

SENATE BILL No. 563

By Committee on Judiciary

2-11

AN ACT concerning the Kansas juvenile justice code; relating to juvenile offenders; custody of commissioner of juvenile justice; amending K.S.A. 38-1664 and repealing the existing section.

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

Section 1. K.S.A. 38-1664 is hereby amended to read as follows: 38-1664. (a) Prior to placing a juvenile offender in the custody of the commissioner and recommending out-of-home placement, the court shall consider and determine that, where consistent with the need for protection of the community:

(1) Reasonable efforts have been made to maintain the family unit and prevent unnecessary removal of a juvenile offender from the juvenile offender's home, as long as the juvenile offender's safety is assured, or an emergency exists which threatens the safety of the juvenile offender. If the juvenile offender is in the custody of the secretary of social and rehabilitation services under the Kansas code for the care of children, the secretary shall prepare a report for the court documenting such reasonable efforts. If the juvenile offender is in the custody of the commissioner, the commissioner shall prepare a report for the court documenting such reasonable efforts. Otherwise, the predisposition investigation writer shall prepare a report to the court documenting such reasonable efforts. Reasonable efforts are not required prior to removal if the court finds:

(A) A court of competent jurisdiction has determined that the parent has subjected the juvenile offender to aggravated circumstances;

(B) a court of competent jurisdiction has determined that the parent has been convicted of a murder of another child of the parent; voluntary manslaughter of another child of the parent; aiding or abetting, attempting, conspiring or soliciting to commit such a murder of such a voluntary manslaughter; or a felony assault that results in serious bodily injury to the juvenile offender or another child of the parent; or

(C) the parental rights of the parent with respect to a sibling have been terminated involuntarily.

Such findings must be included in the court's order.

(2) The juvenile offender's removal from the home must be the result of a judicial determination to the effect that continuation of residence in

1 the home would be contrary to the welfare, or that placement would be
2 in the best interests, of the juvenile offender. The contrary to the welfare
3 determination must be made in the first court ruling that sanctions the
4 removal of a juvenile offender from the home.

5 (3) A permanency plan must be presented at disposition or within 30
6 days thereafter. If a permanency plan is in place under a child in need of
7 care proceeding, the court may adopt the plan under the present pro-
8 ceeding. If the juvenile offender is placed in the custody of the commis-
9 sioner, the commissioner shall prepare the plan. The plan must comply
10 with the requirements of subsection (a) of K.S.A. 38-1565, and amend-
11 ments thereto. The court shall have the authority to require any person
12 or entity agreeing to participate in the plan to perform as set out in the
13 plan.

14 (4) The court must determine that reasonable efforts have been made
15 and what progress has been made to finalize the permanency plan that is
16 in effect within 12 months of the date the juvenile offender is considered
17 to have entered foster care and at least once every 12 months thereafter
18 while the juvenile offender is in foster care.

19 (5) The court must reflect reasonable efforts and contrary to the wel-
20 fare findings in orders awarding custody to the commissioner temporarily,
21 at sentencing and at modification hearings. If the juvenile offender is
22 placed in the custody of the commissioner, the court shall provide the
23 commissioner with a written copy of any orders entered upon making the
24 order for the purpose of documenting the orders.

25 (6) If the juvenile offender is placed in the commissioner's custody,
26 the commissioner shall document in writing the reasonable efforts that
27 have been made and the progress made to finalize the permanency plan,
28 before each hearing reviewing the plan.

29 (b) When a juvenile offender has been placed in the custody of the
30 commissioner, the commissioner shall notify the court in writing of the
31 initial placement of the juvenile offender as soon as the placement has
32 been accomplished. The court shall have no power to direct a specific
33 placement by the commissioner, but may make recommendations to the
34 commissioner. The commissioner may place the juvenile offender in an
35 institution operated by the commissioner, a youth residential facility or a
36 community mental health center. If the court has recommended an out-
37 of-home placement, the commissioner may not return the juvenile of-
38 fender to the home from which removed without first notifying the court
39 of the plan. *After the commissioner has given such notice to the court and*
40 *returned the juvenile offender to the home from which removed, the com-*
41 *missioner's custody of the juvenile offender is terminated.*

42 (c) During the time a juvenile offender remains in the custody of the
43 commissioner, the commissioner shall report to the court at least each six

1 months as to the current living arrangement and social and mental de-
2 velopment of the juvenile offender and document in writing the reason-
3 able efforts that have been made and the progress made to finalize the
4 permanency plan.

5 (d) If the juvenile offender is placed outside the juvenile offender's
6 home, a permanency hearing shall be held not more than 12 months after
7 the juvenile offender is placed outside the juvenile offender's home and,
8 if reintegration is a viable alternative, every 12 months thereafter. The
9 court may appoint a guardian ad litem to represent the juvenile offender
10 at the permanency hearing. Juvenile offenders who have been in extended
11 out of home placement shall be provided a permanency hearing within
12 30 days of a request from the commissioner. If reintegration is not a viable
13 alternative and either adoption or permanent guardianship might be in
14 the best interests of the juvenile offender the county or district attorney
15 shall file a petition alleging the juvenile is a child in need of care and
16 requesting termination of parental rights or the appointment of a per-
17 manent guardian pursuant to the Kansas code for care of children. If the
18 juvenile offender is placed in foster care, the foster parent or parents shall
19 submit to the court, at least every six months, a report in regard to the
20 juvenile offender's adjustment, progress and condition. The juvenile jus-
21 tice authority shall notify the foster parent or parents of the foster parents'
22 or parent's duty to submit such report, on a form provided by the juvenile
23 justice authority, at least two weeks prior to the date when the report is
24 due, and the name of the judge and the address of the court to which the
25 report is to be submitted. Such report shall be confidential and shall only
26 be reviewed by the court and the child's attorney.

27 (e) The report made by foster parents and provided by the commis-
28 sioner of juvenile justice, pursuant to this section, shall be in substantially
29 the following form:

30 REPORT FROM FOSTER PARENTS
31 CONFIDENTIAL

32 _____	_____
33 Child's Name	Current Address
34 _____	_____
35 Parent's Name	Foster Parents
36 _____	
37 Primary Social Worker	

38 Please circle the word which best describes the child's progress

- 39 1. Child's adjustment in the home
- 40 excellent good satisfactory needs improvement
- 41 2. Child's interaction with foster parents and family members
- 42 excellent good satisfactory needs improvement
- 43

