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MEMORANDUM

To: Members of the J. Russell (Russ) Jennings Joint Committee on Corrections and Juvenile Justice Oversight

From: Office of Revisor of Statutes

Date: November 18, 2024

Subject: Juvenile Justice Reform Legislation

2016 SB 367

- A juvenile shall be delivered to the juvenile’s parents or guardians unless there is reason to believe it is not in the best interest of the child or would pose a risk to public safety or property. A juvenile cannot be taken from a parent’s custody unless a detention risk assessment assesses the juvenile as detention-eligible or there are grounds to override the results of the assessment. A juvenile cannot be taken into custody for a violation of a term of probation or placement. To obtain a warrant to arrest a juvenile, a supervision officer must set forth that the juvenile has violated a condition of disposition three or more times and poses a significant risk of physical harm to another or damage to property.
- Each director of juvenile intake and assessment services must adopt a policy and establish guidelines for an immediate intervention process. Juveniles have the right to participate in an immediate intervention program.
- Cumulative detention of a juvenile shall be limited to a maximum of 45 days over the course of the juvenile’s case. **(This was amended in 2023 HB 2021)**
- Juveniles shall be presumed to be juveniles, and the presumption can only be rebutted by a preponderance of the evidence. A juvenile must be 14 to be prosecuted as an adult. Extended jurisdiction juvenile prosecution can only be used for juveniles charged with an off-grid or nondrug severity level 1 through 4 person felony.
- The department of corrections working with the supreme court had to adopt a state-wide system of structured community-based graduated responses for technical violations of

probation, violations of conditional release and violations of condition of disposition for juveniles. They also were required to develop standards to guide immediate intervention.

- Probation length limits were imposed for juveniles. Low and moderate-risk offenders adjudicated for a misdemeanor and low-risk offenders adjudicated for a felony may be placed on probation for up to six months. High-risk offenders adjudicated for a misdemeanor and moderate-risk offenders adjudicated for a felony may be placed on probation for up to nine months. High-risk offenders adjudicated for a felony may be placed on probation for up to 12 months. These probation length limits do not apply to juveniles adjudicated for an off-grid felony, rape, aggravated criminal sodomy or murder in the second degree. The court may extend a term of probation if the juvenile needs time to complete an evidence-based program.
- Overall case length limits were imposed for cases involving juvenile offenders. Juveniles adjudicated for a misdemeanor may remain under court jurisdiction for up to 12 months. Low and moderate-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 15 months. High-risk offenders adjudicated for a felony may remain under court jurisdiction for up to 18 months. The overall case length limits do not apply to juveniles adjudicated for off-grid or nondrug severity level 1 through 4 felonies. **(This was amended in 2023 HB 2021)**
- Supervision levels are to be based on the results of a risk and needs assessment. A risk and needs assessment must be conducted before sentencing. Placement of a juvenile in the custody of the secretary of corrections can only happen when the juvenile poses a significant risk of harm to another or damage or property and is otherwise eligible. Juveniles adjudicated for certain sex offenses can be placed in a short-term alternative placement in an emergency shelter, therapeutic foster home or community integration program.
- Sentence maximums and certain scores needed for placement on the risk and needs assessment were created for certain offenses. Serious offender I category offenders can be placed for a minimum of 18 months and a maximum of 36 months. Serious offender II category offenders can be placed for a minimum term of nine months and a maximum of 18 months. Serious offender III category offenders can be placed for a minimum term of six months and a maximum of 12 months if they assessed as high-risk. Serious offender IV category offenders can be placed for a minimum term of six months and a maximum

of 12 months if they are assessed as high-risk. Chronic offender I category offenders can be placed for a minimum term of six months and a maximum term of 12 months if they are assessed as high-risk. There is a rebuttable presumption that all offenders in the chronic offender category and offenders between the ages of 10 and 14 in the serious offender II, III and IV categories shall be placed in a youth residential facility instead of the juvenile correctional facility.

- Starting on January 1, 2018, the secretary of corrections is allowed to contract for no more than 50 non-foster care beds in youth residential facilities.
- A juvenile cannot be ordered to be returned to a juvenile correctional facility for a violation of a condition of release. A juvenile must be discharged from a juvenile correctional facility when the overall case length limit applicable to them has been reached.
- The department of corrections and the juvenile justice oversight committee were tasked with exploring methods of exchanging confidential data between different parts of the juvenile justice system. **(This was amended in 2023 HB 2021)**
- The Kansas juvenile justice oversight committee was created to oversee the implementation of reforms.
- The Kansas juvenile justice improvement fund was created. The secretary of corrections was required to certify the cost savings from a reduction in out-of-home placements and transfer that amount of money to the fund. Prioritization of the money in the fund was to be given to regions demonstrating a high rate of out-of-home placements of juvenile offenders. **(This was amended in 2014 SB 42)**

2017 SB 42

- A judge must consider and make certain findings when they remove a juvenile from the home for the first time. This is a requirement to maintain eligibility for federal title IV-E funding.
- Removed a requirement for the secretary for children and families to prepare parents for a juvenile's return if the juvenile was in an out-of-home placement at the time of sentencing.
- Supervision officers were given the ability to request a warrant for a juvenile who has absconded from supervision and the court can issue that warrant and can extend or

modify the terms of probation or impose additional conditions of release. Probation length limits are tolled during any time the offender has absconded from supervision.

- A juvenile charged with a sex offense is not required to be offered participation in an immediate intervention program. Immediate intervention is also not required to be offered to a juvenile who was originally charged with a felony and the charge was later amended to a misdemeanor.
- Upon a finding by the trier of fact that a firearm was used in the commission of a felony, the judge may commit the juvenile to a juvenile correctional facility for a maximum of 18 months, regardless of the risk level of the juvenile.
- The juvenile justice improvement fund was transformed into the evidence-based programs account of the state general fund, and the secretary was given authority to certify cost savings several time throughout the year.

2018 SB 179

- Created juvenile crisis intervention centers to provide short-term observation, assessment, treatment and case planning for juveniles experiencing a mental health crisis. **(This was amended in 2023 HB 2021)**
- A juvenile may be admitted for not more than 30 days when the head of the center determines the juvenile is in need of treatment, a qualified mental health professional from a community mental health center has given written authorization for the admission, and no other more appropriate treatment is available. A parent or legal guardian may remove a child at any time.
- A law enforcement officer may take a child into custody when the officer reasonably believes the child is experiencing a mental health crisis and is likely to cause harm to self or others and may deliver that child to a juvenile crisis intervention center.
- When a court determines an order or a temporary order of protective custody is necessary, the court may place the child into a juvenile crisis intervention center.
- If a juvenile is taken into law enforcement custody pursuant to the juvenile offender code and they are determined to not be detention eligible, the juvenile may be taken to a juvenile crisis intervention center.
- Use of evidence-based programs account moneys was expanded to include services for juveniles experiencing mental health crisis and juvenile crisis intervention centers.

2023 HB 2021

- The secretary for children and families must use an evidence-based risk and needs assessment to assess children during the course of a child in need of care proceeding who have been identified as exhibiting behavior that could lead to juvenile offender charges related to physical violence, aggression, damage to property or use of life-threatening drugs.
- The secretary for children and families and the secretary of corrections are required to allow the identified children to participate in evidence-based community programs offered by the secretary of corrections.
- The evidence-based programs account may be used on these children. The money may be used for services provided by community mental health centers, community health centers, the youth advocate program, jobs for America's graduates Kansas transition services and any other community-based service provider offering evidence-based community programs. Current law was also preserved so the money may continue to be used for services by community supervision offices, juvenile intake and assessment, court services, community corrections and juvenile crisis intervention centers. Expenditures must be made promptly and on a rolling basis.
- The secretary of corrections is required to develop a grant program to implement evidence-based community programs and promising practices throughout the state, subject to the availability of funding after expenditures for evidence-based programs are made. The program must prioritize counties that demonstrate a low availability of evidence-based programs for juveniles, and child welfare case management providers shall not be eligible for grants under the program
- The secretary of corrections must ensure that juveniles being held in detention (1) receive a risk and needs assessment or update an existing assessment within 72 hours, (2) receive an updated or completed case plan within 48 hours after the assessment, and (3) have access to behavioral health, mental health and substance use treatment services.
- The term "mental health crisis" as used for juvenile crisis intervention centers is replaced with "behavioral health crisis" which is defined as behavioral and conduct issues that impact the safety or health of a child, members of the child's household or family or

members of the community, including, but not limited to, non-life threatening mental health and substance abuse concerns.

- The department for children and families, the department of corrections and the judicial branch are required to collaborate to provide services to juveniles who are eligible for services.
- In juvenile offender cases, the overall case length limit may be extended incrementally to allow for a juvenile to complete an evidence-based program when failure to complete the program is due to repeated, intentional effort to delay by the juvenile.
- When a juvenile is placed on probation, the judge may commit the juvenile to detention if the judge makes a finding that the juvenile is demonstrating escalating use of physical violence, aggression, weapons, damage to property or life-threatening substances. The juvenile may be placed in detention up to 24 hours for a first violation, 48 hour for a second violation and 15 days for a third or subsequent violation.
- Prior to July 1, 2025, the department of corrections must develop a system to facilitate the exchange of confidential data.

2024 SB 420

- If a juvenile offender is issued a pass, furlough or leave outside the facility, the juvenile may only leave without being accompanied by staff if the juvenile meets the appropriate classification as defined by policies and procedures adopted by the department.
- The secretary of corrections may establish a work release or educational release program. If a juvenile meets the criteria for such programs and is capable of receiving substantial benefit from educational or vocational programs that are not available within the facility, the juvenile may attend such programs.
- The secretary is required to develop policies and procedures to ensure adequate oversight, supervision and accountability of the juveniles.