

House Substitute for SENATE BILL No. 42

AN ACT concerning children and minors; relating to the revised Kansas juvenile justice code; amending K.S.A. 2015 Supp. 38-2304, as amended by section 30 of chapter 46 of the 2016 Session Laws of Kansas, 38-2342, as amended by section 36 of chapter 46 of the 2016 Session Laws of Kansas, 38-2361, as amended by section 42 of chapter 46 of the 2016 Session Laws of Kansas, 38-2368, as amended by section 45 of chapter 46 of the 2016 Session Laws of Kansas, 38-2369, as amended by section 46 of chapter 46 of the 2016 Session Laws of Kansas and 38-2375, as amended by section 51 of chapter 46 of the 2016 Session Laws of Kansas and K.S.A. 2016 Supp. 38-2330, 38-2346, 38-2391, 38-2392, 38-2398, 75-52,161, 75-52,162, 75-52,164 and 75-6704 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) When a juvenile is removed from the home for the first time pursuant to the revised Kansas juvenile justice code, the judge shall consider and make, if appropriate, the following findings:

(1) (A) The juvenile is likely to sustain harm if not immediately removed from the home;

(B) allowing the juvenile to remain in the home is contrary to the welfare of the juvenile; or

(C) immediate placement of the juvenile is in the juvenile's best interest; and

(2) reasonable efforts have been made to maintain the family unit and prevent the unnecessary removal of the juvenile from the juvenile's home or that an emergency exists which threatens the safety of the juvenile.

(b) This section shall be part of and supplemental to the revised Kansas juvenile justice code.

Sec. 2. K.S.A. 2015 Supp. 38-2304, as amended by section 30 of chapter 46 of the 2016 Session Laws of Kansas, is hereby amended to read as follows: 38-2304. (a) Except as provided in K.S.A. ~~2015~~ 2016 Supp. 38-2347, and amendments thereto, proceedings concerning a juvenile shall be governed by the provisions of this code.

(b) The district court shall have original jurisdiction to receive and determine proceedings under this code.

(c) When a complaint is filed under this code, the juvenile shall be presumed to be subject to this code, unless the contrary is proved.

(d) Once jurisdiction is acquired by the district court over an alleged juvenile offender, except as otherwise provided in subsection (e), jurisdiction shall continue until one of the following occurs:

(1) The complaint is dismissed;

(2) the juvenile is adjudicated not guilty at trial;

(3) the juvenile, after being adjudicated guilty and sentenced:

(i) Successfully completes the term of probation;

(ii) is discharged by the secretary pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2376, and amendments thereto;

(iii) reaches the juvenile's 21st birthday and no exceptions apply that extend jurisdiction beyond age 21; or

(iv) reaches the overall case length limit;

(4) the court terminates jurisdiction; or

(5) the juvenile is convicted of a crime as an adult pursuant to chapter 22 of the Kansas Statutes Annotated, and amendments thereto.

(e) Once jurisdiction is acquired by the district court over an alleged juvenile offender, it shall continue beyond the juvenile offender's 21st birthday but no later than the juvenile offender's 23rd birthday if:

(1) The juvenile offender is sentenced pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2369, and amendments thereto, and the term of the sentence including successful completion of conditional release extends beyond the juvenile offender's 21st birthday but does not extend beyond the overall case length limit; or

(2) the juvenile offender is sentenced pursuant to an extended jurisdiction juvenile prosecution and continues to successfully serve the sentence imposed pursuant to the revised Kansas juvenile justice code.

(f) Termination of jurisdiction pursuant to this section shall have no effect on the juvenile offender's continuing responsibility to pay restitution ordered.

(g) (1) If a juvenile offender, at the time of sentencing, is in an out of home placement in the custody of the secretary for children and families under the Kansas code for care of children, the sentencing court may order the continued placement of the juvenile offender as a child in need of care. ~~In such case, the secretary for children and families shall address~~

issues of abuse and neglect by parents and prepare parents for the child's return home.

(2) Court services, community corrections and the department of corrections shall address the risks and needs of the juvenile offender according to the results of the risk and needs assessment.

(3) If the juvenile offender is placed in the custody of the secretary of corrections, the secretary for children and families shall be responsible for collaborating with the department of corrections to furnish services ordered in the child in need of care proceeding during the time of the placement pursuant to the revised Kansas juvenile justice code. Nothing in this subsection shall preclude the juvenile offender from accessing services provided by the Kansas department for children and families or any other state agency if the juvenile offender is otherwise eligible for the services.

(h) A court's order issued in a proceeding pursuant to this code, shall take precedence over such orders in a proceeding under chapter 23 of the Kansas Statutes Annotated, and amendments thereto, the Kansas family law code, a proceeding under article 31 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto, protection from abuse act, a proceeding under article 21 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, adoption and relinquishment act, a proceeding under article 30 of chapter 59 of the Kansas Statutes Annotated, and amendments thereto, guardians and conservators, or a comparable case in another jurisdiction, except as provided by K.S.A. ~~2015~~ 2016 Supp. 23-37,101 et seq., and amendments thereto, uniform child custody jurisdiction and enforcement act.

Sec. 3. K.S.A. 2016 Supp. 38-2330 is hereby amended to read as follows: 38-2330. (a) A law enforcement officer may take a juvenile into custody when:

(1) Any offense has been or is being committed in the officer's view;

(2) the officer has a warrant commanding that the juvenile be taken into custody;

(3) the officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein;

(4) the officer has probable cause to believe that the juvenile is committing or has committed an act which, if committed by an adult, would constitute:

(A) A felony; or

(B) a misdemeanor and: (i) The juvenile will not be apprehended or evidence of the offense will be irretrievably lost unless the juvenile is immediately taken into custody; or (ii) the juvenile may cause injury to self or others or damage to property or may be injured unless immediately taken into custody;

(5) the officer has probable cause to believe that the juvenile has violated an order for electronic monitoring as a term of probation; or

(6) the officer receives a written statement pursuant to subsection (c).

(b) A court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, may take a juvenile into custody when: (1) There is a warrant commanding that the juvenile be taken into custody; or (2) the officer has probable cause to believe that a warrant or order commanding that the juvenile be taken into custody has been issued in this state or in another jurisdiction for an act committed therein.

(c) Any court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, may request a warrant by giving the court a written statement setting forth that the juvenile, in the judgment of the court services officer, juvenile community corrections officer or other person authorized to supervise juveniles subject to this code, ~~has~~:

(1) (A) *Has* violated the condition of the juvenile's conditional release from detention or probation, for the third or subsequent time; *and*

(B) ~~and the juvenile~~ poses a significant risk of physical harm to another or damage to property; *or*

(2) *has absconded from supervision.*

(d) (1) A juvenile taken into custody by a law enforcement officer or

other person authorized pursuant to subsection (b) shall be brought without unnecessary delay to the custody of the juvenile's parent or other custodian, unless there are reasonable grounds to believe that such action would not be in the best interests of the child or would pose a risk to public safety or property.

(2) If the juvenile cannot be delivered to the juvenile's parent or custodian, the officer may:

(A) Issue a notice to appear pursuant to subsection (g); or

(B) contact or deliver the juvenile to an intake and assessment worker for completion of the intake and assessment process pursuant to K.S.A. 75-7023, and amendments thereto.

(3) It shall be the duty of the officer to furnish the county or district attorney and the juvenile intake and assessment worker if the officer has delivered the juvenile to the worker or issued a notice to appear consistent with subsection (g), with all of the information in the officer's possession pertaining to the juvenile, the juvenile's parent or other persons interested in or likely to be interested in the juvenile and all other facts and circumstances which caused the juvenile to be arrested or taken into custody.

(e) In the absence of a court order to the contrary, the court or officials designated by the court, the county or district attorney or the law enforcement agency taking a juvenile into custody shall direct the release prior to the time specified by K.S.A. 2016 Supp. 38-2343(a), and amendments thereto. In addition, pursuant to K.S.A. 75-7023 and K.S.A. 2016 Supp. 38-2346, and amendments thereto, a juvenile intake and assessment worker shall direct the release of a juvenile prior to a detention hearing after the completion of the intake and assessment process.

(f) Whenever a person 18 years of age or more is taken into custody by a law enforcement officer for an alleged offense which was committed prior to the time the person reached the age of 18, the officer shall notify and refer the matter to the court for proceedings pursuant to this code, except that the provisions of this code relating to detention hearings shall not apply to that person. If such person is eligible for detention, and all suitable alternatives to detention have been exhausted, the person shall be detained in jail. Unless the law enforcement officer took the person into custody pursuant to a warrant issued by the court and the warrant specifies the amount of bond or indicates that the person may be released on personal recognizance, the person shall be taken before the court of the county where the alleged act took place or, at the request of the person, the person shall be taken, without delay, before the nearest court. The court shall fix the terms and conditions of an appearance bond upon which the person may be released from custody. The provisions of article 28 of chapter 22 of the Kansas Statutes Annotated and K.S.A. 22-2901, and amendments thereto, relating to appearance bonds and review of conditions and release shall be applicable to appearance bonds provided for in this section.

(g) (1) Whenever a law enforcement officer detains any juvenile and such juvenile is not immediately taken to juvenile intake and assessment services, the officer may serve upon such juvenile a written notice to appear. Such notice to appear shall contain the name and address of the juvenile detained, the crime charged and the location and phone number of the juvenile intake and assessment services office where the juvenile will need to appear with a parent or guardian.

(2) The juvenile intake and assessment services office specified in such notice to appear must be contacted by the juvenile or a parent or guardian no more than 48 hours after such notice is given, excluding weekends and holidays.

(3) The juvenile detained, in order to secure release as provided in this section, must give a written promise to call within the time specified by signing the written notice prepared by the officer. The original notice shall be retained by the officer and a copy shall be delivered to the juvenile detained and that juvenile's parent or guardian if such juvenile is under 18 years of age. The officer shall then release the juvenile.

(4) The law enforcement officer shall cause to be filed, without unnecessary delay, a complaint with juvenile intake and assessment services in which a juvenile released pursuant to paragraph (3) is given notice to appear, charging the crime stated in such notice. A copy shall also be provided to the district or county attorney. If the juvenile released fails

to contact juvenile intake and assessment services as required in the notice to appear, juvenile intake and assessment services shall notify the district or county attorney.

(5) The notice to appear served pursuant to paragraph (1) and the complaint filed pursuant to paragraph (4) may be provided to the juvenile in a single citation.

Sec. 4. K.S.A. 2015 Supp. 38-2342 as amended by section 36 of chapter 46 of the 2016 Session Laws of Kansas, is hereby amended to read as follows: 38-2342. The court may issue a warrant commanding the juvenile be taken into custody if there is probable cause to believe: (a) That an offense was committed and it was committed by the juvenile; (b) the juvenile violated probation, conditional release, or conditions of release from detention for a third or subsequent time and the juvenile poses a significant risk of physical harm to another or damage to property; ~~or~~ (c) the juvenile has escaped from a facility; *or (d) the juvenile has absconded from supervision.* The warrant shall designate where or to whom the juvenile is to be taken pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2330(d)(1), and amendments thereto, if the court is not open for the regular conduct of business. The warrant shall describe the offense or violation charged in the complaint or the applicable circumstances of the juvenile's absconding or escaping.

Sec. 5. K.S.A. 2016 Supp. 38-2346 is hereby amended to read as follows: 38-2346. (a) Each director of juvenile intake and assessment services in collaboration with the county or district attorney shall adopt a policy and establish guidelines for an immediate intervention process by which a juvenile may avoid prosecution. The guidelines may include information on any offenders beyond those enumerated in subsection (b)(1) that shall be referred to immediate intervention. In addition to juvenile intake and assessment services adopting policies and guidelines for the immediate intervention process, the court, the county or district attorney, the director of the intake and assessment center and other relevant individuals or organizations, pursuant to a written agreement, shall collaboratively develop local programs to:

(1) Provide for the direct referral of cases to immediate intervention programs by the county or district attorney and the intake and assessment worker.

(2) Allow intake and assessment workers to issue a summons, as defined in subsection (e) and if juvenile intake and assessment services has adopted appropriate policies and guidelines, allow law enforcement officers to issue such a summons.

(3) Allow the intake and assessment centers and other immediate intervention program providers to directly purchase services for the juvenile and the juvenile's family.

(4) Allow intake and assessment workers to direct the release of a juvenile prior to a detention hearing after the completion of the intake and assessment process pursuant to K.S.A. 75-7023, and amendments thereto.

(b) (1) A juvenile who goes through the juvenile intake and assessment process pursuant to K.S.A. 75-7023, and amendments thereto, shall be offered the opportunity to participate in an immediate intervention program and avoid prosecution if the juvenile is charged with a misdemeanor *that is not an offense described in chapter 55 of article 21 of the Kansas Statutes Annotated, and amendments thereto*, or a violation of K.S.A. 2016 Supp. 21-5507, and amendments thereto, the juvenile has no prior adjudications, and the offer is made pursuant to the guidelines developed pursuant to this section. *Participation in an immediate intervention program is not required to be offered to a juvenile who was originally charged with an offense which, if committed by an adult, would constitute a felony and, as a result of a plea agreement reached between the juvenile and prosecuting attorney, the charge has been amended to a misdemeanor. A juvenile who has participated in an immediate intervention program for a previous misdemeanor may, but is not required to, be offered participation in an immediate intervention program.*

(2) A juvenile may also participate in an immediate intervention program if the juvenile is referred for immediate intervention by the county or district attorney pursuant to subsection (d).

(3) Any juvenile referred to immediate intervention by juvenile intake

and assessment services shall, upon acceptance, work together with court services, community corrections, juvenile intake and assessment services or any other entity designated as a part of the written agreement in subsection (a) to develop an immediate intervention plan. Such plan may be supervised or unsupervised by any of the aforementioned entities. The county or district attorneys office shall not be required to supervise juveniles participating in an immediate intervention program.

(4) The immediate intervention plan shall last no longer than six months from the date of referral, unless the plan requires the juvenile to complete an evidence-based mental health or substance abuse program that extends beyond the six-month period. In such case, the plan may be extended up to two additional months.

(5) If the juvenile satisfactorily complies with the immediate intervention plan, such juvenile shall be discharged and the charges dismissed at the end of the time period specified in paragraph (4).

(6) If the juvenile fails to satisfactorily comply with the immediate intervention plan, the case shall be referred to a multidisciplinary team for review. The multidisciplinary team created pursuant to K.S.A. 2016 Supp. 38-2393, and amendments thereto, shall review the immediate intervention plan within seven days and may revise and extend such plan or terminate the case as successful. Such plan may be extended for no more than four additional months.

(7) If the juvenile fails to satisfactorily comply with the revised plan developed pursuant to paragraph (6), the intake and assessment worker, court services officer or community corrections officer overseeing the immediate intervention shall refer the case to the county or district attorney for consideration.

(c) The parent of a juvenile may be required to be a part of the immediate intervention program.

(d) For all juveniles that have fewer than two prior adjudications, the county or district attorney shall review the case upon receipt of a complaint to determine if the case should be referred for immediate intervention or whether alternative means of adjudication should be designated pursuant to K.S.A. 2016 Supp. 38-2389, and amendments thereto. The county or district attorney shall consider any recommendation of a juvenile intake and assessment worker, court services officer or community corrections officer.

(e) “Summons” means a written order issued by an intake and assessment worker or a law enforcement officer directing that a juvenile appear before a designated court at a stated time and place to answer a pending charge.

(f) A juvenile who is eligible for an immediate intervention shall not be denied participation in such a program or terminated unsuccessfully due to an inability to pay fees or other associated costs. Fees assessed from such a program shall be retained by the program and shall not be used for any purpose, except development and operation of the program.

(g) If a juvenile substantially complies with an immediate intervention program, charges in such juvenile’s case shall not be filed.

(h) The policies and guidelines developed pursuant to subsection (a) shall adhere to standards and procedures for immediate intervention developed by the department of corrections pursuant to K.S.A. 2016 Supp. 38-2395, and amendments thereto, and be based on best practices.

(i) *Nothing in this section shall 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.*

Sec. 6. K.S.A. 2015 Supp. 38-2361, as amended by section 42 of chapter 46 of the 2016 Session Laws of Kansas, is hereby amended to read as follows: 38-2361. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2368, and amendments thereto the court may impose one or more of the following sentencing alternatives for a fixed period pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2369 and ~~section 1~~ 38-2391, and amendments thereto.

(1) Place the juvenile on probation for a fixed period pursuant to ~~section 1~~ K.S.A. 2016 Supp. 38-2391, and amendments thereto, subject

to terms and conditions the court deems appropriate consistent with juvenile justice programs in the community. Any juvenile placed on probation shall be supervised according to the juvenile's risk and needs as determined by a risk and needs assessment. Placement of juvenile offenders to community corrections for probation supervision shall be limited to offenders adjudicated for an offense that are determined to be moderate-risk, high-risk or very high-risk on a risk and needs assessment using the cutoff scores established by the secretary pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2360, and amendments thereto.

(2) Order the juvenile to participate in a community based program available in such judicial district subject to the terms and conditions the court deems appropriate. This alternative shall not be ordered with the alternative in paragraph (11). Requirements pertaining to child support may apply if custody is vested with other than a parent.

(3) Place the juvenile in the custody of a parent or other suitable person, which is not a group home or other facility licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, subject to terms and conditions consistent with juvenile justice programs in the community. This alternative shall not be ordered with the alternative in paragraph (11). Requirements pertaining to child support may apply if custody is vested with other than a parent.

(4) Order the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug evaluation pursuant to subsection (b).

(5) Suspend or restrict the juvenile's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (c).

(6) Order the juvenile to perform charitable or community service work.

(7) Order the juvenile to make appropriate reparation or restitution pursuant to subsection (d).

(8) Order the juvenile to pay a fine not exceeding \$1,000 pursuant to subsection (e).

(9) Place the juvenile under a house arrest program administered by the court pursuant to K.S.A. ~~2015~~ 2016 Supp. 21-6609, and amendments thereto.

(10) Place the juvenile in the custody of the secretary of corrections as provided in K.S.A. ~~2015~~ 2016 Supp. 38-2365, and amendments thereto. This alternative shall not be ordered with the alternative in paragraph (3) or (12). Except for mandatory drug and alcohol evaluation, when this alternative is ordered with alternatives in paragraphs (2), (4) and (9), such orders shall constitute a recommendation by the court. Requirements pertaining to child support shall apply under this alternative. The provisions of this paragraph shall expire on January 1, 2018.

(11) Upon a violation of a condition of sentence, other than a technical violation pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2368, and amendments thereto, commit the juvenile to detention for a period no longer than 30 days subject to the provisions of subsection (g).

(12) If 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 is otherwise eligible for commitment pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2369, and amendments thereto, commit the juvenile directly to the custody of the secretary of corrections for placement in a juvenile correctional facility or a youth residential facility. Placement in a youth residential facility shall only be permitted as authorized in K.S.A. ~~2015~~ 2016 Supp. 38-2369(e), and amendments thereto. If the court elects, a period of conditional release pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2369, and amendments thereto, may also be ordered. The period of conditional release shall be limited to a maximum of six months and shall be subject to graduated responses. Twenty-one days prior to the juvenile's release from a juvenile correctional facility, the secretary of corrections or designee shall notify the court of the juvenile's anticipated release date. This alternative may be ordered with the alternative in paragraph (7). Requirements pertaining to child support shall apply under this alternative.

(13) *Upon a finding by the trier of fact during adjudication that a firearm was used in the commission of an offense by the accused which, if committed by an adult, would constitute a felony, a judge may commit*

the juvenile directly to the custody of the secretary of corrections for placement in a juvenile correctional facility or youth residential facility for a minimum term of six months and up to a maximum term of 18 months, regardless of the risk level of such juvenile as determined by a risk and needs assessment. If the juvenile is committed to the custody of the secretary, and the court elects, a period of conditional release, pursuant to K.S.A. 2016 Supp. 38-2369, and amendments thereto, may also be ordered. The period of conditional release shall be limited to a maximum of six months and shall be subject to graduated responses. Twenty-one days prior to the juvenile's release from a juvenile correctional facility or youth residential facility, the secretary of corrections or the secretary's designee shall notify the court of the juvenile's anticipated release date.

(b) If the court orders the juvenile to attend counseling, educational, mediation or other sessions, or to undergo a drug and alcohol evaluation pursuant to subsection (a)(4), the following provisions apply:

(1) The court may order the juvenile offender to participate in counseling or mediation sessions or a program of education, including placement in an alternative educational program approved by a local school board. The costs of any counseling or mediation may be assessed as expenses in the case. No mental health center shall charge a fee for court-ordered counseling greater than what the center would have charged the person receiving the counseling if the person had requested counseling on the person's own initiative. No mediator shall charge a fee for court-ordered mediation greater than what the mediator would have charged the person participating in the mediation if the person had requested mediation on the person's own initiative. Mediation may include the victim but shall not be mandatory for the victim; and

(2) if the juvenile has been adjudicated to be a juvenile by reason of a violation of a statute that makes such a requirement, the court shall order and, if adjudicated for any other offense, the court may order the juvenile to submit to and complete a drug and alcohol evaluation by a community-based drug and alcohol safety action program certified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a fee not to exceed the fee established by that statute for such evaluation. The court may waive the mandatory evaluation if the court finds that the juvenile completed a drug and alcohol evaluation, approved by the community-based alcohol and drug safety action program, within 12 months before sentencing. If the evaluation occurred more than 12 months before sentencing, the court shall order the juvenile to resubmit to and complete the evaluation and program as provided herein. If the court finds that the juvenile and those legally liable for the juvenile's support are indigent, the court may waive the fee. In no event shall the fee be assessed against the secretary of corrections or the department of corrections nor shall the fee be assessed against the secretary of the department for children and families or the Kansas department for children and families if the juvenile is in the secretary's care, custody and control.

(c) If the court orders suspension or restriction of a juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state pursuant to subsection (a)(5), the following provisions apply:

(1) The duration of the suspension ordered by the court shall be for a definite time period to be determined by the court. Upon suspension of a license pursuant to this subsection, the court shall require the juvenile offender to surrender the license to the court. The court shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the juvenile offender may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the juvenile offender's privilege to operate a motor vehicle is in effect. As used in this subsection, "highway" and "street" have the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments thereto. Any juvenile offender who does not have a driver's license may have driving privileges revoked. No Kansas driver's license shall be issued to a juvenile offender whose driving privileges have been revoked pursuant to this section for a definite time period to be determined by the court; and

(2) in lieu of suspending a juvenile offender's driver's license or privilege to operate a motor vehicle on the highways of this state, the court may enter an order which places conditions on the juvenile offender's privilege of operating a motor vehicle on the streets and highways of this state, a certified copy of which the juvenile offender shall be required to carry any time the juvenile offender is operating a motor vehicle on the streets and highways of this state. The order shall prescribe a definite time period for the conditions imposed. Upon entering an order restricting a juvenile offender's license, the court shall require the juvenile offender to surrender such juvenile offender's license to the court. The court shall transmit the license to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on the juvenile offender's privilege of operating a motor vehicle and that a certified copy of the order imposing the conditions is required to be carried by the juvenile offender when operating a motor vehicle on the streets and highways of this state. If the juvenile offender is a nonresident, the court shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of the juvenile offender's state of issuance. The court shall furnish to any juvenile offender whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until the division issues the restricted license provided for in this subsection. Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the juvenile offender may apply to the division for the return of the license previously surrendered by the juvenile offender. In the event the license has expired, the juvenile offender may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law unless such juvenile offender's privilege to operate a motor vehicle on the streets and highways of this state has been suspended or revoked prior thereto. If any juvenile offender violates any of the conditions imposed under this subsection, the juvenile offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be revoked for a period as determined by the court in which the juvenile offender is convicted of violating such conditions.

(d) The following provisions apply to the court's determination of whether to order reparation or restitution pursuant to subsection (a)(7):

(1) The court shall order the juvenile to make reparation or restitution to the aggrieved party for the damage or loss caused by the juvenile offender's offense unless it finds compelling circumstances that would render a plan of reparation or restitution unworkable. If the court finds compelling circumstances that would render a plan of reparation or restitution unworkable, the court shall enter such findings with particularity on the record. In lieu of reparation or restitution, the court may order the juvenile to perform charitable or social service for organizations performing services for the community; and

(2) restitution may include, but shall not be limited to, the amount of damage or loss caused by the juvenile's offense. Restitution may be made by payment of an amount fixed by the court or by working for the parties sustaining loss in the manner ordered by the court. An order of monetary restitution shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile offender.

(e) If the court imposes a fine pursuant to subsection (a)(8), the following provisions apply:

(1) The amount of the fine may not exceed \$1,000 for each offense. The amount of the fine should be related to the seriousness of the offense and the juvenile's ability to pay. Payment of a fine may be required in a lump sum or installments;

(2) in determining whether to impose a fine and the amount to be imposed, the court shall consider that imposition of a fine is most appropriate in cases where the juvenile has derived pecuniary gain from the offense and that imposition of a restitution order is preferable to imposition of a fine; and

(3) any fine imposed by court shall be a judgment against the juvenile that may be collected by the court by garnishment or other execution as on judgments in civil cases. Such judgment shall not be affected by the termination of the court's jurisdiction over the juvenile.

(f) Before the court sentences a juvenile offender pursuant to subsection (a), the court shall administer a risk assessment tool, as described in K.S.A. ~~2015~~ 2016 Supp. 38-2360, and amendments thereto, or review a risk assessment tool that was administered within the past six months to the juvenile and use the results of that assessment to inform orders made pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2369 and ~~section 1~~ 38-2391, and amendments thereto.

(g) If the court commits the juvenile to detention pursuant to subsection (a)(11), the following provisions shall apply:

(1) The court shall only order commitment to detention upon violation of sentencing conditions where all other alternatives have been exhausted.

(2) In order to commit a juvenile to detention upon violation of sentencing conditions, the court shall find that 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.

(3) The court shall not order commitment to detention upon adjudication as a juvenile offender pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2356, and amendments thereto, 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.

(4) Cumulative detention use shall be limited to a maximum of 45 days over the course of a juvenile offender's case pursuant to ~~section 1~~ K.S.A. 2016 Supp. 38-2391, and amendments thereto. The court shall review any detention commitment every seven days and may shorten the initial commitment or extend the commitment. In no case, however, may the term of detention or any extension thereof exceed the cumulative detention limit of 45 days or the overall case length limit.

(5) A juvenile over 18 years of age and less than 23 years of age at sentencing shall be committed to a county jail, in lieu of a juvenile detention center, under the same time restrictions imposed by paragraph (1), but shall not be committed to or confined in a juvenile detention facility.

(h) Any order issued by the judge pursuant to this section shall be in effect immediately upon entry into the court's minutes.

(i) In addition to the requirements of K.S.A. ~~2015~~ 2016 Supp. 38-2373, and amendments thereto, if a person is under 18 years of age and convicted of a felony or adjudicated as a juvenile offender for an offense if committed by an adult would constitute the commission of a felony, the court shall forward a signed copy of the journal entry to the secretary of corrections within 30 days of final disposition.

(j) Except as further provided, if a juvenile has been adjudged to be a juvenile offender for an offense ~~that~~ *which*, if committed by an adult would constitute the commission of: (1) Aggravated human trafficking, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14 years of age; (2) rape, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-5503(a)(3), and amendments thereto; (3) aggravated indecent liberties with a child, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-5506(b)(3), and amendments thereto; (4) aggravated criminal sodomy, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-5504(b)(1) or (b)(2), and amendments thereto; (5) commercial sexual exploitation of a child, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age; (6) sexual exploitation of a child, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-5510(a)(1) or (a)(4), and amendments thereto, if the victim is less than 14 years of age; or (7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in paragraphs (1) through (6); the court shall issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends. If only one attendance center exists, for which the victim and juvenile are eligible to attend, in the school district where the victim and the juvenile reside, the court shall hear testimony and take evidence from the victim, the juvenile, their families and a representative of the school district as to why the juvenile should or should

not be allowed to remain at the attendance center attended by the victim. After such hearing, the court may issue an order prohibiting the juvenile from attending the attendance center that the victim of the offense attends.

(k) The court may order a short-term alternative placement of a juvenile pursuant to subsection (a)(3) in an emergency shelter, therapeutic foster home or community integration program if:

(1) Such juvenile has been adjudicated to be a juvenile offender for an offense ~~that~~ *which*, if committed by an adult would constitute the commission of:

(A) Aggravated human trafficking, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-5426(b), and amendments thereto, if the victim is less than 14 years of age;

(B) rape, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-5503, and amendments thereto;

(C) commercial sexual exploitation of a child, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-6422, and amendments thereto, if the victim is less than 14 years of age;

(D) sexual exploitation of a child, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-5510(a)(1) or (a)(4), and amendments thereto, if the victim is less than 14 years of age;

(E) aggravated indecent liberties with a child, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-5506, and amendments thereto, if the victim is less than 14 years of age; or

(F) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. ~~2015~~ 2016 Supp. 21-5301, 21-5302 or 21-5303, and amendments thereto, of an offense defined in paragraphs (1) through (4); and

(2) (A) the victim resides in the same home as the juvenile offender;

(B) a community supervision officer in consultation with the department for children and families determines that an adequate safety plan, which shall include the physical and psychological well-being of the victim, cannot be developed to keep the juvenile in the same home; and

(C) there are no relevant child in need of care issues that would permit a case to be filed under the Kansas code for care of children.

The presumptive term of commitment shall not extend beyond ~~three months~~ and the overall case length limit but may be modified pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2367 and ~~section 8~~ 38-2397, and amendments thereto. If a child is placed outside the child's home at the dispositional hearing pursuant to this subsection and no reintegration plan is made a part of the record of the hearing, a written reintegration plan shall be prepared pursuant to ~~section 8~~ K.S.A. 2016 Supp. 38-2397, and amendments thereto, and submitted to the court within 15 days of the initial order of the court.

(l) The sentencing hearing shall be open to the public as provided in K.S.A. ~~2015~~ 2016 Supp. 38-2353, and amendments thereto.

(m) The overall case length limit shall be calculated by the court and entered into the written record when one or more of the sentencing options under this section are imposed. The period fixed by the court pursuant to subsection (a) shall not extend beyond the overall case length limit.

Sec. 7. K.S.A. 2015 Supp. 38-2368, as amended by section 45 of chapter 46 of the 2016 Session Laws of Kansas, is hereby amended to read as follows: 38-2368. If it is alleged that a juvenile offender has violated a condition of probation or of a court-ordered placement, the county or district attorney, the current custodian of the juvenile offender, or the victim of the offense committed by the offender may file a report with the assigned community supervision officer of the juvenile offender. If, upon review by the assigned community supervision officer of the juvenile offender, it is determined that the violation is eligible under ~~section 2~~ K.S.A. 2016 Supp. 38-2392, and amendments thereto, for review by the court, the assigned community supervision officer may file a report with the court describing the alleged violation. The court shall provide copies of the report to the parties to the proceeding. The court, upon the court's own motion or the motion of the secretary of corrections or any party, shall set the matter for hearing and may issue a warrant pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2342, and amendments thereto, if there is probable cause to believe that the juvenile poses a significant risk of physical harm

to another or damage to property. Upon receipt of the motion, the court shall fix a time and place for hearing and provide notice to the movant and to the current custodian of the juvenile offender and to each party to the proceeding. If the court finds by a preponderance of the evidence that the juvenile offender *has absconded from supervision*, violated a condition of probation or placement or committed a technical violation for a third or subsequent time, the court may, subject to the overall case length limit, extend or modify the terms of probation or placement or enter another sentence pursuant to K.S.A.—2015 2016 Supp. 38-2361, and amendments thereto, except that a child support order which has been registered under K.S.A.—2015 2016 Supp. 38-2321, and amendments thereto, may only be modified pursuant to K.S.A.—2015 2016 Supp. 38-2321, and amendments thereto.

Sec. 8. K.S.A. 2015 Supp. 38-2369, as amended by section 46 of chapter 46 of the 2016 Session Laws of Kansas, is hereby amended to read as follows: 38-2369. (a) Except as provided in subsection (e) and K.S.A. 2016 Supp. 38-2361(a)(13), for the purpose of committing juvenile offenders to a juvenile correctional facility, upon a finding by the judge entered into the written order that the juvenile poses a significant risk of harm to another or damage to property, the following placements shall be applied by the judge in the cases specified in this subsection. If used, the court shall establish a specific term of commitment as specified in this subsection. The term of commitment established by the court shall not exceed the overall case length limit. Before a juvenile offender is committed to a juvenile correctional facility pursuant to this section, the court shall administer a risk assessment tool, as described in K.S.A.—2015 2016 Supp. 38-2360, and amendments thereto, or review a risk assessment tool that was administered within the past six months to the juvenile.

(1) *Violent Offenders*. (A) The violent offender I is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute an off-grid felony. Offenders in this category may be committed to a juvenile correctional facility for a minimum term of 60 months and up to a maximum term of the offender reaching the age of 22 years, six months. The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of the offender reaching the age of 23 years.

(B) The violent offender II is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute a nondrug severity level 1, 2 or 3 felony. Offenders in this category may be committed to a juvenile correctional facility for a minimum term of 24 months and up to a maximum term of the offender reaching the age of 22 years, six months. The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of the offender reaching the age of 23 years.

(2) *Serious Offenders*. (A) The serious offender I is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute a nondrug severity level 4, person felony.

Offenders in this category may be committed to a juvenile correctional facility for a minimum term of 18 months and up to a maximum term of 36 months. The aftercare term for this offender is set at a minimum term of six months and up to a maximum term of 24 months.

(B) The serious offender II is defined as an offender adjudicated as a juvenile offender for an offense:

(i) Committed prior to July 1, 2012, which, if committed by an adult prior to July 1, 2012, would constitute a drug severity level 1 or 2 felony; or

(ii) committed on or after July 1, 2012, which, if committed by an adult on or after July 1, 2012, would constitute a drug severity level 1, 2 or 3 felony or a nondrug severity level 5 or 6 person felony.

Offenders in this category may be committed to a juvenile correctional facility for a minimum term of nine months and up to a maximum term of 18 months.

(C)—The serious offender III is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute a nondrug severity level 7, person felony with one prior felony adjudication. Offenders in this category may only be committed to a ju-

~~juvenile correctional facility if they are assessed as high-risk on a risk and needs assessment. Offenders in this category may be committed to a juvenile correctional facility for a minimum term of six months and up to a maximum term of 12 months.~~

~~(D)~~ The serious offender ~~IV~~ *III* is defined as an offender adjudicated as a juvenile offender for an offense which, if committed by an adult, would constitute a nondrug severity level 7, 8, 9 or 10 person felony with one prior felony adjudication. Offenders in this category may only be committed to a juvenile correctional facility if such offenders are assessed as high-risk on a risk and needs assessment. Offenders in this category may be committed to a juvenile correctional facility for a minimum term of six months and up to a maximum term of 12 months.

(3) *Chronic Offenders.* (A) The chronic offender I, chronic felon is defined as an offender adjudicated as a juvenile offender for an offense:

(i) Which, if committed by an adult, would constitute one present nonperson felony adjudication and two prior felony adjudications;

(ii) committed prior to July 1, 2012, which, if committed by an adult prior to July 1, 2012, would constitute one present drug severity level 3 felony adjudication and two prior felony adjudications; or

(iii) committed on or after July 1, 2012, which, if committed by an adult on or after July 1, 2012, would constitute one present drug severity level 4 felony adjudication and two prior felony adjudications.

Offenders in this category may only be committed to a juvenile correctional facility if such offenders are assessed as high-risk on a risk and needs assessment. Offenders in this category may be committed to a juvenile correctional facility for a minimum term of six months and up to a maximum term of 12 months.

(b) *Conditional Release.* If the court elects, a period of conditional release may also be ordered pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2361, and amendments thereto. The period of conditional release shall be limited to a maximum of six months and shall be subject to graduated responses. The presumption upon release shall be a return to the juvenile's home, unless the case plan developed pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2373, and amendments thereto, recommends a different reentry plan.

(1) Upon finding the juvenile violated a requirement or requirements of conditional release, the court may enter one or more of the following orders:

(A) Recommend additional conditions be added to those of the existing conditional release.

(B) Order the offender to serve a period of detention pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2361(g), and amendments thereto.

(C) Revoke or restrict the juvenile's driving privileges as described in K.S.A. ~~2015~~ 2016 Supp. 38-2361(c), and amendments thereto.

(2) Discharge the offender from the custody of the secretary of corrections, release the secretary of corrections from further responsibilities in the case and enter any other appropriate orders.

(c) As used in this section, "adjudication" includes out-of-state juvenile adjudications. An out-of-state offense, which if committed by an adult would constitute the commission of a felony or misdemeanor, shall be classified as either a felony or a misdemeanor according to the adjudicating jurisdiction. If an offense which if committed by an adult would constitute the commission of a felony is a felony in another state, it will be deemed a felony in Kansas. The state of Kansas shall classify the offense, which if committed by an adult would constitute the commission of a felony or misdemeanor, as person or nonperson. In designating such offense as person or nonperson, reference to comparable offenses shall be made. If the state of Kansas does not have a comparable offense, the out-of-state adjudication shall be classified as a nonperson offense.

(d) The secretary of corrections shall work with the community to provide on-going support and incentives for the development of additional evidence-based community practices and programs to ensure that the juvenile correctional facility is not frequently utilized.

(e) There shall be a rebuttable presumption that all offenders in the chronic offender category and offenders at least 10 years of age but less than 14 years of age in the serious offender II; *or III* ~~or IV~~ category, shall be placed in the custody of the secretary for placement in a youth residential facility in lieu of placement in the juvenile correctional facility.

This presumption may be rebutted by a finding on the record that the juvenile offender poses a significant risk of physical harm to another.

Sec. 9. K.S.A. 2015 Supp. 38-2375, as amended by section 51 of chapter 46 of the 2016 Session Laws of Kansas, is hereby amended to read as follows: 38-2375. If it is alleged that a juvenile offender who has been conditionally released from a juvenile correctional facility has failed to obey the specified conditions of release for the third or subsequent time *or has absconded from supervision*, the officer assigned to supervise compliance with the conditions of release or, upon referral from such officer, the county or district attorney may file a report with the committing court or the court of the county in which the juvenile offender resides describing the alleged violation and the juvenile's history of violations. The court shall provide copies of the report to the parties to the proceedings. The court, upon the court's own motion or the county or district attorney, shall set the matter for hearing. The movant shall provide notice of the motion and hearing to each party to the proceeding and the current custodian and placement of the juvenile offender. If the court finds that a condition of release has been violated, the court may modify or impose additional conditions of release that the court considers appropriate pursuant to K.S.A. ~~2015~~ 2016 Supp. 38-2369, and amendments thereto.

Sec. 10. K.S.A. 2016 Supp. 38-2391 is hereby amended to read as follows: 38-2391. (a) Upon adjudication as a juvenile offender pursuant to K.S.A. 2016 Supp. 38-2356, and amendments thereto, modification of sentence pursuant to K.S.A. 2016 Supp. 38-2367, and amendments thereto, or violation of a condition of sentence pursuant to K.S.A. 2016 Supp. 38-2368, and amendments thereto, the court may impose one or more of the sentencing alternatives under K.S.A. 2016 Supp. 38-2361, and amendments thereto, for a period of time pursuant to this section and K.S.A. 2016 Supp. 38-2369, and amendments thereto. The period of time ordered by the court shall not exceed the overall case length limit.

(b) Except as provided in subsection (c), the overall case length limit shall be calculated based on the adjudicated offense and the results of a risk and needs assessment, as follows:

(1) Offenders adjudicated for a misdemeanor may remain under the jurisdiction of the court for up to 12 months;

(2) low-risk and moderate-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 15 months; and

(3) high-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 18 months.

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

(d) When a juvenile is adjudicated for multiple counts, the maximum overall case length shall be calculated based on the most severe adjudicated count or any other adjudicated count at the court's discretion. The court shall not run multiple adjudicated counts consecutively.

(e) When the juvenile is adjudicated for multiple cases simultaneously, the court shall run those cases concurrently.

(f) Upon expiration of the overall case length limit as defined in subsection (b), the court's jurisdiction terminates and shall not be extended.

(g) (1) For the purposes of placing juvenile offenders on probation pursuant to K.S.A. 2016 Supp. 38-2361, and amendments thereto, the court shall establish a specific term of probation as specified in this subsection based on the most serious adjudicated count in combination with the results of a risk and needs assessment, as follows, except that the term of probation shall not exceed the overall case length limit:

(A) Low-risk and moderate-risk offenders adjudicated for a misdemeanor and low-risk offenders adjudicated for a felony may be placed on probation for a term up to six months;

(B) high-risk offenders adjudicated for a misdemeanor and moderate-risk offenders adjudicated for a felony may be placed on probation for a term up to nine months;

(C) high-risk offenders adjudicated for a felony may be placed on probation for a term up to 12 months.

(2) The court may extend the term of probation if a juvenile needs time to complete an evidence-based program as determined to be necessary based on the results of a validated risk and needs assessment. The

court may also extend the term of probation for good cause shown for one month for low-risk offenders, three months for moderate-risk offenders and six months for high-risk offenders. Prior to extension of the initial probationary term, the court shall find and enter into the written record the criteria permitting extension of probation. Extensions of probation shall only be granted incrementally and shall not exceed the overall case length limit. When the court extends the term of probation for a juvenile offender, the court services officer or community correctional services officer responsible for monitoring such juvenile offender shall record the reason given for extending probation. Court services officers shall report such records to the office of judicial administration, and community correctional services officers shall report such records to the department of corrections. The office of judicial administration and the department of corrections shall report such recorded data to the Kansas juvenile justice oversight committee on a quarterly basis.

(3) The probation term limits do not apply to those offenders adjudicated for *an offense which, if committed by an adult, would constitute* an off-grid crime, rape as defined in K.S.A. 2016 Supp. 21-5503(a)(1), and amendments thereto, aggravated criminal sodomy as defined in K.S.A. 2016 Supp. 21-5504(b)(3), and amendments thereto, or murder in the second degree as defined in K.S.A. 2016 Supp. 21-5403, and amendments thereto. Such offenders may be placed on probation for a term consistent with the overall case length limit.

(4) *The probation term limits and overall case length limits provided in this section shall be tolled during any time that the offender has absconded from supervision while on probation.*

(h) For the purpose of placing juvenile offenders in detention pursuant to K.S.A. 2016 Supp. 38-2361 and 38-2369, and amendments thereto, the court shall establish a specific term of detention. The term of detention shall not exceed the overall case length limit or the cumulative detention limit. Cumulative detention use shall be limited to a maximum of 45 days over the course of the juvenile offender's case, except that there shall be no limit on cumulative detention for juvenile offenders adjudicated for a felony ~~that~~ *which*, if committed by an adult, would constitute an off-grid felony or a nondrug severity level 1 through 4 person felony.

(i) *The provisions of this section shall apply upon disposition or 15 days after adjudication, whichever is sooner.*

~~(j)~~ This section shall be part of and supplemental to the revised Kansas juvenile justice code.

~~(j) This section shall take effect on and after July 1, 2017.~~

Sec. 11. K.S.A. 2016 Supp. 38-2392 is hereby amended to read as follows: 38-2392. (a) The department of corrections shall, in consultation with the supreme court, adopt rules and regulations by January 1, 2017, for a statewide system of structured community-based graduated responses for technical violations of probation, violations of conditional release and violations of a condition of sentence by juveniles. Such graduated responses shall be utilized by community supervision officers to provide a continuum of community-based responses. These responses shall include sanctions that are swift and certain to address violations based on the severity of the violation as well as incentives that encourage positive behaviors. Such responses shall take into account the juvenile's risks and needs.

(b) When a juvenile is placed on probation pursuant to K.S.A. 2016 Supp. 38-2361, and amendments thereto, community supervision officers shall utilize graduated responses, targeted to the juvenile's risks and needs based on the results of a risk and needs assessment to address technical violations. A technical violation shall only be considered by the court for revocation if: (1) It is a third or subsequent technical violation; (2) prior failed responses are documented in the juvenile's case plan; and (3) the community supervision officer has determined and documented that graduated responses to the violation will not suffice. Unless a juvenile poses a significant risk of physical harm to another or damage to property, community supervision officers shall issue a summons rather than request a warrant on a third or subsequent technical violation subject to review by the court. *Absconding from supervision shall not be considered a technical violation of probation and, after reasonable efforts to locate a juve-*

nile that has absconded are unsuccessful, the court may issue a warrant for the juvenile pursuant to K.S.A. 2016 Supp. 38-2342, and amendments thereto.

(c) When a juvenile is placed on probation pursuant to K.S.A. 2016 Supp. 38-2361, and amendments thereto, the community supervision officer responsible for oversight of the juvenile shall develop a case plan in consultation with the juvenile and the juvenile's family. The department for children and families and local board of education may participate in the development of the case plan when appropriate.

(1) Such case plan shall incorporate the results of the risk and needs assessment, referrals to programs, documentation on violations and graduated responses and shall clearly define the role of each person or agency working with the juvenile.

(2) If the juvenile is later committed to the custody of the secretary, the case plan shall be shared with the juvenile correctional facility.

(d) This section shall be part of and supplemental to the revised Kansas juvenile justice code.

Sec. 12. K.S.A. 2016 Supp. 38-2398 is hereby amended to read as follows: 38-2398. (a) For purposes of determining release of a juvenile from probation, the supreme court, in consultation with the department of corrections, shall establish rules for a system of earned discharge for juvenile probationers to be applied by all community supervision officers. A probationer shall be awarded earned discharge credits while on probation for each full calendar month of compliance with terms of supervised probation pursuant to the rules developed by the supreme court.

(b) *The state of Kansas, the secretary of corrections, the secretary's agents or employees, the office of judicial administration and court services officers shall not be liable for damages caused by any negligent or wrongful act or omission in making the earned discharge credit calculations authorized by this section.*

Sec. 13. K.S.A. 2016 Supp. 75-52,161 is hereby amended to read as follows: 75-52,161. (a) There is hereby established the Kansas juvenile justice oversight committee for the purpose of overseeing the implementation of reform measures intended to improve the state's juvenile justice system.

(b) The Kansas juvenile justice oversight committee shall be composed of ~~19~~ 21 members including the following individuals:

- (1) The governor or the governor's designee;
- (2) one member of the house of representatives appointed by the speaker of the house of representatives;
- (3) one member of the house of representatives appointed by the minority leader of the house of representatives;
- (4) one member of the senate appointed by the president of the senate;
- (5) one member of the senate appointed by the minority leader of the senate;
- (6) the secretary of corrections or the secretary's designee;
- (7) the secretary for children and families or the secretary's designee;
- (8) the commissioner of education or the commissioner's designee;
- (9) the deputy secretary of juvenile services at the department of corrections or the deputy's designee;
- (10) the director of community-based services at the department of corrections, or the director's designee;
- (11) two district court judges appointed by the chief justice of the supreme court;
- (12) one chief court services officer appointed by the chief justice of the supreme court;
- (13) one member of the office of judicial administration appointed by the chief justice of the supreme court;
- (14) one juvenile defense attorney appointed by the chief justice of the supreme court;
- (15) one juvenile crime victim advocate appointed by the governor;
- (16) one member from a local law enforcement agency appointed by the attorney general;
- (17) one attorney from a prosecuting attorney's office appointed by the attorney general; ~~and~~

(18) one member from a community corrections agency appointed by the governor;

(19) *one youth member of the Kansas advisory group on juvenile justice and delinquency prevention appointed by the chair of the Kansas advisory group on juvenile justice and delinquency prevention; and*

(20) *one director of a juvenile detention facility appointed by the attorney general.*

(c) The committee shall be appointed by September 1, 2016, and shall meet within 60 days after appointment and at least quarterly thereafter, upon notice by the chair. The committee shall select a chairperson and vice-chairperson, and ~~10~~ 11 members shall be considered a quorum.

(d) The committee shall perform the following 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) calculate 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. 2016 Supp. 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. 2016 Supp. 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. 2016 Supp. 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; ~~and~~

(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.*

(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 30th 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 calculated by the committee 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. 2016 Supp. 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.

(f) After initial appointment, members appointed to this committee by the governor, the president of the senate, the speaker of the house of representatives or the chief justice of the supreme court pursuant to subsection (b), shall serve for a term of two years and shall be eligible for reappointment to such position. All members appointed to the committee shall serve until a successor has been duly appointed.

(g) The staff of the Kansas department of corrections shall provide such assistance as may be requested by the committee. To facilitate the organization of the meetings of the committee, the Kansas department of corrections shall provide administrative assistance.

Sec. 14. K.S.A. 2016 Supp. 75-52,162 is hereby amended to read as follows: 75-52,162. (a) The department of corrections and the Kansas juvenile justice oversight committee shall explore methods of exchanging confidential data between all parts of the juvenile justice system. Such data exchange shall be limited based on the needs of the user accessing the data. Such method of exchanging data shall take into consideration sharing data that is necessary for continuity of treatment and correctional programs, including, but not limited to, health care requirements, mental health care needs and history, substance abuse treatment and history, recommendations for emergency placement options and any other information to assist in providing proper care to the juvenile. The department of corrections is authorized to use grant funds, allocated state funds or any other accessible funding necessary to create such 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 shall cooperate in the development and utilization of such system.

(b) *The department of corrections shall establish and maintain a state-wide searchable database that contains information regarding juveniles who participate in an immediate intervention program. County and district attorneys, judges, community supervision officers and juvenile intake and assessment workers shall have access to the database and shall submit necessary data to such database. The department of corrections shall, in consultation with the office of judicial administration, adopt rules and regulations to carry out the provisions of this subsection.*

Sec. 15. K.S.A. 2016 Supp. 75-52,164 is hereby amended to read as follows: 75-52,164. (a) There is hereby established in the state treasury the ~~Kansas juvenile justice improvement fund~~ *evidence-based programs account of the state general fund*, which shall be administered by the

department of corrections. All expenditures from the ~~Kansas juvenile justice improvement fund~~ *evidence-based programs account of the state general fund* shall be for the development and implementation of evidence-based community programs and practices for juvenile offenders and their families by community supervision offices, including, but not limited to, juvenile intake and assessment, court services and community corrections. All expenditures from the ~~Kansas juvenile justice improvement fund~~ *evidence-based programs account of the state general fund* shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of corrections or the secretary's designee.

(b) ~~At least annually, on or before June 30 throughout the year,~~ the secretary of corrections shall 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 has been determined by the secretary to be actual or projected cost savings as a result of cost avoidance resulting from decreased reliance on incarceration in the juvenile correctional facility and placement in youth residential centers. The baseline shall be calculated on the cost of incarceration and placement in fiscal year 2015.

(c) ~~Annually, on July 1 or as soon thereafter as moneys are available~~ *Upon receipt of a certification pursuant to subsection (b),* the director of accounts and reports shall transfer the amount certified pursuant to subsection (b) from each account of the state general fund of a state agency that has been determined by the secretary of corrections to be actual or projected cost savings to the ~~Kansas juvenile justice improvement fund~~ *evidence-based programs account of the state general fund*.

(d) Prioritization of ~~Kansas juvenile justice improvement fund~~ *evidence-based programs account of the state general fund* moneys will be given to regions that demonstrate a high rate of out-of-home placement of juvenile offenders per capita that have few existing community-based alternatives.

(e) During fiscal years 2017 and 2018, the secretary of corrections shall transfer an amount not to exceed \$8,000,000 from appropriated department of corrections moneys from the state general fund or any available special revenue fund or funds that are budgeted for the purposes of facilitating the development and implementation of new community placements in conjunction with the reduction in out-of-home placements.

(f) The ~~Kansas juvenile justice improvement fund~~ *evidence-based programs account of the state general fund* and any other moneys transferred pursuant to this section shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the legislature that the funds and the moneys deposited in this fund shall remain intact and inviolate for the purposes set forth in this section.

Sec. 16. K.S.A. 2016 Supp. 75-6704 is hereby amended to read as follows: 75-6704. (a) The director of the budget shall continuously monitor the status of the state general fund with regard to estimated and actual revenues and approved and actual expenditures and demand transfers. Periodically, the director of the budget shall estimate the amount of the unencumbered ending balance of moneys in the state general fund for the current fiscal year and the total amount of anticipated expenditures, demand transfers and encumbrances of moneys in the state general fund for the current fiscal year. If the amount of such unencumbered ending balance in the state general fund is less than \$100,000,000, the director of the budget shall certify to the governor the difference between \$100,000,000 and the amount of such unencumbered ending balance in the state general fund, after adjusting the estimates of the amounts of such demand transfers with regard to new estimates of revenues to the state general fund, where appropriate. When estimating the amount of the unencumbered ending balance of moneys in the state general fund for the purposes of such certification, the director of the budget shall not take into consideration the balance in the budget stabilization fund.

(b) Upon receipt of any such certification and subject to approval of the state finance council acting on this matter which is hereby declared to be a matter of legislative delegation and subject to the guidelines prescribed by K.S.A. 75-3711c(c), and amendments thereto, the governor may issue an executive order reducing, by applying a percentage reduction determined by the governor in accordance with this section: (1) The

amount authorized to be expended from each appropriation from the state general fund for the current fiscal year, other than any item of appropriation for debt service for payments pursuant to contractual bond obligations or any item of appropriation for employer contributions for the employers who are eligible employers as specified in K.S.A. 74-4931(1), (2) and (3), and amendments thereto, under the Kansas public employees retirement system pursuant to K.S.A. 74-4939, and amendments thereto, or for payments made from the ~~juvenile justice improvement fund~~ *evidence-based programs appropriation of the state general fund* for the development and implementation of evidence-based community programs and practices for juvenile offender and their families; and (2) the amount of each demand transfer from the state general fund for the current fiscal year, other than any demand transfer to the school district capital improvements fund for distribution to school districts pursuant to K.S.A. 75-2319, and amendments thereto.

(c) The reduction imposed by an executive order issued under this section shall be determined by the governor and may be equal to or less than the amount certified under subsection (a). Except as otherwise specifically provided by this section, the percentage reduction applied under subsection (b) shall be the same for each item of appropriation and each demand transfer and shall be imposed equally on all such items of appropriation and demand transfers without exception. No such percentage reduction and no provisions of any such executive order under this section shall apply or be construed to reduce any item of appropriation for debt service for payments pursuant to contractual bond obligations or any item of appropriation for employer contributions for the employers who are eligible employers as specified in K.S.A. 74-4931(1), (2) and (3), and amendments thereto, under the Kansas public employees retirement system pursuant to K.S.A. 74-4939, and amendments thereto, or any demand transfer to the school district capital improvements fund for distribution to school districts pursuant to K.S.A. 75-2319, and amendments thereto. The provisions of such executive order shall be effective for all state agencies of the executive, legislative and judicial branches of state government.

(d) If the governor issues an executive order under this section, the director of accounts and reports shall not issue any warrant for the payment of moneys in the state general fund or make any demand transfer of moneys in the state general fund for any state agency unless such warrant or demand transfer is in accordance with such executive order and such warrant or demand transfer does not exceed the amount of money permitted to be expended or transferred from the state general fund.

(e) Nothing in this section shall be construed to: (1) Require the governor to issue an executive order under this section upon receipt of any such certification by the director of the budget; or (2) restrict the number of times that the director of the budget may make a certification under this section or that the governor may issue an executive order under this section.

Sec. 17. K.S.A. 2015 Supp. 38-2304, as amended by section 30 of chapter 46 of the 2016 Session Laws of Kansas, 38-2342, as amended by section 36 of chapter 46 of the 2016 Session Laws of Kansas, 38-2361, as amended by section 42 of chapter 46 of the 2016 Session Laws of Kansas, 38-2368, as amended by section 45 of chapter 46 of the 2016 Session Laws of Kansas, 38-2369, as amended by section 46 of chapter 46 of the 2016 Session Laws of Kansas and 38-2375, as amended by section 51 of chapter 46 of the 2016 Session Laws of Kansas and K.S.A. 2016 Supp. 38-2330, 38-2346, 38-2391, 38-2392, 38-2398, 75-52,161, 75-52,162, 75-52,164 and 75-6704 are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.