immediate intervention program be offered to juveniles charged with a misdemeanor. The bill would also specify that participation in an immediate intervention program would not have to be offered to a juvenile who has participated in such a program for a previous misdemeanor or to a juvenile who was originally charged with a felony but had the charge amended to a misdemeanor as a result of a plea agreement. The bill would clarify that nothing in this statute would require a juvenile to participate in an immediate intervention program when the county or district attorney has declined to continue with prosecution of an alleged offense.

### ***Sentencing and Placement***

The bill would amend the Juvenile Code statutes governing sentencing alternatives (version effective July 1, 2017) and the placement matrix (version effective July 1, 2017) to provide that, upon a finding by the trier of fact during adjudication that a firearm was used in the commission of a felony offense by the juvenile, the judge may commit the juvenile directly to the custody of the Secretary of Corrections for placement in a juvenile correctional facility (JCF) or a youth residential facility for a term of 6 to 18 months, regardless of the risk level of the juvenile. Additionally, the court could impose a period of conditional release of up to six months, subject to graduated responses. The Secretary of Corrections or designee would be required to notify the court of the juvenile's anticipated release date 21 days prior to such date. (Under the sentencing alternatives and placement matrix enacted in 2016 SB 367, placement in a JCF may be made only when the judge finds and enters into the written record that the juvenile poses a significant risk of harm to another or damage to property and the juvenile has either been adjudicated for high-level felonies or has certain prior offenses and is assessed as high-risk on a risk and needs assessment.)

The bill would amend the sentencing alternatives statute (version effective July 1, 2017) to remove a three-month limit on short-term alternative placement allowed when a juvenile is adjudicated of certain sex offenses and certain other conditions are met.

The bill would amend the placement matrix statute (version effective July 1, 2017) to consolidate the categories of serious offender III and serious offender IV, which carry the same risk-level requirements and JCF commitment terms, into a single serious offender III category.

The bill would amend the Juvenile Code statute governing jurisdiction to remove a provision requiring the Secretary for Children and Families to address issues of abuse and neglect by parents and to prepare parents for the child's return home in cases in which a sentencing court orders the continued placement of the juvenile as a child in need of care.

#### ***Timing of Overall Case, Probation, and Detention Length Limits***

The bill would establish that the provisions of the Juvenile Code statute governing overall case, probation, and detention length limits (effective July 1, 2017) would apply upon disposition or 15 days after adjudication, whichever is sooner.

#### ***Juvenile Justice Oversight Committee***

The bill would amend the statute establishing the Kansas Juvenile Justice Oversight Committee (Oversight Committee) to add 2 members to the Oversight Committee, bringing its total membership to 21. The members added would be one youth member of the Kansas Advisory Group on Juvenile Justice and Delinquency Prevention appointed by the chair of that group and one director of a juvenile detention

facility appointed by the Attorney General. The bill would also provide two additional duties for the Oversight Committee: 1) study and create a plan to address the disparate treatment of and availability of resources for juveniles with mental health needs in the juvenile justice system, and 2) review portions of juvenile justice reform that require KDOC and OJA to cooperate and make recommendations when there is no consensus between the two agencies.

### ***Required Findings Upon Removal***

The bill would create new law requiring, when a juvenile is removed from the home for the first time pursuant to the Juvenile Code, the judge to consider and make, if appropriate, the following findings: the juvenile is likely to sustain harm if not immediately removed from the home, allowing the juvenile to remain in the home is contrary to the welfare of the juvenile, or immediate placement of the juvenile is in the juvenile's best interest. The bill would also require the judge to find reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the juvenile from the juvenile's home or an emergency exists that threatens the safety of the juvenile.

### ***Fund Provisions***

The bill would amend the statute creating the Kansas Juvenile Justice Improvement Fund to replace references to the Fund with references to the "Evidence-Based Program Account of the State General Fund." A provision requiring the Secretary of Corrections to determine and certify cost savings "annually, on or before June 30," would be amended to require such determination and certification "at least annually, throughout the year." A provision requiring transfer of the certified amount by the Director of Accounts and Reports "annually, on July 1 or as soon thereafter as moneys are available," would be amended to require such transfer "upon

receipt of a certification pursuant to" the certification provision.

The statute authorizing percentage reductions by the Governor would be amended to update a provision exempting the Fund from the statute's provisions to refer to the Evidence-Based Programs Appropriation of the State General Fund instead of the Juvenile Justice Improvement Fund.

### ***Immunity for Earned Discharge Calculations***

The bill would amend law related to earned discharge for juvenile probationers. Specifically, the bill would state that the State of Kansas, the Secretary of Corrections, the Secretary's agents or employees, the OJA, and court services officers shall not be liable for damages caused by any negligence, wrongful act, or omission in making the earned discharge credit calculations.

### ***Technical Amendments***

The bill would make numerous technical amendments updating statutory references, ensuring consistent phrasing, and removing an effective date that would be made redundant by the bill.

### **Conference Committee Action**

The Second Conference Committee agreed to House Sub. for SB 42, as passed by the House, with the addition of the immunity provision for earned discharge calculations and technical changes.

[Note: The agreement of the Second Conference Committee does not include provisions included in the First Conference Committee report addressing statewide

standards for school training regarding identification of sexual abuse victims.]

## **Background**

### ***House Sub. for SB 42—Juvenile Justice System***

As introduced, recommended by the Senate Committee on Judiciary, and passed by the Senate on February 23, SB 42 would have amended law concerning mandatory minimum sentences for persons who receive life sentences.

The House Committee on Judiciary recommended a substitute bill replacing the original language of SB 42 with language modified from HB 2264, regarding various aspects of the juvenile justice system. Further background regarding HB 2264 is provided below. [Note: The Conference Committee agreed to include the original contents of SB 42 in the report on HB 2092.]

No fiscal note was available for House Sub. for SB 42 at the time of the House Committee action.

### ***HB 2264—Kansas Juvenile Justice System***

The 2016 Legislature enacted 2016 SB 367, which created new law and made extensive changes to law related to the Kansas juvenile justice system. The bill was based on the work of the 2015 Kansas Juvenile Justice Workgroup, which was appointed by leaders of all three branches of Kansas government and charged with developing policy recommendations to advance three goals:

- Promote public safety and hold juvenile offenders accountable;
- Control taxpayer costs; and

- Improve outcomes for youth, families, and communities in Kansas.

The topics addressed by 2016 SB 367 included case, probation, and detention length limits; graduated responses for technical probation violations; immediate intervention programs; youth residential facilities; creation of the Oversight Committee; training; funding; community integration programs; earned time and earned discharge; juvenile offender information; criteria for detention; taking a juvenile into custody; extended detention; prosecution as an adult and extended juvenile jurisdiction prosecution; sentencing alternatives; the placement matrix; commitment to a JCF; referral of school-based behaviors to law enforcement or the juvenile justice system; juvenile intake and assessment; and juvenile corrections advisory boards. The provisions of 2016 SB 367 are to be implemented by various deadlines between July 1, 2016, and July 1, 2019.

HB 2264 was introduced by the House Committee on Corrections and Juvenile Justice at the request of Representative Jennings. As introduced, the bill contained provisions amending the statute governing sentencing alternatives for juvenile offenders and the placement matrix statute to allow commitment to a JCF when a firearm is used in the commission of a felony and the provision consolidating the serious offender III and serious offender IV categories into a single serious offender III category.

In the House Committee hearing, Chairperson Jennings announced the bill would serve as the "trailer bill" for 2016 SB 367. The Chairperson distributed proposed amendments to the House Committee and conferees and requested Committee members and conferees present any additional proposed amendments regarding provisions of 2016 SB 367 for consideration for inclusion in HB 2264.

The Chairperson stated conferees would not be designated as "proponent," "opponent," or "neutral" unless they specifically requested such designation. [Note:

conferees who identified as proponent, opponent, or neutral in their written testimony are so identified in this supplemental note. Many conferees provided support, opposition, or suggestions related to one or more specific provisions of 2016 SB 367, HB 2264, or the proposed amendments to HB 2264, and they may or may not have indicated support of or opposition to the bills in their entirety.]

Conferees testifying before the House Committee were representatives of Kansas Appleseed Center for Law and Justice (with proposed amendments), Douglas County Legal Aid Society, National Alliance on Mental Illness of Kansas (with proposed amendments), OJA (neutral with proposed amendments), Kansas Association of Court Services Officers (proponent with proposed amendments), and Kansas County and District Attorneys Association (with proposed amendments), as well as a former warden of Lansing Correctional Facility (with proposed amendments) and a district judge from Johnson County. Written-only testimony was submitted by the Secretary of Corrections (neutral), American Civil Liberties Union of Kansas, Disability Rights Center of Kansas, Johnson County Court Services (with proposed amendments), Kansans United for Youth Justice (with a proposed amendment), Kansas Association of Community Action Programs, Kansas Association of School Boards, Kansas Bureau of Investigation, Kansas Center for Economic Growth, Kansas District Magistrate Judges Association (proponent), and Kansas District Judges Association (opponent).

The House Committee adopted an amendment clarifying the application of the new special sentencing rule regarding use of a firearm in committing a felony offense. The House Committee also adopted amendments regarding absconding from supervision, an immediate intervention program database, when case length limits begin to run, limits on commitment of juveniles who commit certain sex offenses, immediate intervention programs, composition of the Oversight Committee, required findings when a juvenile is removed from the home for the first time, and funding. [Note:

The Conference Committee report would retain these amendments.] The House Committee then recommended the amended language of HB 2264 be incorporated into a substitute bill for SB 42.

According to the fiscal note prepared by the Division of the Budget on HB 2264, as introduced, the Kansas Sentencing Commission indicates enactment of the bill would have an effect on JCF admissions and bed space, but the effect cannot be estimated. KDOC indicates enactment of the bill would reduce available juvenile reinvestment funds through an increased use of confinement in a JCF or youth residential facility, but a precise effect cannot be estimated. Any fiscal effect associated with HB 2264 is not reflected in *The FY 2018 Governor's Budget Report*.

No fiscal note was available for bill as amended adopted by the House Committee, at the time of the House Committee action.

Revised Kansas Juvenile Justice Code; required findings; absconding; immediate intervention program; database; sentencing; placement; offense committed with firearm; time limits; earned discharge; immunity; Juvenile Justice Oversight Committee; Evidence-Based Program Account of the State General Fund

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2016 SB Section	Topic	New Law or Amendment?	Statute (2018 Supp. or Statute Book)	Change	Effective Date	Prior Law (Statewide Only; Localities May Have Had Existing Similar Programs)	2017 House Sub. for SB 42 Section	SB 42 Change	2018 Legislation	Legend
1	Case length and probation limits	new	KSA 38-2391	Adds case length and probation limits	7/1/2017	No limits	10	Probation term limits and overall case length limits shall be tolled during any time that a juvenile has absconded from supervision while on probation; establishes that the provisions of the Juvenile Code statute governing overall case, probation, and detention length limits apply upon disposition or 15 days after adjudication, whichever is sooner.	HB 2454 (Sec. 3): Tolling while a juvenile has absconded continues until the offender is located and brought back to the jurisdiction. If a juvenile fails to appear for the dispositional hearing, the limits will not apply until the juvenile is brought before the court for disposition.	Blue = Juvenile Code Tan = CINC Code Green = Funding Provisions
2	Graduated responses development and probation case plan required	new	KSA 38-2392	Requires development of graduated responses and require probation case plan	7/1/2016	No graduated responses; no probation case plan required	11	Absconding from supervision shall not be considered a technical violation of probation and to allow a court to issue a warrant after reasonable efforts to locate a juvenile who has absconded are unsuccessful		
3	Multidisciplinary teams for immediate intervention	new	KSA 38-2393	Requires multidisciplinary team where juvenile fails to substantially comply with development of early intervention plan	1/1/2017	No multidisciplinary team; no immediate intervention required.				
4	Juvenile Justice Oversight Committee	new	KSA 75-52,161	Establishes JJ Oversight Committee	7/1/2016	Oversight of JJ system by Joint Committee on Corrections and Juvenile Justice Oversight	13	Adds 2 members to the Oversight Committee, bringing total membership to 21; provides two additional duties for the Oversight Committee: 1) study and create a plan to address the disparate treatment of and availability of resources for juveniles with mental health needs in the juvenile justice system; and 2) review portions of juvenile justice reform that require KDOC and OJA to cooperate and make recommendations when there is no consensus between the two agencies	HB 2454 (Sec. 4): Amends one of the duties of the Oversight Committee to "monitor," rather than "calculate," state expenditures that have been avoided by reduction in out-of-home placements. Corresponding annual report requirement is changed to reflect change in duty.	
5	Training	new	KSA 38-2394	Requires training on evidence-based programs for all working with adjudicated JO or immediate intervention	7/1/2016	No statutory training requirement on evidence-based programs				
6	Immediate intervention standards and procedures	new	KSA 38-2395	Requires DOC and OJA to develop standards and procedures for immediate intervention	1/1/2017	No immediate intervention required.				
7	Reintegration plan required	new	KSA 38-2396	Requires written reintegration plan for OOH dispositional placement	7/1/2017					
8	Earned time	new	KSA 38-2397	Requires DOC promulgate rules and regs for earned time by 1/1/2017	7/1/2016	No earned time for juveniles				
9	Probation earned discharge	new	KSA 38-2398	Requires SC & DOC promulgate rules and regs for earned discharge from probation	7/1/2016	No earned discharge	12	State of Kansas, the Secretary of Corrections, the Secretary's agents or employees, the OJA, and court services officers shall not be liable for damages caused by any negligence, wrongful act, or omission in making the earned discharge credit calculations.		
10	Juvenile court training	new	KSA 20-318a	Requires OJA implement and report on training for judges and attorneys in juvenile court	7/1/2016	No statutory training requirement				
11	Immediate intervention program development funding	new	KSA 75-52,163	Requires DOC plan and fund incentives for immediate intervention program development	1/1/2017	No immediate intervention required.				
12	Community integration programs	new	KSA 38-23,100	Requires DOC develop community integration programs for independent living transition	7/1/2016	No such requirement.				
13	Juvenile Justice Improvement Fund	new	KSA 75-52,164	Fund created; DOC certifies cost savings to transfer to fund	7/1/2016	No such fund.	15	Replaces references to the Fund with references to the "Evidence-Based Program Account of the State General Fund;" adjusts timing.	House Sub. for SB 179 (Sec. 7): Allows expenditures from account for development and implementation of evidence-based community programs and practices for juveniles experiencing mental health crises, including juvenile crisis intervention centers.	
14	Skill development training for school response to misconduct	new	KSA 75-763	Requires AG, KLET, KSBE promulgate rules and regs by 1/1/2017 for skill development training to respond to school misconduct and minimize exposure to JJS	7/1/2016	No such training requirement.				

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2016 SB Section	Topic	New Law or Amendment?	Statute (2018 Supp. or Statute Book)	Change	Effective Date	Prior Law (Statewide Only; Localities May Have Had Existing Similar Programs)	2017 House Sub. for SB 42 Section	SB 42 Change	2018 Legislation	Legend
15	Confidential data exchange	new	KSA 75-52,162	Requires DOC and JJ Oversight Committee to explore confidential data exchange between all parts of JJ system	7/1/2016	No Oversight Committee.	14	Requires KDOC establish and maintain statewide searchable database containing information regarding juveniles who participate in an IIP. County and district attorneys, judges, community supervision officers, and juvenile intake and assessment workers shall have access to the database and are required to submit necessary data to the database. KDOC is required to, in consultation with OJA, adopt rules and regulations to implement the database		
16	Required JCAB considerations	new	KSA 75-7044a	Requires JCABs to annually consider availability of certain programs, treatment, and risk assessment tool development; annual report.	7/1/2016	No such report requirement.				
17	YRF bed limitation	new	KSA 38-2399	Allows Secretary to contract no more than 50 non-foster-home YRF beds for JO placement.	1/1/2018	No limit on YRF beds.				
18	Alternatives to Detention Fund	amendment	KSA 8-241	Drivers license exam fee; Renames Juvenile Detention Facilities Fund the Juvenile Alternatives to Detention Fund	7/1/2016	Fund name change.				
19	(same)	amendment	KSA 8-2110	Traffic citation reinstatement fee; Renames Juvenile Detention Facilities Fund the Juvenile Alternatives to Detention Fund	7/1/2016	Fund name change.				
20	(same)	amendment	KSA 12-4112	Municipal court costs; Renames Juvenile Detention Facilities Fund the Juvenile Alternatives to Detention Fund	7/1/2016	Fund name change.				
21	(same)	amendment	KSA 12-4117	Municipal court assessments; Renames Juvenile Detention Facilities Fund the Juvenile Alternatives to Detention Fund	7/1/2016	Fund name change.				
22	Supervision fee for juvenile offender	amendment	KSA 20-167	Removes requirement that supervision fee be paid for JO to be eligible for early release from supervision.	7/1/2016	JO required to pay supervision fee to be eligible for early release from supervision.				
23	CINC Code: definitions	amendment	KSA 38-2202	Removes "juvenile detention facility" (JDF) from definition of "secure facility."	7/1/2019	"juvenile detention facility" fell within definition of "secure facility."				
24	CINC Code: child under 18 taken into custody	amendment	KSA 38-2232	JDF removed as placement option for child taken into custody by LEO.	7/1/2019	LEO could place child in JDF for child's safety.			House Sub. for SB 179 (Sec. 3): Allows LEO to place child in protective custody and a juvenile crisis intervention center after written authorization by a community mental health center.	
25	CINC Code: ex parte orders of protective custody	amendment	KSA 38-2242	JDF removed as placement option for child under ex parte order of protective custody.	7/1/2019	Child could be placed in JDF under ex parte order of protective custody for child's safety.			House Sub. for SB 179 (Sec. 4): Juvenile crisis intervention center added as placement option, after written authorization by a community mental health center.	
26	CINC Code: orders of temporary custody	amendment	KSA 38-2243	JDF removed as placement option for child in temporary custody of Secretary.	7/1/2019	Child could be placed in JDF while in temporary custody of Secretary, under certain conditions, for child's safety.			House Sub. for SB 179 (Sec. 5): Juvenile crisis intervention center added as placement option, if court determines probable cause that child is experiencing a mental health crisis and is in need of treatment, and after written authorization by a community mental health center.	
27	CINC code: placement; violation of order of placement	amendment	KSA 38-2260	JDF removed as placement option for child violating order of placement.	7/1/2019	Child violating order of placement could be placed in JDF, for child's safety.				
28	CINC code: prohibition on placement in JDF	amendment	KSA 38-2288	Removes exception from prohibition on placement in JDF for safety of child under certain circumstances. Placement of CINC in JDF limited to child also alleged to be JO and placement authorized under JO Code.	7/1/2019	Child could be placed in JDF to protect safety of child, under certain circumstances (above statutes).				
29	JO Code: definitions	amendment	KSA 38-2302	Adds definitions for "community supervision officer," "detention risk assessment tool," "evidence-based," "graduated responses," "immediate intervention," "overall case length limit," "probation," "reintegration plan," "secretary," and "technical violation." Amends definition of "juvenile intake and assessment worker" [adds training]. Changes "risk assessment tool" to "risk and needs assessment" and amends definition [adds standardized, requires statistical relation to risk of reoffending]. Removes definition of "sanctions house." Makes technical changes and updates.	7/1/2016	See "Changes" column.				
30	Jurisdiction	amendment	KSA 38-2304	Makes jurisdiction subject to the overall case length limit in Sec. 3; changes end of jurisdiction if offender is convicted of a new felony while in JCF to conviction of crime as adult; removes limitation on continued placement of juvenile as CINC, requires DCF address parental abuse and neglect, and requires various stakeholders address risks and needs of such juvenile; if CINC placed in custody of KDOC, DCF required to collaborate with KDOC to provide CINC services.	7/1/2017	No overall case length limits; jurisdiction ended if juvenile convicted of new felony while in JCF; juvenile CINC could continue as CINC unless felony or 2nd+ misdemeanor or court found compelling circumstances; DCF not responsible for any CINC services if juvenile placed with KDOC.	2	Removes provision requiring the Secretary for Children and Families to address issues of abuse and neglect by parents and to prepare parents for the child's return home in cases in which a sentencing court orders the continued placement of the juvenile as a child in need of care.		

2016 SB Section	Topic	New Law or Amendment?	Statute (2018 Supp. or Statute Book)	Change	Effective Date	Prior Law (Statewide Only; Localities May Have Had Existing Similar Programs)	2017 House Sub. for SB 42 Section	SB 42 Change	2018 Legislation	Legend
31	[Technical] Fingerprints and photos	amendment	KSA 38-2313	[Technical] Update statutory references.	7/1/2016	Out-of-date statutory references.				
32	Juvenile offender system information	amendment	KSA 38-2325	Requires specific types of data under definition of "juvenile offender information"; remove placement in YRF from definition of "reportable event."	7/1/2016	"Juvenile offender information" not defined with specificity; YRF placement fell under definition of "reportable event."				
33	Juvenile taken into custody	amendment	KSA 38-2330	Authority of CSO, JCCO, or other supervisor to take juvenile into custody when probable cause of probation or placement violation or to arrest removed; must request warrant from court with statement that juvenile has violated condition of conditional release from detention or probation for third or subsequent time and poses significant risk of physical harm to another or damage to property; juvenile taken into custody to be delivered to parent or other custodian unless not in BIOC or risk to public safety or property; if juvenile cannot be delivered to parent, officer may issue notice to appear pursuant to new subsection or contact or deliver juvenile to intake and assessment worker; CA, DA, or LE agency, or intake and assessment worker required to release juvenile unless court order to contrary; 18 or older may only be detained in jail if all suitable alternatives have been exhausted.	1/1/2017	CSO, JCCO, or other supervisor could take into custody if probable cause juvenile violated term of probation or placement; could arrest w/o warrant or could request arrest w/o warrant by officer by giving officer written statement that juvenile violated condition of release; statement sufficient for detention of juvenile; juvenile to be brought to intake or assessment or court, or, if court closed, to CSO, intake and assessment, JDF or YRF designated by court or KDOC. JDF only if meet criteria and no available nonsecure facility is more appropriate; CA, DA, or LE agency, or juvenile intake and assessment discretion to release juvenile; 18 or older may be detained in jail if necessary; no provisions for written notice to appear.	3	Adds absconding from supervision as an event allowing a supervising officer to request a warrant.	House Sub. for SB 179 (Sec. 6): If juvenile cannot be delivered to parent or custodian, officer may deliver juvenile to juvenile crisis intervention center, if juvenile is determined to not be detention eligible based on standardized detention risk assessment tool and is experiencing a mental health crisis, after written authorization by community mental health center.	
34	Criteria for detention	amendment	KSA 38-2331	Previous standard for removal by court of juvenile from custody of parent removed and replaced with provision prohibiting removal unless detention risk assessment has assessed as detention-eligible, or there are grounds to override assessment and court finds probable cause that community-based alternatives to detention are insufficient to secure juvenile's presence at next hearing or protect physical safety of another person or property from serious threat; court must state basis for each finding in writing. JDC placement prohibited if solely due to six specified reasons. (Note: 38-2334 and 38-2335, regarding removal of child from custody of parent and referenced by previous version of this statute, were repealed by the bill.)	1/1/2017	Under 38-2334 (repealed by the bill), a court could remove child from custody of parent if PC that juvenile was likely to sustain harm, remaining in home was contrary to juvenile's welfare, or immediate placement of juvenile was in best interest, and reasonable efforts had been made to prevent removal, or an emergency exists. If child was in placement for six months or more and was again removed from home, another such determination was required. 38-2335 contained a similar standard and addressed when a juvenile was in the custody of the Commissioner or DCF. If child had not previously been removed under these provisions, 38-2331 allowed court to remove if PC under the same standard and stated basis in writing. Juvenile could be placed in JDF if a fugitive, escapes, or absconds; if PC of felony; if adjudicated for nonstatus and awaiting final court action; if PC juvenile would flee or had record of failure to appear; history of violent behavior; destructive behavior; felony record; expelled from placement; taken into custody under 38-2330; or violated probation or conditions of release.				
35	Prohibition on jail; exceptions	amendment	KSA 38-2332	Makes placement in jail subject to Sec. 33 and Sec. 34; removes YRF as option for detention (in conjunction with amendments elsewhere).	1/1/2017	Juvenile could be detained in YRF under certain circumstances.				
36	Issuance of warrants	amendment	KSA 38-2342	Removes violation of conditions of placement as cause for issuance of warrant; requires violation of probation, conditional release, or conditions of release from detention be a third or subsequent violation and juvenile must pose significant risk of physical harm to another or damage to property; designation of where juvenile is to be taken must be pursuant to Sec. 33.	7/1/2017	Warrant could be issued under this section for violations of conditions of placement; warrant could be issued for any violation (including first or second); no risk factor required to issue warrant; no restriction in this statute as to where juvenile could be taken.	4	Amended to allow a court to issue a warrant commanding the juvenile be taken into custody if there is probable cause to believe the juvenile has absconded from supervision.		
37	Extended detention; temporary custody	amendment	KSA 38-2343	Extended detention limited to where warranted based on criteria in Sec. 34 only; removes basis in this statute for detention due to juvenile being dangerous to self or others or is not likely to appear; temporary custody removed; detention review hearing required at least every 14 days while juvenile in detention, unless charged with off-grid or nondrug 1-4 person felony.	7/1/2017	Extended detention where warranted "in light of all relevant factors" and juvenile dangerous to self or others or not likely to appear; juvenile could be detained in JDF or YRF if dangerous to self or others or not likely to appear, or appearance bond could be set; court could place in temporary custody if detention not necessary but release to parent not in best interests; no review hearing requirement.			HB 2454 (Sec. 1): Two-way electronic A/V communication expanded to be available for all hearings, including detention review. Review hearings not required for juvenile held in detention awaiting case disposition.	
38	First appearance; right to immediate intervention	amendment	KSA 38-2344	Requires court at first appearance to inform juvenile of right to be offered an immediate intervention.	1/1/2017	No immediate intervention required.				

Note: This is a working document. Information may be incomplete or subject to further revision.

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2016 SB Section	Topic	New Law or Amendment?	Statute (2018 Supp. or Statute Book)	Change	Effective Date	Prior Law (Statewide Only; Localities May Have Had Existing Similar Programs)	2017 House Sub. for SB 42 Section	SB 42 Change	2018 Legislation	Legend
39	Immediate intervention	amendment	KSA 38-2346	Requires director of juvenile intake and assessment, w/CA or DA, adopt immediate intervention policy and guidelines; provide right to immediate intervention under certain circumstances; 6-month time limit; multidisciplinary team if noncompliance; CA or DA to review for alternative means of adjudication; no denial for inability to pay fees.	1/1/2017	CA or DA could adopt immediate intervention; CA or DA could directly refer to youth courts, restorative justice centers, hearing officers, or other local programs; JO ineligible for immediate intervention if charged for various crimes; could include stipulation of facts and trial on record of such stipulation; judicial districts could adopt immediate intervention.	5	Amended to exclude any juvenile charged with a sex offense from a provision requiring the opportunity for participation in an immediate intervention program be offered to juveniles charged with a misdemeanor; specifies that participation in an immediate intervention program does not have to be offered to a juvenile who has participated in such a program for a previous misdemeanor or to a juvenile who was originally charged with a felony but had the charge amended to a misdemeanor as a result of a plea agreement; clarifies that nothing in this statute requires a juvenile to participate in an immediate intervention program when the county or district attorney has declined to continue with prosecution of an alleged offense.		
40	Prosecution as adult; extended juvenile jurisdiction	amendment	KSA 38-2347	Presumed to be juvenile unless rebutted by preponderance of evidence; no adult prosecution if less than 14; EJJ limited to certain offenses; burden of proof for EJJ always on prosecutor.	7/1/2016	Presumed to be juvenile unless good cause shown, except presumed to be adult in certain cases; EJJ available in any case, but burden on prosecutor to prove eligibility in certain cases; further preliminary exam unnecessary in certain cases; if convicted, authorization for prosecution as adult continued in future cases.				
41	Post-adjudication orders and hearings	amendment	KSA 38-2360	Court may compel mental health or substance abuse assessment by KOADS and use result to inform treatment and payment plan; summary of results from risk and needs assessment must be provided to court post-adjudication, predisposition, and used to inform supervision levels. CJA and KDOC must adopt uniform assessment to be used in all judicial districts; must establish risk level cutoff scores; must provide training to administrators of assessment; must collect data to validate by June 30, 2020.	7/1/2016	No statewide uniform assessment tool or cutoff scores required; court provided summary of results from standardized risk assessment tool but not required to use to inform supervision levels; no training required.			HB 2454 (Sec. 2): If a juvenile is being held in detention, a dispositional hearing for sentencing must take place within 45 days after adjudication.	
42	Sentencing alternatives	amendment	KSA 38-2361	Requires sentences imposed be for a fixed period; requires juveniles placed on probation be supervised according to risk and needs as determined by assessment; limits placement of juveniles to community corrections for probation supervision to moderate, high, or very-high risk; prohibits community based programs being ordered with juvenile detention; specifies placement with a parent or other suitable person shall not be a group home or similar licensed facility, and such placement shall not be ordered with juvenile detention; sunsets the alternative allowing placement in the custody of the Secretary of Corrections under 38-2365 on January 1, 2018; allows commitment to juvenile detention for non-technical violation of condition of sentence for up to 30 days; if juvenile = significant risk of harm to another or damage to property, and otherwise eligible under 38-2369, may be committed to Secretary's custody for placement in JCF or YRF, conditional release may be ordered at court's discretion up to 6 months, subject to graduated responses; risk assessment required for all sentencing and must inform orders; sanctions house changed to detention; detention allowed only for violation of sentencing conditions where all other alternatives have been exhausted and juvenile = significant risk of harm or damage to property, charged with new felony offense, or violates conditional release; certain reasons for detention prohibited; cumulative detention limited to 45 days; court may order short-term alternative placement of a juvenile under parental placement alternative with emergency shelter, therapeutic foster home, or community integration program under certain conditions; overall case length limit shall be calculated by court and entered into record when sentencing imposed.	7/1/2017	Was subject to placement with the Secretary under 38-2365; not all alternatives required fixed period; probation for any offender could be through court services or community corrections; no risk and needs assessment required for probation supervision; community based program alternative could not be ordered with JCF placement and could be ordered with sanctions house; custody of parent or other suitable person could include group home, such placement could be ordered with sanctions house alternative but not with Secretary custody under 38-2365 or JCF; no expiration on placement with Secretary under 38-2365; detention alternative was sanctions house alternative and had not limitations other than 28 day limit; no findings or limitations on JCF placement, aftercare required, permanency hearing required after release; risk assessment required only for certain placements; juvenile could be placed in sanctions house for verifiable probation violation for up to 48 hours prior to court review; no short-term alternative placement; no overall case length limit.	6	Amended to provide that, upon a finding by the trier of fact during adjudication that a firearm was used in the commission of a felony offense by the juvenile, the judge may commit the juvenile directly to the custody of the Secretary of Corrections for placement in a juvenile correctional facility (JCF) or a youth residential facility for a term of 6 to 18 months, regardless of the risk level of the juvenile. Additionally, the court may impose a period of conditional release of up to six months, subject to graduated responses. The Secretary of Corrections or designee is required to notify the court of the juvenile's anticipated release date 21 days prior to such date; removes a three-month limit on short-term alternative placement allowed when a juvenile is adjudicated of certain sex offenses and certain other conditions are met.		
43	EJ: revocation	amendment	KSA 38-2364	In EJJ case, court may not revoke stay and juvenile sentence and direct juvenile to custody of KDOC without notice; hearing required in all cases.	7/1/2016	Court could revoke without notice; hearing only required if juvenile challenged the reasons.				

2016 SB Section	Topic	New Law or Amendment?	Statute (2018 Supp. or Statute Book)	Change	Effective Date	Prior Law (Statewide Only; Localities May Have Had Existing Similar Programs)	2017 House Sub. for SB 42 Section	SB 42 Change	2018 Legislation	Legend
44	Modification of sentence	amendment	KSA 38-2367	Allows court to refer to CA or DA and DCF for CINC proceedings; allows court to authorize participation in a community integration program.	7/1/2016	CINC referral or community integration program authorization not explicitly permitted in this statute; bill also removed language in statute restricting the rescinding of an order granting custody to a parent, likely due to emphasis on parental custody added in other places in the bill.				
45	Violation of condition of probation or placement	amendment	KSA 38-2368	Adjusts procedure upon violation of condition of probation or placement to require filing with assigned supervision officer for review, before court review. Warrant could not be issued unless PC to believe juvenile poses significant risk of physical harm to another or damage to property. Incorporates overall case length limit and limits on court review for technical violations.	7/1/2017	Various stakeholders could file report directly with the court, no limitation on issuance of warrant of court review. Bill also removed language in statute restricting the removal of juvenile from custody of parent, likely due to emphasis on parental custody added in other places in the bill.	7	Adds absconding from supervision to the findings enabling a court to extend or modify the terms of probation or placement or enter another sentence		
46	Sentencing; placement matrix	amendment	KSA 38-2369	[See sheet 2 for matrix comparisons.] Placement in JCF requires finding that juvenile is significant risk of harm to another or damage to property; cases in which JCF is an option limited to those specified; no departure; subject to overall case length limit; conditional release may be ordered, maximum 6 months, subject to graduated responses, presumption to return to juvenile's home unless case plan recommends different reentry; JCF not placement option for violation of conditional release; "placement failure" definition removed; Secretary directed to work for development of evidence-based community practices and programs to reduce use of JCF; rebuttable presumption that all chronic offenders and offenders 10<14 years of age in serious offender II, III, or IV shall be placed in custody of Secretary in YRF. Instead of JCF, rebutted by finding of significant risk of physical harm to another.	7/1/2017	No risk of harm finding required for JCF placement; departure proceedings allowed; no overall case length limit; mandatory aftercare for all categories instead of optional conditional release; juvenile could be committed to JCF for 3-6 months for violation of terms of conditional release; "placement failure" defined; community placement exhaustion required before chronic offender II, escalating misdemeanor could be placed in JCF; Secretary's work with community to develop community resources not required to be evidence-based; juvenile committed to JCF adjudicated for offense committed in JCF could be given consecutive JCF term; no rebuttable presumption re YRF placement.	8	Consolidates the categories of serious offender III and serious offender IV, which carry the same risk-level requirements and JCF commitment terms, into a single serious offender III category.		
47	Departure sentences	amendment	KSA 38-2371	Limits departures to juveniles sentenced to a JCF as a violent offender; departure sentences may only be imposed pursuant to Sec. 1 and Sec. 46 (which do not appear to allow departure sentences); existing limits on departure sentences removed.	7/1/2017	Full departure procedure contained in this statute; not subject to any other statutes; judge allowed to depart from matrix not more than double the presumptive term; no authority to reduce the minimum term; maximum term is to age 22 years, 6 months.				
48	Computation of sentence; earned time	amendment	KSA 38-2372	Amended to reflect overall case length limit and to incorporate earned time calculations in release date.	7/1/2016	No overall case length limit or earned time.				
49	Commitment to JCF; case planning	amendment	KSA 38-2373	Requires case plan be developed for all juveniles committed to a JCF.	1/1/2017	No statutory case plan requirement for juveniles committed to a JCF.				
50	JCF; conditional release	amendment	KSA 38-2374	Allows juvenile to be released from a juvenile correctional facility to complete conditional release, if previously ordered.	7/1/2017	Statute did not reflect release for purposes of conditional release. Outdated language regarding notification of release also was removed.				
51	JCF; conditional release; failure to obey	amendment	KSA 38-2375	Limits report to court of failure to obey conditions of release to third or subsequent time; removes court's option to order juvenile be returned to JCF to serve incarceration and aftercare term.	7/1/2017	Failure to obey could be reported to court upon first failure; court could order juvenile's return to JCF to serve revocation incarceration and aftercare term.	9	Adds absconding from supervision as an event allowing the supervising officer to file a report with the court describing the alleged violation and the juvenile's history of violations.		
52	JCF; discharge from commitment	amendment	KSA 38-2376	Requires discharge once overall case length limit is maximized.	7/1/2017	No overall case length limit.				
53	Notification of release and conditional release	amendment	KSA 38-2377	CA, DA, or court may move for hearing to determine if conditional release should be imposed, if not previously ordered. Conditional release may be imposed for up to six months, subject to overall case length limit.	7/1/2017	CA, DA, or court could move to retain juvenile in custody of commissioner for up to maximum term of imprisonment that could have been imposed on adult.				
54	Alternative means of adjudication	amendment	KSA 38-2389	Juvenile with fewer than two prior adjudications may be designated for alternative adjudication; such juvenile may be referred to an immediate intervention program; temporary custody provision eliminated.	7/1/2017	Only juvenile misdemeanor could be designated for alternative adjudication; diversion contemplated by statute but immediate intervention referral not explicitly addressed by statute; court could remove juvenile in alternative adjudication proceeding from home and place in temporary custody of Secretary or other.				
55	[Technical cleanup] Exceptions to privilege	amendment	KSA 65-5603	[Technical cleanup] Correct statutory reference to definitions.	7/1/2016	Incorrect statutory references.				
56	Duties of boards of education; reports	amendment	KSA 72-1113	Report that a child is not attending school may not violate terms of memorandum of understanding under KSA 72-89b03(i) (Sec. 58).	7/1/2017	Memorandum of understanding did not exist.				
57	School security officers	amendment	KSA 72-8222	Officer has general LEO powers, but may not violate memorandum of understanding under KSA 72-89b03(i) (Sec. 58).	7/1/2017	Memorandum of understanding did not exist.				

Note: This is a working document. Information may be incomplete or subject to further revision.

2016 SB Section	Topic	New Law or Amendment?	Statute (2016 Supp. or Statute Book)	Change	Effective Date	Prior Law (Statewide Only; Localities May Have Had Existing Similar Programs)	2017 House Sub. for SB 42 Section	SB 42 Change	2018 Legislation	Legend
58	School Safety & Security Act; info regarding pupils; memorandum of understanding	amendment	KSA 72-6143	Superintendent required to approve and submit to SBOE memorandum of understanding developed with stakeholders that establishes clear guidelines for referral of school-based behaviors to law enforcement or the JJ system, with goal of reducing referrals while protecting public safety. SBOE must provide annual report to KDCC and OJA. Immediate reports to law enforcement of school-based act may not violate memorandum of understanding. Each board of education must include specified info in existing annual reports.	7/1/2017	Memorandum of understanding did not exist; less specific requirements for board of education annual reports.				
59	School safety violations	amendment	KSA 72-6136	Report that pupil has engaged in certain school-based activity may not violate the terms of memorandum of understanding under KSA 89b03(i) (Sec. 58).	7/1/2017	Memorandum of understanding did not exist.				
60	[Technical] KPERs; normal retirement date	amendment	KSA 74-4914	[Technical] Updates statutory reference.	7/1/2016	Old statutory reference.				
61	Allotments; Juvenile Justice Improvement Fund	amendment	KSA 75-3722	Exempts from allotment system the payments made to the Fund.	7/1/2016	Fund did not exist.				
62	Allotments; Juvenile Justice Improvement Fund	amendment	KSA 75-6704	Exempts from allotment system the payments made to the Fund.	7/1/2016	Fund did not exist.	16	Updates references from Fund to new account name.		
63	Juvenile intake and assessment system	amendment	KSA 75-7023	Juvenile intake and assessment worker (JIAW) required to make release and referral determinations when juvenile comes into custody; information may be collected in person or through 2-way audio or A/V communication; standardized detention risk assessment tool required if detention being considered for juvenile; results of other assessment instruments approved by Secretary required; some JIAW discretion re release of child to custody of parent removed; treatment condition changed from inpatient to outpatient; delivery to shelter facility or care center limited to 72 hours; JIAW required to refer case to immediate intervention, CA/DA, or to DCF; Secretary of Corrections, in conjunction with OJA, required to implement and validate statewide detention risk assessment tool, with various requirements, including establishing cutoff scores for IDF placement or community-based alternatives, must include override function, discretion retained to release juvenile even if meets criteria for detention; training required for every JIAW in certain specified areas.	1/1/2017	JIAW not required by statute to make release and referral determinations; standardized risk assessment tool required rather than standardized detention risk assessment tool; JIAW could only release to custody of parent if SIOC and not harmful to child; no limit on time in shelter facility; immediate intervention not one of JIAW's referral options; no requirement for Secretary and OJA to develop, implement, and validate statewide detention risk assessment tool; no training requirement.				
64	Grants for juvenile community correctional services	amendment	KSA 75-7038	Adds "community-based alternatives to detention" to list of purposes for which Secretary may make grants to counties.	7/1/2016	Purposes for grants did not include "community-based alternatives to detention."				
65	Juvenile Corrections Advisory Board (JCAB): composition	amendment	KSA 75-7044	Adds juvenile defense representative to JCAB.	7/1/2016	JCAB did not include juvenile defense representative.				
66	JCAB: duties	amendment	KSA 75-7046	Requires JCAB to adhere to the goals of the JO Code and coordinate with the Oversight Committee	7/1/2016	No statutory requirement for JCAB to adhere to goals of JO Code; no Oversight Committee.				
67	Juvenile Alternatives to Detention Fund	amendment	KSA 79-4803	Changes name from "Juvenile Detention Facilities Fund" to "Juvenile Alternatives to Detention Fund"; change purpose; amend definitions.	7/1/2016	Different name and purposes for fund.				
68	July 1, 2016 (effective date) Repealer	repealer								
69	January 1, 2017 Repealer	repealer								
70	July 1, 2017 Repealer	repealer								
71	July 1, 2019 Repealer	repealer								
72	Effective Date (statute)	effective date	KSA 38-23,101				1	New law requiring, when a juvenile is removed from the home for the first time pursuant to the Juvenile Code, the judge to consider and make, if appropriate, the following findings: the juvenile is likely to sustain harm if not immediately removed from the home, allowing the juvenile to remain in the home is contrary to the welfare of the juvenile, or immediate placement of the juvenile is in the juvenile's best interest. The bill also requires the judge to find reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the juvenile from the juvenile's home or an emergency exists that threatens the safety of the juvenile.		

	Violent Offenders		Serious Offenders				Chronic Offenders		
	I	II	I	II	III	IV	I	II	III
<b>Pre-367 Matrix</b>									
Offense and history	Off-grid	Nondrug 1-3	Nondrug 4-6 person; drug 1-3	Nondrug 7 person + 1 prior felony	Nondrug 8-10 person + 1 prior felony		1 nonperson + 2 prior felonies; drug 4 + 2 prior felonies	1 felony + 2 prior misd/r/1 prior felony; 1 felony + 2 prior drug 4-5; 1 drug 4 + 2 prior misd/r/1 prior felony; 1 drug 4 + 2 prior drug 4-5	1 misd/r + 2 prior misd/r/1 prior felony & 2 PFs; 1 drug 4 + 2 prior misd/r/1 prior felony & 2 PFs; 1 drug 5 + 2 prior misd/r/1 prior felony + 2 PFs; 1 drug 5 + 2 prior drug 4-5 & 2 PFs
*Condition on JCF?	No	No	No	No	Departure required		Departure required	Departure required	Departure required
Term	60 months - 22.5 y/o	24 months - 22.5 y/o	18-36 months	9-18 months	9-18 months		6-18 months	6-18 months	3-6 months
Aftercare	6 months - 23 y/o	6 months - 23 years	6-24 months	6-24 months	6-24 months		6-12 months	6-12 months	3-6 months
<b>2016 SB 367 Matrix</b>									
Offense and history	Off-grid	Nondrug 1-3	Nondrug 4 person	Nondrug 5-6; drug 1-3	Nondrug 7 person + 1 prior felony	Nondrug 8-10 person + 1 prior felony	1 nonperson + 2 prior felonies; drug 4 + 2 prior felonies		
*Condition on JCF?	No	No	No	No	High-risk only	High-risk only	High-risk only		
Term	60 months - 22.5 y/o	24 months - 22.5 y/o	18 - 36 months	9 - 18 months	6-12 months	6-12 months	6-12 months		
Aftercare	6 months - 23 y/o	6 months - 23 y/o	6-24 months	None required	None required	None required	None required		
<b>2017 House Sub. for SB 42 Matrix</b>									
Offense and history	Off-grid	Nondrug 1-3	Nondrug 4 person	Nondrug 5-6; drug 1-3	Nondrug 7-10 person + 1 prior felony		1 nonperson + 2 prior felonies; drug 4 + 2 prior felonies		
*Condition on JCF?	No	No	No	No	High-risk only		High-risk only		
Term	60 months - 22.5 y/o	24 months - 22.5 y/o	18 - 36 months	9 - 18 months	6-12 months		6-12 months		
Aftercare	6 months - 23 y/o	6 months - 23 y/o	6-24 months	None required	None required		None required		

2017 House Sub. for SB 42 firearm sentencing [KSA 2019 Supp. 38-2361]: upon finding that firearm was used in commission of felony offense, may commit to JCF or YRF for 6-18 months, regardless of risk. May also order conditional release of up to 6 months.

\* Does not include limits on JCF placement contained outside matrix category, including rebuttable presumption in 367 that chronic offenders and serious offender II, III, and IV that are 10<14 y/o shall be placed in YRF instead.

### System-Focused Requirements of Particular Entities in 2016 SB 367 and 2017 House Sub. for SB 42

Entity	Requirement	Deadline	SB 367 Section & KSA
Attorney General (in collaboration with KS Law Enforcement Training Center and State Board of Education)	Promulgate rules and regulations creating skill development training for responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system.	January 1, 2017	Section 14 [KSA 75-763]
Department of Corrections	Establish and maintain a statewide searchable database that contain information regarding juveniles who participate in an immediate intervention program. In consultation with Office of Judicial Administration, adopt rules and regulations to carry out the provisions of this subsection.		2017 House Sub. for SB 42, Section 14 [KSA 75-52,162]
Department of Corrections	Report recorded data regarding extending probation to JJOC.	Quarterly	Section 1 [KSA 38-2391]
Department of Corrections	Create a plan and provide funding to incentivize development of immediate intervention programs.	Takes effect on January 1, 2017.	Section 11 [KSA 75-52,163]
Department of Corrections	Develop for use by the courts: community integration programs for juveniles ready to transition to independent living.		Section 12 [KSA 38-23,100]
Department of Corrections (in collaboration with the Office of Judicial Administration)	Develop standards and procedures to guide the administration of an immediate intervention process and programs, and alternative means of adjudication, including contact requirements, parent engagement, graduated response and discharge requirements, and process and quality assurance.	Section takes effect January 1, 2017.	Section 6 [KSA 38-2395]
Department of Corrections (in conjunction with Office of Judicial Administration)	Training in evidence-based programs and practices.	Not less than semi-annual basis	Section 5 [KSA 38-2394]

Department of Corrections (in consultation with Supreme Court)	Adopt rules and regulations for statewide system of structured community-based graduated responses for technical violations of probation, violations of conditional release, and violations of a condition of sentence.	January 1, 2017	Section 2 [KSA 38-2392]
Department of Corrections and JJOC	Explore methods of exchanging confidential data between all parts of the juvenile justice system.		Section 15 [KSA 75-52,162]
Director of Accounts and Reports	Annually transfer amount certified by Secretary of Corrections to the KS Juvenile Justice Improvement Fund (now Account).	On July 1 or as soon thereafter as moneys are available.	Section 13 [KSA 75-52,164]
Directors, Juvenile Intake and Assessment Services (in collaboration with county or district attorney)	Adopt policy and establish guidelines for immediate intervention process.		Section 39 [KSA 38-2346]
Juvenile Corrections Advisory Boards	Annually consider availability of treatment programs, programs creating alternatives to incarceration for juvenile offenders, mental health treatment, and the development of risk assessment tools (if they do not currently exist) for use in determining pretrial release and probation supervision levels.		Section 16 [KSA 75-7044a]
Juvenile Corrections Advisory Boards	Report annually to KDOC and JJOC detailing costs of programs needed in the judicial district to reduce OOH placement and improve rate of recidivism of juvenile offenders.	October 1	Section 16 [KSA 75-7044a]
Juvenile Justice Oversight Committee	Annual report (See attached list.)	November 30, beginning in 2017	Section 4 [KSA 75-52,161]
Juvenile Justice Oversight Committee	(See attached list.)		Section 4; amended by 2017 House Sub. for SB 42. [KSA 75-52,161]
Office of Judicial Administration	Report recorded data regarding extending probation to JJOC.	Quarterly	Section 1 [KSA 38-2391]

Office of Judicial Administration	Designate or develop training protocol for judges, county and district attorneys, and defense attorneys who work in juvenile court.		Section 10 [KSA 20-318a]
Office of Judicial Administration	Report annually to the Legislature and JJOC data pertaining to the completion of the training protocol, including numbers of judges, county and district attorneys, and defense attorneys who did and did not complete the training protocol.		Section 10 [KSA 20-318a]
Office of Judicial Administration and Department of Corrections	Adopt single, uniform risk and needs assessment to be used in all judicial districts; establish cutoff scores determining risk levels; require training for all assessment administrators; collect data on assessment results to inform validation study (to be conducted by June 30, 2020).		Section 41 [KSA 38-2360]
Secretary of Corrections	Annually determine and certify amount in each account of the SGF of a state agency actual or projected cost savings from cost avoidance resulting from decreased reliance on incarceration in a JCF and placement in YRCs.	On or before June 30.	Section 13 [KSA 75-52,164]
Secretary of Corrections	Transfer up to \$8,000,000 from appropriated KDOC moneys for purposes of facilitating new community placements.	Fiscal years 2017 and 2018	Section 13 [KSA 75-52,164]
Secretary of Corrections	Work with community to provide ongoing support and incentives for development of additional evidence-based community practices and programs to ensure that the juvenile correctional facility is not frequently utilized.		Section 46 [KSA 38-2369]
Secretary of Corrections	Promulgate rules and regulations regarding earned time calculations for purposes of determining a release date of a juvenile offender from custody of the Secretary.	January 1, 2017	Section 8 [KSA 38-2397]

Secretary of Corrections (in conjunction with the Office of Judicial Administration)	Develop, implement, and validate on the Kansas juvenile population, a statewide detention risk assessment tool.		Section 63 [KSA 75-7023]
Secretary of Corrections and Office of Judicial Administration	Establish cutoff scores determining eligibility for placement in a juvenile detention facility or for referral to community-based alternative; collect and report data regarding use of detention risk assessment tool.		Section 63 [KSA 75-7023]
State Board of Education	Require that school superintendents develop, approve, and submit to SBOE a memorandum of understanding establishing clear guidelines for how and when school-based behaviors are referred to law enforcement or the juvenile justice system.		Section 58 [KSA 72-6143]
State Board of Education	Provide annual report to KDOC and Office of Judicial Administration compiling school district compliance and summarizing content of each memorandum of understanding.		Section 58 [KSA 72-6143]
Supreme Court (in consultation with Department of Corrections)	Establish rules for system of earned discharge for juvenile probationers to be applied by all community supervision officers.		Section 9 [KSA 38-2398]

### Juvenile Justice Oversight Committee [KSA 75-52,161]

#### *Duties:*

- (1) Guide and evaluate the implementation of the changes in law relating to juvenile justice reform;
- (2) define performance measures and recidivism;
- (3) approve a plan developed by court services and the department of corrections instituting a uniform process for collecting and reviewing performance measures and recidivism, costs and outcomes of programs;
- (4) consider utilizing the Kansas criminal justice information system for data collection and analyses;
- (5) ensure system integration and accountability;
- (6) monitor the fidelity of implementation efforts to programs and training efforts;
- (7) monitor any state expenditures that have been avoided by reductions in the number of youth placed in out-of-home placements to recommend to the governor and the legislature reinvestment of funds into:
  - (A) Evidence-based practices and programs in the community pursuant to K.S.A. 38-2302, and amendments thereto, for use by intake and assessment services, immediate intervention, probation and conditional release;
  - (B) training on evidence-based practices for juvenile justice system staff, including, but not limited to, training in cognitive behavioral therapies, family-centered therapies, substance abuse, sex offender therapy and other services that address a juvenile's risks and needs; and
  - (C) monitor the plan from the department of corrections for the prioritization of funds pursuant to K.S.A. 75-52,164(d), and amendments thereto;
- (8) continue to review any additional topics relating to the continued improvement of the juvenile justice system, including:
  - (A) The confidentiality of juvenile records;
  - (B) the reduction of the financial burden placed on families involved in the juvenile justice system;
  - (C) juvenile due process rights, including, but not limited to, the development of rights to a speedy trial and preliminary hearings;
  - (D) the improvement of conditions of confinement for juveniles;

- (E) the removal from the home of children in need of care for non-abuse or neglect, truancy, running away or additional child behavior problems when there is no court finding of parental abuse or neglect; and
- (F) the requirement for youth residential facilities to maintain sight and sound separation between children in need of care that have an open juvenile offender case and children in need of care that do not have an open juvenile offender case;

- (9) adhere to the goals of the juvenile justice code as provided in K.S.A. 38-2301, and amendments thereto;
- (10) analyze and investigate gaps in the juvenile justice system and explore alternatives to out-of-home placement of juvenile offenders in youth residential facilities;
- (11) identify evidence-based training models, needs and resources and make appropriate recommendations;
- (12) study and create a plan to address the disparate treatment and availability of resources for juveniles with mental health needs in the juvenile justice system; and
- (13) review portions of juvenile justice reform that require the department of corrections and the office of judicial administration to cooperate and make recommendations when there is not consensus between the two agencies.

*Annual Report:*

- (e) The committee shall issue an annual report to the governor, the president of the senate, the speaker of the house of representatives and the chief justice of the supreme court on or before November 30 each year starting in 2017. Such report shall include:
  - (1) An assessment of the progress made in implementation of juvenile justice reform efforts;
  - (2) a summary of the committee's efforts in fulfilling its duties as set forth in this section;
  - (3) an analysis of the recidivism data obtained by the committee pursuant to this section;
  - (4) a summary of the averted costs determined pursuant to this section and a recommendation for any reinvestment of the averted costs to fund services or programs to expand Kansas' continuum of alternatives for juveniles who would otherwise be placed in out-of-home placements;
  - (5) an analysis of detention risk-assessment data to determine if any disparate impacts resulted at any stage of the juvenile justice system based on race, sex, national origin or economic status;
  - (6) recommendations for continued improvements to the juvenile justice system;

(7) data pertaining to the completion of training on evidence-based practices in juvenile justice, including, but not limited to, the number of judges, district and county attorneys and appointed defense attorneys, that participated in training; and

(8) data received from the office of judicial administration and the department of corrections, pursuant to K.S.A. 38-2391, and amendments thereto, pertaining to extensions of probation for juvenile offenders and an analysis of such data to identify how probation extensions are being used and conclusions regarding the effectiveness of such extensions.