

SENATE BILL No. 174

By Committee on Judiciary

1-31

AN ACT concerning juvenile offenders; relating to detention; responsibility and payment of expenses; juvenile detention facilities fund; amending K.S.A. 38-1616 and 38-1671 and K.S.A. 2000 Supp. 79-4803 and repealing the existing sections.

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

Section 1. K.S.A. 38-1616 is hereby amended to read as follows: 38-1616. (a) *How paid.* (1) If a juvenile accused of being or adjudicated to be a juvenile offender is not eligible for assistance under K.S.A. 39-709 and amendments thereto, expenses for the care and custody of the juvenile shall be paid out of the general fund of the county in which the proceedings are brought. For the purpose of this section, a juvenile who is a nonresident of the state of Kansas or whose residence is unknown shall have residence in the county where the proceedings are instituted.

(2) When a law enforcement officer has taken a juvenile into custody as authorized by subsection (a) of K.S.A. 38-1624 and amendments thereto and delivered the juvenile to a person or facility, other than a juvenile detention facility, designated by the commissioner or when custody of a juvenile is awarded to the commissioner, the expenses of the care and custody of the juvenile may be paid by the commissioner, subject to payment or reimbursement as required in subsection (b), even though the juvenile does not meet the eligibility standards of K.S.A. 39-709 and amendments thereto.

(3) When the custody of a juvenile is awarded to the commissioner, the expenses for the care and custody of the juvenile from the date of custody forward shall not be paid out of the county general fund, except as provided in subsection (d) and subsection (b)(3) of K.S.A. 38-1671, and amendments thereto. *The financial responsibility of the state for juveniles held in detention shall be in accordance with the provisions of K.S.A. 79-4803, and amendments thereto.* In no event shall the payment authorized by this subsection exceed the state approved rate for juveniles held in excess of the permitted time provided in subsection (d)(3).

(4) Nothing in this section shall be construed to mean that any person shall be relieved of legal responsibility to support a juvenile.

(b) *Reimbursement to county general fund.* (1) When expenses for

1 the care and custody of a juvenile accused of being or adjudicated to be
2 a juvenile offender have been paid out of the county general fund of any
3 county in this state, the court may fix a time and place for hearing on the
4 question of requiring payment or reimbursement of all or part of the
5 expenses by a person who by law is liable to maintain, care for or support
6 the juvenile.

7 (2) The court, after notice to the person who by law is liable to main-
8 tain, care for or support the juvenile, may hear and dispose of the matter
9 and may enter an order relating to payment of expenses for care and
10 custody of the juvenile. If the person willfully fails or refuses to pay the
11 sum, the person may be adjudged in contempt of court and punished
12 accordingly.

13 (3) Any county which makes payment to maintain, care for or support
14 an accused or adjudicated juvenile offender may bring a separate action
15 against a person who by law is liable to maintain, care for or support such
16 juvenile for the reimbursement of expenses paid out of the county general
17 fund for the care and custody of the juvenile.

18 (c) *Reimbursement to the commissioner.* When expenses for the care
19 and custody of a juvenile accused of being or adjudicated to be a juvenile
20 offender have been paid by the commissioner, the commissioner may
21 recover the expenses as provided by law from any person who by law is
22 liable to maintain, care for or support the juvenile. The commissioner
23 shall have the power to compromise and settle any claim due or any
24 amount claimed to be due to the commissioner from any person who by
25 law is liable to maintain, care for or support the juvenile. The commis-
26 sioner may contract with a state agency, contract with an individual or
27 hire personnel to collect the reimbursements required under this
28 subsection.

29 (d) ~~When a county has made an interlocal agreement to maintain,~~
30 ~~care for or support juvenile offenders who are residents of another county~~
31 ~~and such other county is a party to the interlocal agreement with the~~
32 ~~county which performs the actual maintenance, care and support of the~~
33 ~~accused or adjudicated juvenile offender, such county of residence may~~
34 ~~pay from its county general fund to the other county whatever amount is~~
35 ~~agreed upon in the interlocal agreement irrespective of any amount paid~~
36 ~~or to be paid by the juvenile justice authority. The juvenile justice au-~~
37 ~~thority shall not diminish the amount it would otherwise reimburse any~~
38 ~~such county for maintaining, caring for and supporting any such accused~~
39 ~~or adjudicated juvenile offender because of any payment under such an~~
40 ~~interlocal agreement. (1) When the custody of a juvenile offender or an~~
41 ~~alleged juvenile offender is awarded to the commissioner pursuant to sub-~~
42 ~~section (g) of K.S.A. 38-1632 or subsection (4) of K.S.A. 38-1663, and~~
43 ~~amendments thereto, the clerk of the court entering the order shall notify~~

1 *the commissioner or the designee of the commissioner of such order. A*
2 *copy of the order, journal entry or judges minutes shall serve as sufficient*
3 *notice to the commissioner of the award of custody by which placement*
4 *can be made.*

5 (2) *The commissioner shall provide the clerk of the district court of*
6 *each judicial district with the name of the individual or agency who shall*
7 *serve as the designee for the delivery of the notice required in subsection*
8 *(d)(1).*

9 (3) *The commissioner shall have three days from the receipt of the*
10 *notice in which to remove the juvenile offender from a detention center*
11 *placement, and the commissioner shall be charged with the expense for*
12 *care and custody if the juvenile remains in a detention placement 10 days*
13 *after receiving notice.*

14 Sec. 2. K.S.A. 38-1671 is hereby amended to read as follows: 38-
15 1671. (a) *Actions by the court.* (1) When a juvenile offender has been
16 committed to a juvenile correctional facility, the clerk of the court shall
17 forthwith notify the commissioner of the commitment and provide the
18 commissioner with a certified copy of the complaint, the journal entry of
19 the trial and the sentence. The court shall also forward those items from
20 the social file which could relate to a rehabilitative program. If the court
21 wishes to recommend placement of the juvenile offender in a specific
22 juvenile correctional facility, the recommendation shall be included in the
23 sentence. After the court has received notice of the juvenile correctional
24 facility designated as provided in subsection (b), it shall be the duty of
25 the court or the sheriff of the county to deliver the juvenile offender to
26 the facility at the time designated by the commissioner.

27 (2) When a juvenile offender is residing in a juvenile correctional
28 facility and is required to go back to court for any reason, the county
29 demanding the juvenile's presence shall be responsible for transportation,
30 detention, custody and control of such offender. In these cases, the county
31 sheriff shall be responsible for all transportation, detention, custody and
32 control of such offender.

33 (b) *Actions by the commissioner.* (1) After receiving notice of com-
34 mitment as provided in subsection (a), the commissioner shall give the
35 committing court notice *within three business days* designating the ju-
36 venile correctional facility to which the juvenile offender is to be admitted
37 and the date of the admission *which shall be no later than 10 business*
38 *days from the receipt of the notice of commitment as provided in subsec-*
39 *tion (a).*

40 (2) Except as provided by K.S.A. 38-1691, and amendments thereto,
41 the commissioner may make any temporary out-of-home placement the
42 commissioner deems appropriate pending placement of the juvenile of-
43 fender in a juvenile correctional facility, and the commissioner shall notify

1 the court, local law enforcement agency and school district in which the
2 juvenile will be residing if the juvenile is still required to attend a sec-
3 ondary school of that placement.

4 (c) *Transfers.* During the time a juvenile offender remains committed
5 to a juvenile correctional facility, the commissioner may transfer the ju-
6 venile offender from one juvenile correctional facility to another.

7 Sec. 3. K.S.A. 2000 Supp. 79-4803 is hereby amended to read as
8 follows: 79-4803. (a) After the transfer of moneys pursuant to K.S.A. 2000
9 Supp. 79-4806, and amendments thereto:

10 (1) An amount equal to 10% of the balance of all moneys credited to
11 the state gaming revenues fund shall be transferred and credited to the
12 correctional institutions building fund created pursuant to K.S.A. 76-6b09
13 and amendments thereto, to be appropriated by the legislature for the
14 use and benefit of state correctional institutions as provided in K.S.A. 76-
15 6b09 and amendments thereto; and

16 (2) an amount equal to 5% of the balance of all moneys credited to
17 the state gaming revenues fund shall be transferred and credited to the
18 juvenile detention facilities fund.

19 (b) There is hereby created in the state treasury the juvenile deten-
20 tion facilities fund which shall be administered by the commissioner of
21 juvenile justice. ~~The Kansas advisory group on juvenile justice and delin-~~
22 ~~quency prevention shall review and make recommendations concerning~~
23 ~~the administration of the fund.~~ All expenditures from the juvenile deten-
24 tion facilities fund shall be for the retirement of debt of facilities for the
25 detention of juveniles; or for the construction, renovation, remodeling or
26 operational costs of facilities for the detention of juveniles ~~in accordance~~
27 ~~with a grant program which shall be established with grant criteria de-~~
28 ~~signed to facilitate the expeditious award and payment of grants for the~~
29 ~~purposes for which the moneys are intended and for the payment of all~~
30 ~~per diem rates and all other expenses associated with juvenile detention.~~
31 “Operational costs” shall not be limited to any per capita reimbursement
32 by the commissioner of juvenile justice for juveniles under the supervision
33 and custody of the commissioner but shall include payments to counties
34 as and for their costs of operating the facility. The commissioner of ju-
35 venile justice shall make ~~grants~~ *required payments* of the moneys credited
36 to the juvenile detention facilities fund for such purposes to counties ~~in~~
37 ~~accordance with such grant program as provided by subsections (c) and~~
38 ~~(d).~~ All expenditures from the juvenile detention facilities fund shall be
39 made in accordance with appropriation acts upon warrants of the director
40 of accounts and reports issued pursuant to vouchers approved by the
41 commissioner of juvenile justice or the commissioner’s designee.

42 (c) *The commissioner shall assure adequate funds are available to*
43 *meet the obligations of the fund by maintaining a minimum balance in*

1 *the fund which is equal to two times the amount required to be paid for*
2 *the next bond and interest payment which is an obligation of the fund.*
3 *Any balance of funds reserved for payment of detention bond and interest*
4 *payments remaining at the end of the fiscal year shall be restored to the*
5 *fund as necessary to maintain the minimum balance for the next bond*
6 *and interest payments as provided in this section.*

7 (d) *Once each quarter year the commissioner shall determine and pay*
8 *from the available balance of funds grant awards to fund balance divided*
9 *by the total number of licensed county government operated juvenile de-*
10 *tention center beds to determine a per bed allocation. The per bed allo-*
11 *cation shall then be multiplied by the number of licensed beds of each*
12 *county government operated facility according to the license issued by*
13 *the secretary of the Kansas department of health and environment to*
14 *determine the amount of the award for each facility. The secretary of the*
15 *department of health and environment shall certify the number of such*
16 *juvenile detention center beds quarterly to the commissioner.*

17 (e) *In accordance with subsection (d) of K.S.A. 38-1616, and amend-*
18 *ments thereto, if a juvenile remains in detention 10 days after the com-*
19 *missioner has received notice of a youth center placement, the expenses*
20 *shall be paid by the commissioner.*

21 Sec. 4. K.S.A. 38-1616 and 38-1671 and K.S.A. 2000 Supp. 79-4803
22 are hereby repealed.

23 Sec. 5. This act shall take effect and be in force from and after its
24 publication in the statute book.

25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43