

HOUSE BILL No. 2270

By Committee on Corrections and Juvenile Justice

2-11

AN ACT concerning the Kansas juvenile justice code; amending K.S.A. 38-1601, 38-1602, 38-1603, 38-1604, 38-1605, 38-1606, 38-1606a, 38-1607, 38-1608, 38-1609, 38-1610, 38-1613, 38-1614, 38-1615, 38-1616, 38-1617, 38-1618, 38-1621, 38-1622, 38-1623, 38-1624, 38-1625, 38-1626, 38-1627, 38-1628, 38-1629, 38-1630, 38-1631, 38-1632, 38-1633, 38-1634, 38-1635, 38-1636, 38-1637, 38-1638, 38-1639, 38-1640, 38-1641, 38-1651, 38-1652, 38-1653, 38-1654, 38-1655, 38-1656, 38-1657, 38-1658, 38-1661, 38-1663, 38-1664, 38-1665, 38-1666, 38-1668, 38-1671, 38-1673, 38-1674, 38-1675, 38-1676, 38-1677, 38-1681, 38-1682, 38-1683, 38-1684, 38-1685, 38-1691, 38-16,111, 38-16,116, 38-16,117, 38-16,118, 38-16,119, 38-16,120, 38-16,126, 38-16,127, 38-16,128, 38-16,129, 38-16,130, 38-16,132 and 38-16,133 and K.S.A. 2002 Supp. 38-1611 and 38-1692 and repealing the existing sections; also repealing K.S.A. 38-1612, 38-1662, 38-1667 and 38-16,131.

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

Section 1. K.S.A. 38-1601 is hereby amended to read as follows: 38-1601. *The provisions of this act as contained in article 16 of chapter 38 of the Kansas Statutes Annotated and K.S.A. 38-16,126, 38-16,127 and 38-16,128, and amendments thereto, shall be known and may be cited as the Kansas juvenile justice code. The primary goal goals of the juvenile justice code is are to promote public safety, hold juvenile offenders accountable for such juvenile's their behavior and improve the their ability of juveniles to live more productively and responsibly in the community. To accomplish this goal these goals, juvenile justice policies developed pursuant to the Kansas juvenile justice code shall be designed to: (a) Protect public safety; (b) recognize that the ultimate solutions to juvenile crime lie in the strengthening of families and educational institutions, the involvement of the community and the implementation of effective prevention and early intervention programs; (c) be community based to the greatest extent possible; (d) be family centered when appropriate; (e) facilitate efficient and effective cooperation, coordination and collaboration among agencies of the local, state and federal government; (f) be outcome based, allowing for the effective and accurate assessment of program performance; (g) be cost-effectively implemented and admin-*

1 istered to utilize resources wisely; (h) encourage the recruitment and
2 retention of well-qualified, highly trained professionals to staff all com-
3 ponents of the system; (i) appropriately reflect community norms and
4 public priorities; and (j) encourage public and private partnerships to
5 address community risk factors.

6 Sec. 2. K.S.A. 38-1602 is hereby amended to read as follows: 38-
7 1602. As used in this code, unless the context otherwise requires:

8 (a) “Juvenile” means a person 10 or more years of age but less than
9 18 years of age.

10 ~~— (b) “Juvenile offender” means a person who commits an offense~~
11 ~~while a juvenile which if committed by an adult would constitute the~~
12 ~~commission of a felony or misdemeanor as defined by K.S.A. 21-3105,~~
13 ~~and amendments thereto, or who violates the provisions of K.S.A. 21-~~
14 ~~4204a or K.S.A. 41-727 or subsection (j) of K.S.A. 74-9810, and amend-~~
15 ~~ments thereto, but does not include:~~

16 ~~— (1) A person 14 or more years of age who commits a traffic offense,~~
17 ~~as defined in subsection (d) of K.S.A. 8-2117, and amendments thereto;~~

18 ~~— (2) a person 16 years of age or over who commits an offense defined~~
19 ~~in chapter 32 of the Kansas Statutes Annotated;~~

20 ~~— (3) a person under 18 years of age who previously has been:~~

21 ~~— (A) Convicted as an adult under the Kansas code of criminal~~
22 ~~procedure;~~

23 ~~— (B) sentenced as an adult under the Kansas code of criminal proce-~~
24 ~~dure following termination of status as an extended jurisdiction juvenile~~
25 ~~pursuant to K.S.A. 38-16,126, and amendments thereto; or~~

26 ~~— (C) convicted or sentenced as an adult in another state or foreign~~
27 ~~jurisdiction under substantially similar procedures described in K.S.A. 38-~~
28 ~~1636, and amendments thereto, or because of attaining the age of majority~~
29 ~~designated in that state or jurisdiction.~~

30 ~~— (c) “Parent,” when used in relation to a juvenile or a juvenile of-~~
31 ~~fender, includes a guardian, conservator and every person who is by law~~
32 ~~liable to maintain, care for or support the juvenile.~~

33 ~~— (d) “Law enforcement officer” means any person who by virtue of~~
34 ~~that person’s office or public employment is vested by law with a duty to~~
35 ~~maintain public order or to make arrests for crimes, whether that duty~~
36 ~~extends to all crimes or is limited to specific crimes.~~

37 ~~— (e) “Youth residential facility” means any home, foster home or struc-~~
38 ~~ture which provides twenty-four-hour-a-day care for juveniles and which~~
39 ~~is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes~~
40 ~~Annotated.~~

41 ~~— (f) “Juvenile detention facility” means any secure public or private~~
42 ~~facility which is used for the lawful custody of accused or adjudicated~~
43 ~~juvenile offenders and which shall not be a jail.~~

- 1 ~~—(g) “Juvenile correctional facility” means a facility operated by the~~
2 ~~commissioner for juvenile offenders.~~
- 3 ~~—(h) “Warrant” means a written order by a judge of the court directed~~
4 ~~to any law enforcement officer commanding the officer to take into cus-~~
5 ~~tody the juvenile named or described therein.~~
- 6 ~~—(i) “Commissioner” means the commissioner of juvenile justice.~~
- 7 ~~—(j) “Jail” means:~~
- 8 ~~—(1) An adult jail or lockup, or~~
9 ~~—(2) a facility in the same building as an adult jail or lockup, unless the~~
10 ~~facility meets all applicable licensure requirements under law and there~~
11 ~~is (A) total separation of the juvenile and adult facility spatial areas such~~
12 ~~that there could be no haphazard or accidental contact between juvenile~~
13 ~~and adult residents in the respective facilities; (B) total separation in all~~
14 ~~juvenile and adult program activities within the facilities, including ree-~~
15 ~~creation, education, counseling, health care, dining, sleeping, and general~~
16 ~~living activities; and (C) separate juvenile and adult staff, including man-~~
17 ~~agement, security staff and direct care staff such as recreational, educa-~~
18 ~~tional and counseling.~~
- 19 ~~—(k) “Court-appointed special advocate” means a responsible adult,~~
20 ~~other than an attorney appointed pursuant to K.S.A. 38-1606 and amend-~~
21 ~~ments thereto, who is appointed by the court to represent the best inter-~~
22 ~~ests of a child, as provided in K.S.A. 38-1606a, and amendments thereto,~~
23 ~~in a proceeding pursuant to this code.~~
- 24 ~~—(l) “Juvenile intake and assessment worker” means a responsible~~
25 ~~adult authorized to perform intake and assessment services as part of the~~
26 ~~intake and assessment system established pursuant to K.S.A. 75-7023, and~~
27 ~~amendments thereto.~~
- 28 ~~—(m) “Institution” means the following institutions: The Atchison ju-~~
29 ~~venile correctional facility, the Beloit juvenile correctional facility, the~~
30 ~~Larned juvenile correctional facility and the Topeka juvenile correctional~~
31 ~~facility.~~
- 32 ~~—(n) “Sanctions house” means a facility which is operated or structured~~
33 ~~so as to ensure that all entrances and exits from the facility are under the~~
34 ~~exclusive control of the staff of the facility, whether or not the person~~
35 ~~being detained has freedom of movement within the perimeters of the~~
36 ~~facility, or which relies on locked rooms and buildings, fences, or physical~~
37 ~~restraint in order to control the behavior of its residents. Upon an order~~
38 ~~from the court, a licensed juvenile detention facility may serve as a sanc-~~
39 ~~tions house.~~
- 40 ~~—(o) “Sentencing risk assessment tool” means an instrument adminis-~~
41 ~~tered to juvenile offenders which delivers a score, or group of scores,~~
42 ~~describing, but not limited to describing, the juvenile’s potential risk to~~
43 ~~the community.~~

1 ~~—(p) “Educational institution” means all schools at the elementary and~~
2 ~~secondary levels.~~

3 ~~—(q) “Educator” means any administrator, teacher or other profes-~~
4 ~~sional or paraprofessional employee of an educational institution who has~~
5 ~~exposure to a pupil specified in subsection (a)(1) through (5) of K.S.A.~~
6 ~~2000 Supp. 72-90b03, and amendments thereto. “Commissioner” means~~
7 ~~the commissioner of juvenile justice.~~

8 (b) “Court-appointed special advocate” means a responsible adult,
9 other than an attorney appointed pursuant to K.S.A. 38-1606, and amend-
10 ments thereto, who is appointed by the court to represent the best interests
11 of a child, as provided in K.S.A. 38-1606a, and amendments thereto, in a
12 proceeding pursuant to this code.

13 (c) “Educational institution” means all schools at the elementary and
14 secondary levels.

15 (d) “Educator” means any administrator, teacher or other profes-
16 sional or paraprofessional employee of an educational institution who has
17 exposure to a pupil specified in subsections (a)(1) through (5) of K.S.A.
18 72-89b03, and amendments thereto.

19 (e) “Institution” means the following institutions: The Atchison ju-
20 venile correctional facility, the Beloit juvenile correctional facility, the
21 Larned juvenile correctional facility and the Topeka juvenile correctional
22 facility.

23 (f) “Jail” means: (1) An adult jail or lockup; or

24 (2) a facility in the same building as an adult jail or lockup, unless
25 the facility meets all applicable licensure requirements under law and
26 there is: (A) Total separation of the juvenile and adult facility spatial areas
27 such that there could be no haphazard or accidental contact between
28 juvenile and adult residents in the respective facilities; (B) total separation
29 in all juvenile and adult program activities within the facilities, including
30 recreation, education, counseling, health care, dining, sleeping and gen-
31 eral living activities; and (C) separate juvenile and adult staff, including
32 management, security staff and direct care staff such as recreational, ed-
33 ucational and counseling.

34 (g) “Juvenile” means a person as to whom one or more of the following
35 applies, the person: (1) Is 10 or more years of age but less than 18 years
36 of age; (2) is alleged to be a juvenile offender; or (3) has been adjudicated
37 as a juvenile offender and continues to be subject to the jurisdiction of the
38 court.

39 (h) “Juvenile correctional facility” means a facility operated by the
40 commissioner for juvenile offenders.

41 (i) “Juvenile correction officer” means court services officer, juvenile
42 justice authority case manager, community corrections officer or juvenile
43 intensive supervision probation officer.

1 (j) “Juvenile detention facility” means any secure public or private
2 facility which is used for the lawful custody of alleged or adjudicated
3 juvenile offenders.

4 (k) “Juvenile intake and assessment worker” means a responsible
5 adult authorized to perform intake and assessment services as part of the
6 intake and assessment system established pursuant to K.S.A. 75-7023, and
7 amendments thereto.

8 (l) “Juvenile offender” means a person who commits an offense while
9 10 or more years of age but less than 18 years of age which if committed
10 by an adult would constitute the commission of a felony or misdemeanor
11 as defined by K.S.A. 21-3105, and amendments thereto, or who violates
12 the provisions of K.S.A. 21-4204a or 41-727 or subsection (j) of K.S.A.
13 74-8810, and amendments thereto, but does not include: (1) A person 14
14 or more years of age who commits a traffic offense, as defined in subsec-
15 tion (d) of K.S.A. 8-2117, and amendments thereto;

16 (2) a person 16 years of age or over who commits an offense defined
17 in chapter 32 of the Kansas Statutes Annotated, and amendments thereto;

18 (3) a person under 18 years of age who previously has been:
19 (A) Convicted as an adult under the Kansas criminal code;

20 (B) sentenced as an adult under the Kansas criminal code following
21 termination of status as an extended jurisdiction juvenile pursuant to
22 K.S.A. 38-16,126, and amendments thereto; or

23 (C) convicted or sentenced as an adult in another state or foreign
24 jurisdiction under substantially similar procedures described in K.S.A. 38-
25 1636, and amendments thereto, or because of attaining the age of majority
26 designated in that state or jurisdiction.

27 (m) “Law enforcement officer” means any person who by virtue of
28 that person’s office or public employment is vested by law with a duty to
29 maintain public order or to make arrests for crimes, whether that duty
30 extends to all crimes or is limited to specific crimes.

31 (n) “Parent,” when used in relation to a juvenile, includes a guardian
32 and every person who is by law liable to maintain, care for or support
33 the juvenile.

34 (o) “Sanctions house” means a facility which is operated or structured
35 so as to ensure that all entrances and exits from the facility are under the
36 exclusive control of the staff of the facility, whether or not the person
37 being detained has freedom of movement within the perimeters of the
38 facility, or which relies on locked rooms and buildings, fences or physical
39 restraint in order to control the behavior of its residents. Upon an order
40 from the court, a licensed juvenile detention facility may serve as a sanc-
41 tions house.

42 (p) “Sentencing risk assessment tool” means an instrument adminis-
43 tered to juvenile offenders which delivers a score, or group of scores,

1 *describing, but not limited to describing, the juvenile offender's potential*
2 *risk to the community.*

3 (q) *“Warrant” means a written order by a judge of the court directed*
4 *to any law enforcement officer commanding the officer to take into cus-*
5 *tody the juvenile named or described therein.*

6 (r) *“Youth residential facility” means any home, foster home or struc-*
7 *ture which provides 24-hour-a-day care for juveniles and which is li-*
8 *censed pursuant to article 5 of chapter 65 of the Kansas Statutes Anno-*
9 *tated, and amendments thereto.*

10 Sec. 3. K.S.A. 38-1603 is hereby amended to read as follows: 38-
11 1603. (a) Proceedings under this code ~~must be commenced within two~~
12 ~~years after the act giving rise to the proceedings is committed, except that~~
13 ~~proceedings~~ involving acts committed by a juvenile which, if committed
14 by an adult, would constitute a violation of K.S.A. 21-3401 or 21-3402,
15 and amendments thereto, may be commenced at any time.

16 (b) Except as provided by ~~subsection (a)~~ *subsections (d) and (f)*, a
17 proceeding under this code for any ~~of the following acts~~ *act* committed
18 by a juvenile which, if committed by an adult, would constitute a violation
19 of ~~any of the~~ following statutes ~~must~~ *shall* be commenced within five years
20 after its commission if the victim is less than 16 years of age: (1) Indecent
21 liberties with a child as defined in K.S.A. 21-3503, and amendments
22 thereto; (2) aggravated indecent liberties with a child as defined in K.S.A.
23 21-3504, and amendments thereto; (3) ~~aggravated criminal sodomy as~~
24 ~~defined in K.S.A. 21-3506~~ *lewd and lascivious behavior as defined in*
25 *K.S.A. 21-3508, and amendments thereto; (4) enticement of a child as*
26 *defined in K.S.A. 21-3509, and amendments thereto; (5) indecent solici-*
27 *tation of a child as defined in K.S.A. 21-3510, and amendments thereto;*
28 *(6) aggravated indecent solicitation of a child as defined in K.S.A. 21-*
29 *3511, and amendments thereto; (7) sexual exploitation of a child as de-*
30 *fined in K.S.A. 21-3516, and amendments thereto; (8) unlawful voluntary*
31 *relations as defined in K.S.A. 21-3522, and amendments thereto; or (8)*
32 *(9) aggravated incest as defined in K.S.A. 21-3603, and amendments*
33 *thereto.*

34 (c) *Except as provided by subsections (d) and (f), a prosecution for*
35 *rape, as defined in K.S.A. 21-3502, and amendments thereto, or aggra-*
36 *vated criminal sodomy, as defined in K.S.A. 21-3506, and amendments*
37 *thereto, shall be commenced within five years after its commission.*

38 (d) (1) *Except as provided in subsection (f), a prosecution for any*
39 *offense provided in subsection (b) or a sexually violent offense as defined*
40 *in K.S.A. 22-3717, and amendments thereto, shall be commenced within*
41 *the limitation of time provided by the law pertaining to such offense or*
42 *one year from the date on which the identity of the suspect is conclusively*
43 *established by DNA testing, whichever is later.*

1 (2) For the purposes of this subsection, “DNA” means deoxyribonu-
2 cleic acid.

3 (e) Except as provided by subsection (f), proceedings under this code
4 not governed by subsections (a), (b), (c) or (d) shall be commenced within
5 two years after the act giving rise to the proceedings is committed.

6 (f) The period within which the proceedings must be commenced
7 shall not include any period in which:

8 (1) The accused is absent from the state;

9 (2) the accused is so concealed within the state that process cannot
10 be served upon the accused; ~~or~~

11 (3) the fact of the offense is concealed; or

12 (4) whether or not the fact of the offense is concealed by the active
13 act or conduct of the accused, there is substantial competent evidence to
14 believe two or more of the following factors are present: (A) The victim
15 was a child under 15 years of age at the time of the offense; (B) the victim
16 was of such age or intelligence that the victim was unable to determine
17 that the acts constituted an offense; (C) the victim was prevented by a
18 parent or other legal authority from making known to law enforcement
19 authorities the fact of the offense whether or not the parent or other legal
20 authority is the accused; and (D) there is substantial competent expert
21 testimony indicating the victim psychologically repressed such victim’s
22 memory of the fact of the offense, and in the expert’s professional opinion
23 the recall of such memory is accurate and free of undue manipulation,
24 and substantial corroborating evidence can be produced in support of the
25 allegations contained in the complaint or information; but in no event
26 may a proceeding be commenced as provided in subsection (f)(4) later
27 than the date the victim turns 28 years of age. Corroborating evidence
28 may include, but is not limited to, evidence the alleged juvenile offender
29 committed similar acts against other persons or evidence of contempo-
30 raneous physical manifestations of the offense. Parent or other legal au-
31 thority shall include but not be limited to natural and stepparents, grand-
32 parents, aunts, uncles or siblings.

33 Sec. 4. K.S.A. 38-1604 is hereby amended to read as follows: 38-
34 1604. (a) Except as provided in K.S.A. 38-1636, and amendments thereto,
35 proceedings concerning a juvenile ~~who appears to be a juvenile offender~~
36 shall be governed by the provisions of this code.

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

39 (c) ~~When jurisdiction is acquired by the district court over an alleged~~
40 ~~juvenile offender it~~ After adjudication as a juvenile offender, jurisdiction
41 may continue until: (1) Sixty days after sentencing, if the juvenile offender
42 is committed directly to a juvenile correctional facility; (2) the juvenile
43 offender has attained the age of 23 years, if committed to the custody of

1 the commissioner pursuant to subsection (c) of K.S.A. ~~38-1665~~ 38-1664,
2 and amendments thereto, unless an adult sentence is imposed pursuant
3 to an extended jurisdiction juvenile prosecution. If ~~such an~~ adult sentence
4 is imposed, jurisdiction shall continue until *the juvenile offender has been*
5 *discharged by the court or other process for the adult sentence;* (3) the
6 *juvenile offender* has been discharged by the court; ~~or~~ (4) the juvenile
7 *offender* has been discharged under the provisions of K.S.A. 38-1675, and
8 amendments thereto; *or* (5) *the juvenile offender has attained the age of*
9 *21 years. In every case under this code, the judge shall designate in the*
10 *file of the case the date of termination of jurisdiction by the court. Ter-*
11 *mination of jurisdiction pursuant to this section shall have no effect on*
12 *the juvenile offender's continuing responsibility to pay restitution pur-*
13 *suant to subsection (d) of K.S.A. 38-1663, and amendments thereto.*

14 (d) (1) If a juvenile offender, at the time of sentencing, is in an out
15 of home placement in the custody of the secretary of social and rehabil-
16 itation services under the Kansas code for care of children ~~code~~, the
17 sentencing court may order the continued placement of the juvenile *of-*
18 *fender* as a child in need of care unless the offender was adjudicated for
19 a felony or a second, or subsequent, misdemeanor. If the adjudication
20 was for a felony or a second, or subsequent misdemeanor, the continued
21 placement cannot be ordered unless the court finds there are compelling
22 circumstances which require, in the best interest of the juvenile *of-*
23 *fender*, that the placement should be continued. In considering whether com-
24 pelling circumstances exist, the court shall consider the reports and rec-
25 ommendations of the foster placement, the contract provider, the sec-
26 retary of social and rehabilitation services, the presentence investigation
27 and all other relevant factors. If the ~~foster placement refuses to continue~~
28 ~~the juvenile in the foster placement~~ *current placement under the Kansas*
29 *code for care of children refuses to continue* the court shall not order
30 continued placement as a child in need of care.

31 (2) If a placement with the secretary of social and rehabilitation serv-
32 ices is continued after sentencing, the secretary shall not be responsible
33 for any costs of sanctions imposed under this code.

34 (3) If ~~such a~~ *the* juvenile offender is placed in the custody of the
35 juvenile justice authority, the secretary of social and rehabilitation services
36 shall not be responsible for furnishing services ordered in the child in
37 need of care proceeding during the time of the placement pursuant to
38 the Kansas juvenile justice code. Nothing in this subsection shall preclude
39 ~~such~~ *the* juvenile offender from accessing *other* services provided by the
40 department of social and rehabilitation services or any other state agency
41 if ~~such juvenile is eligible for~~ ~~such~~ *the juvenile offender is otherwise eli-*
42 *gible for the services.*

43 (e) ~~The Kansas code for care of children shall apply when necessary~~

1 ~~to carry out the provisions of subsection (d) of K.S.A. 38-1664, and~~
2 ~~amendments thereto.~~

3 ~~—(f) The provisions of this code shall govern with respect to offenses~~
4 ~~committed on or after July 1, 1997.~~

5 Sec. 5. K.S.A. 38-1605 is hereby amended to read as follows: 38-
6 1605. (a) Venue for proceedings in any case involving ~~an alleged~~ a juvenile
7 ~~offender~~ shall be in any county where any act of the alleged offense was
8 committed.

9 (b) Except as provided in subsection (c), venue for sentencing pro-
10 ceedings ~~in any case involving a juvenile found to be a juvenile offender~~
11 shall be in the county of the ~~juvenile's~~ *juvenile offender's* residence or, if
12 the juvenile *offender* is not a resident of this state, in the county where
13 the offense was committed. When the sentencing hearing is to be held
14 in a county other than the county where the offense was committed, upon
15 adjudication, the judge shall contact the sentencing court and advise the
16 judge of the transfer. The ~~court~~ *adjudicating the juvenile court* shall send
17 ~~forthwith~~ *immediately* to the sentencing court a facsimile of the com-
18 plaint, the adjudication journal entry or judge's minutes, if available, and
19 any recommendations in regard to sentencing. Such documents shall be
20 sent for purposes of notification and shall not constitute original court
21 documents. The ~~court~~ *adjudicating the juvenile court* shall also send to
22 the sentencing court a complete copy of the official file in the case by
23 mail within five working days of the adjudication.

24 (c) If the juvenile *offender* is adjudicated in a county other than the
25 county of the ~~juvenile's~~ *juvenile offender's* residence, the *sentencing* hear-
26 ing may be held in the county in which the adjudication was made if the
27 adjudicating judge, upon motion by ~~the complainant or~~ any person au-
28 thorized to appeal, finds that it is in the ~~best interests of the juvenile~~
29 ~~offender and the community that~~ *interest of justice for* the sentencing
30 hearing *to* be held in the county where the act was committed.

31 Sec. 6. K.S.A. 38-1606 is hereby amended to read as follows: 38-
32 1606. (a) *Appointment of attorney to represent juvenile.* A juvenile
33 ~~charged under this code~~ is entitled to have the assistance of an attorney
34 at every stage of the proceedings. If a juvenile appears before any court
35 without an attorney, the court shall inform the juvenile and the juvenile's
36 parents of the right to employ an attorney. Upon failure to retain an
37 attorney, the court shall appoint an attorney to represent the juvenile.
38 The expense of the appointed attorney may be assessed to the juvenile
39 or parent, or both, as part of the expenses of the case.

40 (b) *Continuation of representation.* An attorney appointed for a ju-
41 venile shall continue to represent the juvenile at all subsequent court
42 hearings in the proceeding under this code, including appellate proceed-
43 ings, unless relieved by the court upon a showing of good cause or upon

1 transfer of venue.

2 (c) ~~Attorneys' Attorney fees. Attorneys~~ An attorney appointed here-
3 ~~under pursuant to this section~~ shall be allowed a reasonable fee for serv-
4 ices, which may be assessed as an expense in the proceedings as provided
5 in K.S.A. 38-1613, *and amendments thereto*.

6 Sec. 7. K.S.A. 38-1606a is hereby amended to read as follows: 38-
7 1606a. (a) In addition to the attorney appointed pursuant to K.S.A. 38-
8 1606 and amendments thereto, the court at any stage of a proceeding
9 pursuant to this code may appoint a volunteer court-appointed special
10 advocate for ~~the child~~ a juvenile who shall serve until discharged by the
11 court and whose primary duties shall be to advocate the best interests of
12 the ~~child~~ juvenile and assist the ~~child~~ juvenile in obtaining a permanent,
13 safe and ~~home-like~~ appropriate placement. The court-appointed special
14 advocate shall have such qualifications and perform such specific duties
15 and responsibilities as prescribed by rule of the supreme court.

16 (b) Any person participating in a judicial proceeding as a court-ap-
17 pointed special advocate shall be presumed prima facie to be acting in
18 good faith and in so doing shall be immune from any civil liability that
19 otherwise might be incurred or imposed.

20 (c) The supreme court shall promulgate rules governing court-ap-
21 pointed special advocate programs related to proceedings pursuant to this
22 code in the district courts.

23 ~~(d) This section shall be a part of and supplemental to the Kansas~~
24 ~~juvenile justice code.~~

25 Sec. 8. K.S.A. 38-1607 is hereby amended to read as follows: 38-
26 1607. (a) *Official file*. The official file of proceedings pursuant to this code
27 shall consist of the complaint, process, service of process, orders, writs
28 and journal entries reflecting hearings held and judgments and decrees
29 entered by the court. The official file shall be kept separate from other
30 records of the court.

31 (b) The official file shall be open for public inspection ~~as to any ju-~~
32 ~~venile 14 or more years of age at the time any act is alleged to have been~~
33 ~~committed or as to any juvenile less than 14 years of age at the time any~~
34 ~~act is alleged to have been committed except if unless the judge deter-~~
35 ~~mines that opening the official file for public inspection is not in the best~~
36 ~~interest of such interests of a juvenile who is less than 14 years of age.~~
37 Information identifying victims and alleged victims of sex offenses, as
38 defined in K.S.A. chapter 21, article 35, shall not be disclosed or open to
39 public inspection under any circumstances. Nothing in this section shall
40 prohibit the victim or alleged victim of any sex offense from voluntarily
41 disclosing their identity. ~~If the judge determines that a juvenile file, for~~
42 ~~a juvenile who is less than 14 years of age, shall not be open for public~~
43 ~~inspection, the official file~~ An official file closed pursuant to this section

1 and information identifying the victim or alleged victim of any sex offense
2 shall be disclosed only to the following parties:

3 (1) A judge of the district court and members of the staff of the court
4 designated by the judge;

5 (2) parties to the proceedings and their attorneys;

6 (3) any individual; or any public or private agency or institution; (A)
7 Having custody of the juvenile under court order; or (B) providing edu-
8 cational, medical or mental health services to the juvenile ~~or~~;

9 (4) a court-approved advocate for the juvenile ~~or~~;

10 (5) any placement provider or potential placement provider as deter-
11 mined by the commissioner or court services officer;

12 ~~(4)~~(6) law enforcement officers or county or district attorneys or their
13 staff when necessary for the discharge of their official duties;

14 ~~(5)~~(7) the Kansas racing commission, upon written request of the
15 commission chairperson, for the purpose provided by K.S.A. 74-8804, and
16 amendments thereto, *except that information identifying the victim or*
17 *alleged victim of any sex offense shall not be disclosed pursuant to this*
18 *subsection;*

19 ~~(6)~~(8) the juvenile intake and assessment workers;

20 ~~(7)~~(9) the commissioner of juvenile justice; and

21 ~~(8)~~(10) any other person when authorized by a court order, subject
22 to any conditions imposed by the order.

23 (c) *Social file.* Reports and information received by the court other
24 than the official file shall be privileged and open to inspection only by
25 attorneys for the parties, juvenile intake and assessment workers, *court*
26 *appointed special advocates and juvenile corrections officers* or upon or-
27 der of a judge of the district court or an appellate court. The reports shall
28 not be further disclosed ~~by the attorney~~ without approval of the court or
29 by being presented as admissible evidence.

30 (d) *Preservation of records.* The Kansas state historical society shall
31 be allowed to take possession for preservation in the state archives of any
32 court records related to proceedings under the Kansas juvenile justice
33 code whenever such records otherwise would be destroyed. The Kansas
34 state historical society shall make available for public inspection any unex-
35 punged docket entry or official file in its custody concerning any juvenile
36 ~~14~~ 14 or more years of age at the time an offense is alleged to have been
37 committed by the juvenile. No other such records in the custody of the
38 Kansas state historical society shall be disclosed directly or indirectly to
39 anyone for ~~80~~ 70 years after creation of the records, except as provided
40 in subsections (b) and (c). ~~Pursuant to subsections (b)(7) and (c),~~ A judge
41 of the district court may allow inspection for research purposes of any
42 court records in the custody of the Kansas state historical society related
43 to proceedings under the Kansas juvenile justice code.

1 (e) Relevant information, reports and records shall be made available
2 to the department of corrections upon request and a showing that the
3 former juvenile has been convicted of a crime and placed in the custody
4 of the secretary of the department of corrections.

5 Sec. 9. K.S.A. 38-1608 is hereby amended to read as follows: 38-
6 1608. (a) All records of law enforcement officers and agencies and mu-
7 nicipal courts concerning a ~~public~~ *an* offense committed or alleged to
8 have been committed by a juvenile under 14 years of age shall be kept
9 readily distinguishable from criminal and other records and shall not be
10 disclosed to anyone except:

11 (1) The judge and members of the court staff designated by the judge
12 of a court having the juvenile before it in any proceedings;

13 (2) parties to the proceedings and their attorneys;

14 (3) the department of social and rehabilitation services;

15 (4) *the juvenile's court appointed special advocate* or any individual,
16 or any officer of a public or private agency or institution, having custody
17 of ~~the a~~ juvenile under court order or providing educational, medical or
18 mental health services to ~~the a~~ juvenile ~~or a court-approved advocate for~~
19 ~~the juvenile~~;

20 (5) any educational institution to the extent necessary to enable the
21 educational institution to provide the safest possible environment for its
22 pupils and employees;

23 (6) any educator to the extent necessary to enable the educator to
24 protect the personal safety of the educator and the educator's pupils;

25 (7) law enforcement officers or county or district attorneys or their
26 staff when necessary for the discharge of their official duties;

27 (8) the central repository, as defined by K.S.A. 22-4701 and amend-
28 ments thereto, for use only as a part of the juvenile offender information
29 system established under K.S.A. 38-1618 and amendments thereto;

30 (9) juvenile intake and assessment workers;

31 (10) *the juvenile justice authority*;

32 (11) *juvenile corrections officers*;

33 (12) any other person when authorized by a court order, subject to
34 any conditions imposed by the order; and

35 ~~(12)~~ (13) as provided in subsection (c).

36 (b) The provisions of this section shall not apply to records
37 concerning:

38 (1) A violation, by a person 14 or more years of age, of any provision
39 of chapter 8 of the Kansas Statutes Annotated or of any city ordinance or
40 county resolution which relates to the regulation of traffic on the roads,
41 highways or streets or the operation of self-propelled or nonself-propelled
42 vehicles of any kind;

43 (2) a violation, by a person 16 or more years of age, of any provision

1 of chapter 32 of the Kansas Statutes Annotated; or

2 (3) an offense for which the juvenile is prosecuted as an adult.

3 (c) All records of law enforcement officers and agencies and munic-
4 ipal courts concerning a ~~public~~ *an* offense committed or alleged to have
5 been committed by a juvenile 14 or more years of age shall be subject to
6 the same disclosure restrictions as the records of adults. Information iden-
7 tifying victims and alleged victims of sex offenses, as defined in K.S.A.
8 chapter 21, article 35, shall not be disclosed or open to public inspection
9 under any circumstances. Nothing in this section shall prohibit the victim
10 or any alleged victim of any sex offense from voluntarily disclosing such
11 victim's identity.

12 (d) Relevant information, reports and records shall be made available
13 to the department of corrections upon request and a showing that the
14 former juvenile has been convicted of a crime and placed in the custody
15 of the secretary of the department of corrections.

16 (e) All records, reports and information obtained as a part of the
17 juvenile intake and assessment process for ~~juvenile offenders~~ *juveniles*
18 shall be confidential and shall not be disclosed except as provided ~~in this~~
19 ~~section or by rules and regulations established by the commissioner of~~
20 ~~juvenile justice~~ *by statutory law*.

21 (1) Any court of record may order the disclosure of such records,
22 reports and other information to any person or entity.

23 (2) The head of any juvenile intake and assessment program, certified
24 ~~pursuant to~~ *by* the commissioner of juvenile justice, may authorize dis-
25 closure of such records, reports and other information to:

26 (A) A person licensed to practice the healing arts who has before that
27 person a ~~child~~ *juvenile* whom the person reasonably suspects may be
28 abused or neglected;

29 (B) a court-appointed special advocate for a ~~child, which advocate~~
30 ~~reports to the court,~~ *juvenile* or an agency having the legal responsibility
31 or authorization to care for, treat or supervise a ~~child~~ *juvenile*;

32 (C) a parent or other person responsible for the welfare of a ~~child~~
33 *juvenile*, or such person's legal representative, with protection for the
34 identity of persons reporting and other appropriate persons;

35 (D) the ~~child~~ *juvenile* or the guardian ad litem for such ~~child~~ *juvenile*;

36 (E) the police or other law enforcement agency;

37 (F) an agency charged with the responsibility of preventing or treat-
38 ing physical, mental or emotional abuse or neglect or sexual abuse of
39 children, if the agency requesting the information has standards of con-
40 fidentiality as strict or stricter than the requirements of the Kansas code
41 for care of children or the Kansas juvenile justice code, whichever is
42 applicable;

43 (G) a person who is a member of a multidisciplinary team *under this*

1 *code;*

2 (H) an agency authorized by a properly constituted authority to di-
3 agnose, care for, treat or supervise a child who is the subject of a report
4 or record of child abuse or neglect;

5 (I) any individual, or public or private agency authorized by a properly
6 constituted authority to diagnose, care for, treat or supervise a ~~child ju-~~
7 *venile* who is the subject of a report or record of child abuse or neglect
8 ~~and, specifically includes including~~ the following: Physicians, psychiatrists,
9 nurses, nurse practitioners, psychologists, licensed social workers, child
10 development specialists, physicians' assistants, community mental health
11 workers, alcohol and drug abuse counselors and licensed or registered
12 child care providers;

13 (J) a citizen review board *pursuant to K.S.A. 38-1808, and amend-*
14 *ments thereto;*

15 (K) an educational institution ~~if related to a juvenile offender that~~
16 ~~attends such educational institution to the extent necessary to enable such~~
17 *institution to provide the safest possible environment for pupils and em-*
18 *ployees of the institution;* and

19 (L) ~~educators who have exposure to the juvenile offender or who are~~
20 ~~responsible for pupils who have exposure to the juvenile offender.~~

21 ~~—(3) any educator to the extent necessary for the protection of the edu-~~
22 ~~cator and pupils;~~ and

23 (M) ~~To~~ any juvenile intake and assessment worker of another certified
24 juvenile intake and assessment program.

25 Sec. 10. K.S.A. 38-1609 is hereby amended to read as follows: 38-
26 1609. (a) *When the court has exercised jurisdiction over any juvenile* the
27 diagnostic, treatment or medical records ~~of any juvenile offender~~ shall be
28 privileged and shall not be disclosed except:

29 (1) Upon the written consent of the former juvenile or, if the juvenile
30 ~~offender~~ is under 18 years of age, by the parent of the juvenile;

31 (2) upon a determination by the head of the treatment facility, who
32 has the records, that disclosure is necessary for the further treatment of
33 the juvenile ~~offender~~;

34 (3) when any court having jurisdiction of the juvenile ~~offender~~ orders
35 disclosure;

36 (4) when authorized by K.S.A. 38-1614 and amendments thereto;

37 (5) when requested orally or in writing by any attorney representing
38 the juvenile ~~offender~~, but the records shall not be further disclosed by
39 the attorney unless approved by the court or presented as admissible
40 evidence; ~~or~~

41 (6) upon a written request of a juvenile intake and assessment worker
42 in regard to ~~an alleged a juvenile offender~~ when the information is needed
43 for screening and assessment purposes or placement decisions, but the

1 records shall not be further disclosed by the worker unless approved by
2 the court;

3 (7) *upon a determination by the juvenile justice authority that disclo-*
4 *sure of the records is necessary for further treatment of the juvenile; or*

5 (8) *upon a determination by the department of corrections that dis-*
6 *closure of the records is necessary for further treatment of the juvenile.*

7 (b) ~~Willful~~ *Intentional* violation of this section is a class C *nonperson*
8 misdemeanor.

9 (c) Nothing in this section shall operate to extinguish any right of a
10 juvenile ~~offender~~ established by attorney-client, physician-patient, psy-
11 chologist-client or social worker-client privileges.

12 (d) Relevant information, reports and records shall be made available
13 to the department of corrections upon request and a showing that the
14 ~~former~~ juvenile has been ~~convicted of a crime and~~ placed in the custody
15 of the secretary of the department of corrections.

16 Sec. 11. K.S.A. 38-1610 is hereby amended to read as follows: 38-
17 1610. (a) Except as provided in subsection (b), any records or files spec-
18 ified in this code concerning a juvenile ~~offender~~ may be expunged upon
19 application to a judge of the court of the county in which the records or
20 files are maintained. The application for expungement may be made by
21 ~~the person who is the juvenile offender~~ *juvenile, if 18 years of age or older*
22 *or, if the person is a juvenile, by the person's juvenile is less than 18 years*
23 *of age, by the juvenile's parent or next friend.*

24 (b) There shall be no expungement of records or files concerning acts
25 committed by a juvenile which, if committed by an adult, would constitute
26 a violation of K.S.A. 21-3401, ~~21-3402, 21-3403, 21-3404, 21-3439, 21-~~
27 ~~3442, 21-3503, 21-3504, 21-3506, 21-3509, 21-3510, 21-3511, 21-3516,~~
28 ~~21-3603, 21-3608 or 21-3609~~ *murder in the first degree, 21-3402, murder*
29 *in the second degree, 21-3403, voluntary manslaughter, 21-3404, invol-*
30 *untary manslaughter, 21-3439, capital murder, 21-3442, involuntary*
31 *manslaughter while driving under the influence of alcohol or drugs, 21-*
32 *3502, rape, 21-3503, indecent liberties with a child, 21-3504, aggravated*
33 *indecent liberties with a child, 21-3506, aggravated criminal sodomy, 21-*
34 *3510, indecent solicitation of a child, 21-3511, aggravated indecent solici-*
35 *tation of a child, 21-3516, sexual exploitation, 21-3603, aggravated incest,*
36 *21-3608, endangering a child or 21-3609, abuse of a child, and amend-*
37 *ments thereto or which that would constitute an attempt to commit a*
38 *violation of any of the offenses specified in this subsection.*

39 (c) When a petition for expungement is filed, the court shall set a
40 date for a hearing on the petition and shall give notice thereof to the
41 county or district attorney. The petition shall state: (1) The juvenile's full
42 name; (2) the full name of the juvenile ~~at the time of the trial~~ *as reflected*
43 *in the court record, if different than (1); (3) the juvenile's sex and date of*

1 birth; (4) the offense for which the juvenile was adjudicated; (5) the date
2 of the trial; and (6) the identity of the trial court. There shall be no docket
3 fee for filing a petition pursuant to this section. All petitions for expunge-
4 ment shall be docketed in the original action. Any person who may have
5 relevant information about the petitioner may testify at the hearing. The
6 court may inquire into the background of the petitioner.

7 (d) (1) After hearing, the court shall order the expungement of the
8 records and files if the court finds that:

9 (A) The ~~person~~ *petitioner* has reached 23 years of age or that two
10 years have elapsed since the final discharge ~~of the person~~;

11 (B) since the final discharge of the ~~person~~ *petitioner*, the ~~person~~ *pe-*
12 *tioner* has not been convicted of a felony or of a misdemeanor other
13 than a traffic offense or *adjudicated as* a juvenile offender under the
14 Kansas juvenile justice code and no proceedings are pending seeking such
15 a conviction or adjudication; and

16 (C) the circumstances and behavior of the petitioner warrant
17 expungement.

18 (2) The court may require that all court costs, fees and restitution
19 shall be paid.

20 (e) Upon entry of an order expunging records or files, the offense
21 which the records or files concern shall be treated as if it never occurred,
22 except that upon conviction of a crime or adjudication in a subsequent
23 action under this code the offense may be considered in determining the
24 sentence to be imposed. The ~~person~~ *petitioner*, the court and all law
25 enforcement officers and other public offices and agencies shall properly
26 reply on inquiry that no record or file exists with respect to the ~~person~~
27 *petitioner*. Inspection of the expunged files or records thereafter may be
28 permitted by order of the court upon petition by the person who is the
29 subject thereof. The inspection shall be limited to inspection by the per-
30 son who is the subject of the files or records and ~~those persons designated~~
31 ~~by that person~~ *the person's designees*.

32 (f) Copies of any order made pursuant to subsection (a) or (c) shall
33 be sent to each public officer and agency in the county having possession
34 of any records or files ordered to be expunged. If the officer or agency
35 fails to comply with the order within a reasonable time after its receipt,
36 the officer or agency may be adjudged in contempt of court and punished
37 accordingly.

38 (g) The court shall inform any juvenile who has been adjudicated a
39 juvenile offender of the provisions of this section.

40 (h) Nothing in this section shall be construed to prohibit the main-
41 tenance of information relating to an offense after records or files con-
42 cerning the offense have been expunged if the information is kept in a
43 manner that does not enable identification of the ~~offender~~ *juvenile*.

1 (i) Nothing in this section shall be construed to permit or require
2 expungement of files or records related to a child support order registered
3 pursuant to the Kansas juvenile justice code.

4 (j) Whenever the records or files of any adjudication have been ex-
5 punged under the provisions of this section, the custodian of the records
6 or files of adjudication relating to that offense shall not disclose the ex-
7 istence of such records or files, except when requested by:

8 (1) The person whose record was expunged;

9 (2) a private detective agency or a private patrol operator, and the
10 request is accompanied by a statement that the request is being made in
11 conjunction with an application for employment with such agency or op-
12 erator by the person whose record has been expunged;

13 (3) a court, upon a showing of a subsequent conviction of the person
14 whose record has been expunged;

15 (4) the secretary of social and rehabilitation services, or a designee of
16 the secretary, for the purpose of obtaining information relating to em-
17 ployment in an institution, as defined in K.S.A. 76-12a01 and amend-
18 ments thereto, of the department of social and rehabilitation services of
19 any person whose record has been expunged;

20 (5) a person entitled to such information pursuant to the terms of the
21 expungement order;

22 (6) the Kansas lottery, and the request is accompanied by a statement
23 that the request is being made to aid in determining qualifications for
24 employment with the Kansas lottery or for work in sensitive areas within
25 the Kansas lottery as deemed appropriate by the executive director of the
26 Kansas lottery;

27 (7) the governor or the Kansas racing commission, or a designee of
28 the commission, and the request is accompanied by a statement that the
29 request is being made to aid in determining qualifications for executive
30 director of the commission, for employment with the commission, for
31 work in sensitive areas in parimutuel racing as deemed appropriate by
32 the executive director of the commission or for licensure, renewal of
33 licensure or continued licensure by the commission; or

34 (8) the Kansas sentencing commission.

35 Sec. 12. K.S.A. 2002 Supp. 38-1611 is hereby amended to read as
36 follows: 38-1611. (a) Fingerprints or photographs shall not be taken of
37 any juvenile who is taken into custody for any purpose, except that:

38 (1) Fingerprints or photographs of ~~the~~ juvenile may be taken if au-
39 thorized by a judge of the district court having jurisdiction;

40 ~~(2) a juvenile's fingerprints shall be taken, and photographs of a ju-~~
41 ~~venile may be taken, immediately upon taking the juvenile into custody~~
42 ~~or upon first appearance or in any event before final sentencing, before~~
43 ~~the court for an offense which, if committed by a person 18 or more years~~

1 of age, would make the person liable to be arrested and prosecuted for
 2 the commission of a felony as defined by K.S.A. 21-3105 and amendments
 3 thereto, a class A or B misdemeanor or assault, as defined by K.S.A. 21-
 4 3409, and amendments thereto after adjudication, fingerprints and pho-
 5 tographs shall be taken of all juvenile offenders adjudicated because of
 6 commission of an offense which if committed by an adult would constitute
 7 the commission of a felony or any of the following misdemeanors: A vio-
 8 lation of K.S.A. 21-3424, criminal restraint, when the victim is less than
 9 18 years of age; a violation of subsection (a)(1) of K.S.A. 21-3503, indecent
 10 liberties with a child; a violation of K.S.A. 21-3507, adultery, when one
 11 of the parties involved is less than 18 years of age; a violation of K.S.A.
 12 21-3508, lewd and lascivious behavior; a violation of subsection (b)(1) of
 13 K.S.A. 21-3513, promoting prostitution, when one of the parties involved
 14 is less than 18 years of age; or a violation of K.S.A. 21-3517, sexual battery,
 15 and amendments thereto; and including an attempt, conspiracy or crim-
 16 inal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, and
 17 amendments thereto, to commit a violation of any of the offenses specified
 18 in this subsection; and

19 (3) fingerprints or photographs of a juvenile may be taken under
 20 K.S.A. 21-2501 and amendments thereto if the juvenile has been:

21 —(A) prosecuted as an adult by reason of 38-1636, and amendments
 22 thereto; or and

23 —(B) convicted of aggravated juvenile delinquency as defined by K.S.A.
 24 21-3611 and amendments thereto; or

25 —(C) taken into custody for an offense described in subsection (b)(1)
 26 or (2) of K.S.A. 38-1602 and amendments thereto.

27 (4) fingerprints or photographs may be taken of any juvenile admitted
 28 to a juvenile correctional facility.

29 (b) Fingerprints and photographs taken under subsection (a)(1) or
 30 (2) shall be kept readily distinguishable from those of persons of the age
 31 of majority. Fingerprints and photographs taken under subsection sub-
 32 sections (a)(2), (a)(3) and (a)(4) may be kept in the same manner as those
 33 of persons of the age of majority.

34 (c) Fingerprints and photographs of a juvenile shall not be sent to a
 35 state or federal repository, except that:

36 (1) Fingerprints and photographs may be sent to a state or federal
 37 repository if authorized by a judge of the district court having jurisdiction;
 38 and

39 (2) a juvenile's fingerprints shall, and photographs of a juvenile may,
 40 be sent to a state or federal repository if taken under subsection (a)(2);
 41 and

42 —(3) fingerprints or photographs taken under subsection subsections
 43 (a)(2), (a)(3) and (a)(4) shall be processed and disseminated in the same

1 manner as those of persons of the age of majority.

2 (d) Fingerprints or photographs of a juvenile may be furnished to
3 another juvenile justice agency, as defined by K.S.A. 38-1617 and amend-
4 ments thereto, if the other agency has a legitimate need for the finger-
5 prints or photographs.

6 (e) Any fingerprints or photographs of ~~a~~ *an alleged juvenile offender*
7 taken under the provisions of subsection (a)(2) as it existed before the
8 effective date of this act may be sent to a state or federal repository on
9 or before December 31, ~~1984~~ 2003.

10 (f) Any law enforcement agency that willfully fails to ~~make any report~~
11 ~~required by~~ *submit any fingerprints or photographs required by* this sec-
12 tion shall be liable to the state for the payment of a civil penalty, recov-
13 erable in an action brought by the attorney general, in an amount not
14 exceeding \$500 for each report not made. Any civil penalty recovered
15 under this subsection shall be paid into the state general fund.

16 (g) The director of the Kansas bureau of investigation shall adopt any
17 rules and regulations necessary to implement, administer and enforce the
18 provisions of this section, including time limits within which fingerprints
19 shall be sent to a state or federal repository when required by this section.

20 (h) Nothing in this section shall preclude the custodian of a juvenile
21 from authorizing photographs or fingerprints of the juvenile to be used
22 in any action under the Kansas parentage act.

23 Sec. 13. K.S.A. 38-1613 is hereby amended to read as follows: 38-
24 1613. (a) *Docket fee.* The docket fee for proceedings under this code, if
25 one is assessed as provided by this section, shall be \$25. Only one docket
26 fee shall be assessed in each case.

27 (b) *Expenses.* The expenses for proceedings under this code, includ-
28 ing fees and mileage allowed witnesses and fees and expenses approved
29 by the court for appointed attorneys, shall be paid by the board of county
30 commissioners from the general fund of the county.

31 (c) *Assessment of docket fee and expenses.* (1) *Docket fee.* The docket
32 fee may be assessed or waived by the court conducting the initial sen-
33 tencing hearing and may be assessed against the ~~complaining witness, the~~
34 ~~person initiating the prosecution, the juvenile offender~~ or the parent of
35 the juvenile offender. Any docket fee received shall be remitted to the
36 state treasurer pursuant to K.S.A. 20-362, and amendments thereto.

37 (2) ~~Waiver and assessment~~ *Expenses.* Expenses may be waived or
38 assessed against the ~~complaining witness, the person initiating the pros-~~
39 ~~ecution, the juvenile offender~~ or a parent of the juvenile offender. When
40 expenses are recovered from a party against whom they have been as-
41 sessed the general fund of the county shall be reimbursed in the amount
42 of the recovery.

43 (3) *Prohibited assessment.* Docket fees or expenses shall not be as-

1 sessed against the state, a political subdivision of the state, an agency of
2 the state or of a political subdivision of the state or a person acting in the
3 capacity of an employee of the state or of a political subdivision of the
4 state.

5 (d) *Cases in which venue is transferred.* If venue is transferred from
6 one county to another, the court from which the case is transferred shall
7 send to the receiving court a statement of expenses paid from the general
8 fund of the sending county. If the receiving court collects any of the
9 expenses owed in the case, the receiving court shall pay to the sending
10 court an amount proportional to the sending court's share of the total
11 expenses owed to both counties. The expenses of the sending county shall
12 not be an obligation of the receiving county except to the extent that the
13 sending county's ~~proportion~~ *portion* of the expenses is collected by the
14 receiving court. *Unless otherwise ordered by the court*, all amounts col-
15 lected shall first be applied toward payment of the docket fee.

16 Sec. 14. K.S.A. 38-1614 is hereby amended to read as follows: 38-
17 1614. (a) *Physical care and treatment.* (1) When the health or condition
18 of a juvenile who is subject to the jurisdiction of the court requires it, the
19 court may consent to the ~~performing and furnishing of~~ hospital, medical,
20 surgical or dental treatment or procedures including the release and in-
21 spection of medical or dental records.

22 (2) When the health or condition of a juvenile requires it and the
23 juvenile has been placed in the custody of a person other than a parent
24 or placed in or committed to a facility, the custodian or an agent desig-
25 nated by the custodian shall have authority to consent to the ~~performance~~
26 ~~and furnishing of~~ hospital, medical, surgical or dental treatment or pro-
27 cedures including the release and inspection of medical or dental records,
28 subject to terms and conditions the court considers proper. The provi-
29 sions of this subsection shall also apply to juvenile felons, as defined in
30 K.S.A. 38-16,112, prior to its repeal, *and juveniles in the custody of the*
31 *department of corrections pursuant to K.S.A. 38-16,111, and amendments*
32 *thereto*, who have been placed in a juvenile correctional facility pursuant
33 to K.S.A. 75-5206, and amendments thereto.

34 (3) Any health care provider, who in good faith renders hospital, med-
35 ical, surgical or dental care or treatment to any juvenile after a consent
36 has been obtained as authorized by this section, shall not be liable in any
37 civil or criminal action for failure to obtain consent of a parent.

38 (4) Nothing in this section shall be construed to mean that any person
39 shall be relieved of legal responsibility to provide care and support for a
40 juvenile.

41 (b) *Mental care and treatment.* If it is brought to the court's attention,
42 while the court is exercising jurisdiction over the person of a juvenile
43 under this code, that the juvenile may be a mentally ill person as defined

1 in K.S.A. ~~2000~~ 2002 Supp. 59-2946 and amendments thereto, the court
2 may:

3 (1) Direct or authorize the county or district attorney or the person
4 supplying the information to file the petition provided for in K.S.A. ~~2000~~
5 2002 Supp. 59-2957 and amendments thereto, and proceed to hear and
6 determine the issues raised by the application as provided in the care and
7 treatment act for mentally ill persons; or

8 (2) authorize that the juvenile seek voluntary admission to a treat-
9 ment facility as provided in K.S.A. ~~2000~~ 2002 Supp. 59-2949 and amend-
10 ments thereto.

11 The application to determine whether the juvenile is a mentally ill
12 person may be filed in the same proceedings as the petition alleging the
13 juvenile to be a juvenile offender or may be brought in separate pro-
14 ceedings. In either event, the court may enter an order staying any further
15 proceedings under this code until all proceedings have been concluded
16 under the care and treatment act for mentally ill persons.

17 Sec. 15. K.S.A. 38-1615 is hereby amended to read as follows: 38-
18 1615. When a complaint is filed under this code, ~~a person who is alleged~~
19 ~~to be a juvenile~~ *the juvenile* shall be presumed to be a juvenile for the
20 ~~purposes of~~ *subject to* this code, unless the contrary is proved.

21 Sec. 16. K.S.A. 38-1616 is hereby amended to read as follows: 38-
22 1616. (a) *How paid.* (1) If a juvenile ~~accused of being or adjudicated to~~
23 ~~be a juvenile offender~~ *subject to this code* is not eligible for assistance
24 under K.S.A. 39-709 and amendments thereto, expenses for the care and
25 custody of the juvenile shall be paid out of the general fund of the county
26 in which the proceedings are ~~brought~~ *initiated*. *Upon entry of a written*
27 *order pursuant to K.S.A. 38-1605, and amendments thereto, transferring*
28 *venue, expenses shall be paid by the receiving county.* For the purpose of
29 this section, a juvenile who is a nonresident of the state of Kansas or
30 whose residence is unknown shall have residence in the county where the
31 proceedings are ~~instituted~~ *initiated*.

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

41 ~~—(3)~~ When the custody of a juvenile is awarded to the commissioner,
42 the expenses for the care and custody of the juvenile from the date of
43 custody forward shall not be paid out of the county general fund, except

1 as provided in subsection (d). In no event shall the payment authorized
2 by this subsection exceed the state approved rate.

3 ~~(4)~~ (3) Nothing in this section shall be construed to mean that any
4 person shall be relieved of legal responsibility to support a juvenile.

5 (b) *Reimbursement to county general fund.* (1) When expenses for
6 the care and custody of a juvenile ~~accused of being or adjudicated to be~~
7 ~~a juvenile offender subject to this code~~ have been paid out of the county
8 general fund of any county in this state, the court may *assess the expenses*
9 *to the person who by law is liable to maintain, care for or support the*
10 *juvenile and shall inform the person assessed the expenses of such person's*
11 *right to a hearing. If a hearing is requested, it shall be granted and the*
12 *court shall fix a time and place for hearing on the question of requiring*
13 *payment or reimbursement of all or part of the expenses by a person who*
14 *by law is liable to maintain, care for or support the juvenile.*

15 (2) ~~The court,~~ After notice to the person who by law is liable to main-
16 tain, care for or support the juvenile, *the court, if requested,* may hear
17 and dispose of the matter and may enter an order relating to payment of
18 expenses for care and custody of the juvenile. If the person willfully fails
19 or refuses to pay the sum, the person may be adjudged in contempt of
20 court and punished accordingly.

21 (3) Any county which makes payment to maintain, care for or support
22 ~~an accused or adjudicated a juvenile offender subject to this code~~ may
23 bring a separate action against a person who by law is liable to maintain,
24 care for or support such juvenile for the reimbursement of expenses paid
25 out of the county general fund for the care and custody of the juvenile.

26 (c) *Reimbursement to the commissioner.* When expenses for the care
27 and custody of a juvenile ~~accused of being or adjudicated to be a juvenile~~
28 ~~offender subject to this code~~ have been paid by the commissioner, the
29 commissioner may recover the expenses as provided by law from any
30 person who by law is liable to maintain, care for or support the juvenile.
31 The commissioner shall have the power to compromise and settle any
32 claim due or any amount claimed to be due to the commissioner from
33 any person who by law is liable to maintain, care for or support the ju-
34 venile. The commissioner may contract with a state agency, contract with
35 an individual or hire personnel to collect the reimbursements required
36 under this subsection.

37 (d) When a county has made an interlocal agreement to maintain,
38 care for or support *alleged juvenile offenders or juvenile offenders* who
39 are residents of another county and such other county is a party to the
40 interlocal agreement with the county which performs the actual mainte-
41 nance, care and support of the ~~accused or adjudicated~~ *alleged* juvenile
42 *offender or juvenile offender,* such county of residence may pay from its
43 county general fund to the other county whatever amount is agreed upon

1 in the interlocal agreement irrespective of any amount paid or to be paid
2 by the juvenile justice authority. The juvenile justice authority shall not
3 diminish the amount it would otherwise reimburse any such county for
4 maintaining, caring for and supporting any such ~~accused or adjudicated~~
5 juvenile ~~offender~~ because of any payment under such an interlocal
6 agreement.

7 Sec. 17. K.S.A. 38-16,116 is hereby amended to read as follows: 38-
8 16,116. ~~(a) If a party denies the existence of the parent and child rela-~~
9 ~~tionship between that party and the juvenile~~ *When there is a dispute with*
10 *respect to parentage*, the court may stay child support proceedings, if any
11 are pending in the case, ~~with respect to that alleged parent and child~~
12 ~~relationship until the dispute is resolved by agreement, by a separate~~
13 ~~action under the Kansas parentage act, or otherwise.~~ Nothing in this sec-
14 tion shall be construed to limit the power of the court to carry out the
15 purposes of the Kansas juvenile justice code.

16 ~~(b) When there is a dispute with respect to a parent and child rela-~~
17 ~~tionship, the court or the custodian of the juvenile may consent to ex-~~
18 ~~aminations of the juvenile including, but not limited to, withdrawal of~~
19 ~~blood or other body fluids or tissues, for the purpose of resolving the~~
20 ~~parentage dispute.~~

21 ~~(c) This section shall be part of and supplemental to the Kansas ju-~~
22 ~~venile justice code.~~

23 Sec. 18. K.S.A. 38-16,117 is hereby amended to read as follows: 38-
24 16,117. (a) In determining the amount of a child support order under the
25 Kansas juvenile justice code, the court shall apply the Kansas child sup-
26 port guidelines adopted pursuant to K.S.A. 20-165, and amendments
27 thereto.

28 (b) If the appropriate amount of support under the Kansas child sup-
29 port guidelines cannot be determined because any necessary fact is not
30 proven by evidence or by stipulation of the appropriate parties, the court
31 shall apply one or more of the following presumptions:

32 (1) Both parents have only gross earned income equal to 40 hours
33 per week at the federal minimum wage then in effect;

34 (2) neither parent's income is subject to adjustment for any reason;

35 (3) the number of children is as alleged in the complaint;

36 (4) the age of each child is as alleged in the complaint or, if unknown,
37 is between seven and 15 years;

38 (5) no adjustment for child care, health or dental insurance or income
39 tax exemption is appropriate; or

40 (6) neither parent is entitled to any other credit or adjustment.

41 (c) If the county or district attorney determines that: (1) A parent will
42 contest the amount of support resulting from application of the guide-
43 lines; (2) the parent is or may be entitled to an adjustment pursuant to

1 the guidelines; and (3) it is in the juvenile's best interests to resolve the
2 support issue promptly and with minimal hostility, the county or district
3 attorney may enter into a stipulation with the parent as to the amount of
4 child support for that parent. The amount of support may be based upon
5 one or more of the presumptions in subsection (b). Except for good cause
6 or as otherwise provided in K.S.A. 38-16,119, and amendments thereto,
7 a stipulation under this subsection shall be binding upon the court and
8 all parties. The criteria for application of this subsection shall be incor-
9 porated into the journal entry or judgment form.

10 Sec. 19. K.S.A. 38-16,118 is hereby amended to read as follows: 38-
11 16,118. When child support is ordered pursuant to the Kansas juvenile
12 justice code, a separate journal entry or judgment form shall be made for
13 each parent ordered to pay child support. The journal entry or judgment
14 form shall be entitled:

15 "In the matter of _____ and _____"
16 (obligee's name) (obligor's name)

17 and shall contain no reference to the official file or social file in the case
18 except the facts necessary to establish personal jurisdiction over the par-
19 ent, the name and date of birth of each child; and findings of fact and
20 conclusions of law directly related to the child support obligation. If the
21 court issues an income withholding order for the parent, ~~the~~ *the order* shall
22 be captioned in the same manner.

23 Sec. 20. K.S.A. 38-16,119 is hereby amended to read as follows: 38-
24 16,119. (a) A party entitled to receive child support under an order issued
25 pursuant to the Kansas juvenile justice code may file with the clerk of the
26 district court in the county in which the judgment was rendered the orig-
27 inal child support order and the original income withholding order, if any.
28 If the original child support or income withholding order is unavailable
29 for any reason, a certified or authenticated copy of the order may be
30 substituted. The clerk of the district court shall number the child support
31 order as a case filed under chapter 60 of the Kansas Statutes Annotated
32 and enter the numbering of the case on the appearance docket of the
33 case. Registration of a child support order under this section shall be
34 without cost or docket fee.

35 (b) If the number assigned to a case under the Kansas juvenile justice
36 code appears in the caption of a document filed pursuant to this section,
37 the clerk of the district court may obliterate that number and replace it
38 with the new case number assigned pursuant to this section.

39 (c) The filing of the child support order shall constitute registration
40 under this section. Upon registration of the child support order, all mat-
41 ters related to that order, including, but not limited to modification of
42 the order, shall proceed under the new case number. Registration of a
43 child support order under this section does not confer jurisdiction in the

1 registration case for custody or parenting time issues.

2 (d) The party registering a child support order shall serve a copy of
3 the registered child support order and income withholding order, if any,
4 upon the interested parties by first-class mail. The party registering the
5 child support order shall file, in the official file for each child affected,
6 either a copy of the registered order showing the new case number or a
7 statement that includes the caption, new case number and date of reg-
8 istration of the child support order.

9 (e) If the commissioner of juvenile justice is entitled to receive pay-
10 ment under an order which may be registered under this section, the
11 county or district attorney shall take the actions permitted or required in
12 subsections (a) and (d) on behalf of the commissioner, unless otherwise
13 requested by the commissioner.

14 (f) A child support order registered pursuant to this section shall have
15 the same force and effect as an original child support order entered under
16 chapter 60 of the Kansas Statutes Annotated including, but not limited
17 to:

18 (1) The registered order shall become a lien on the real estate of the
19 judgment debtor in the county from the date of registration;

20 (2) execution or other action to enforce the registered order may be
21 had from the date of registration;

22 (3) the registered order may itself be registered pursuant to any law,
23 including, but not limited to, the ~~revised uniform reciprocal enforcement~~
24 ~~of support act (1969)~~ *uniform interstate family support act*;

25 (4) if any installment of support due under the registered order be-
26 comes a dormant judgment, it may be revived pursuant to K.S.A. 60-
27 2404, and amendments thereto; and

28 (5) the court shall have continuing jurisdiction over the parties and
29 subject matter and, except as otherwise provided in subsection (g), may
30 modify any prior support order when a material change in circumstances
31 is shown irrespective of the present domicile of the child or parents. The
32 court may make a modification of child support retroactive to a date at
33 least one month after the date that the motion to modify was filed with
34 the court.

35 (g) If a motion to modify the child support order is filed within three
36 months after the date of registration pursuant to this section, if no motion
37 to modify the order has previously been heard, and if the moving party
38 shows that the support order was based upon one or more of the pre-
39 sumptions provided in K.S.A. 38-16,117, and amendments thereto, or
40 upon a stipulation pursuant to subsection (c) of K.S.A. 38-16,117, and
41 amendments thereto, the court shall apply the Kansas child support
42 guidelines adopted pursuant to K.S.A. 20-165 and amendments thereto
43 without requiring any party to show that a material change of circum-

1 stances has occurred, without regard to any previous presumption or stip-
2 ulation used to determine the amount of the child support order, and
3 irrespective of the present domicile of the child or parents. Nothing in
4 this subsection shall prevent or limit enforcement of the support order
5 during the three months after the date of registration.

6 Sec. 21. K.S.A. 38-16,120 is hereby amended to read as follows: 38-
7 16,120. ~~(a)~~ The remedies provided in this code with respect to child sup-
8 port are in addition to and not in substitution for any other remedy.

9 ~~(b) This section and K.S.A. 38-16,116, 38-16,117, 38-16,118 and 38-
10 16,119 and amendments thereto shall be part of and supplemental to the
11 Kansas juvenile justice code.~~

12 Sec. 22. K.S.A. 38-16,127 is hereby amended to read as follows: 38-
13 16,127. On and after July 1, 1997:

14 (a) In any case in which the commissioner pays for the expenses of
15 care and custody of a ~~child~~ *juvenile* pursuant to K.S.A. 38-1601 *et seq.*,
16 and amendments thereto, an assignment of all past, present and future
17 support rights of the ~~child~~ *juvenile* in custody possessed by either parent
18 or other person entitled to receive support payments for the ~~child~~ *juvenile*
19 is, by operation of law, conveyed to the commissioner. Such assignment
20 shall become effective upon placement of a ~~child~~ *juvenile* in the custody
21 of the commissioner or upon payment of the expenses of care and custody
22 of a ~~child~~ *juvenile* by the commissioner without the requirement that any
23 document be signed by the parent or other person entitled to receive
24 support payments for the ~~child~~ *juvenile*. When the commissioner pays for
25 the expenses of care and custody of a ~~child~~ *juvenile* or a ~~child~~ *juvenile* is
26 placed in the custody of the commissioner, the parent or other person
27 entitled to receive support payments for the ~~child~~ *juvenile* is also deemed
28 to have appointed the commissioner, or the commissioner's designee, as
29 attorney in fact to perform the specific act of negotiating and endorsing
30 all drafts, checks, money orders or other negotiable instruments repre-
31 senting support payments received by the commissioner on behalf of the
32 ~~child~~ *juvenile*. This limited power of attorney shall be effective from the
33 date the assignment to support rights becomes effective and shall remain
34 in effect until the assignment of support rights has been terminated in
35 full.

36 (b) If an assignment of support rights is deemed to have been made
37 pursuant to subsection (a), support payments shall be made to the juvenile
38 justice authority.

39 (c) If a court has ordered support payments to be made to an appli-
40 cant for or recipient of financial assistance or other person whose support
41 rights are assigned, the commissioner shall file a notice of the assignment
42 with the court ordering the payments without the requirement that a copy
43 of the notice be provided to the obligee or obligor. The notice shall not

1 require the signature of the applicant, recipient or obligee on any accom-
2 panying assignment document. The notice shall include:

- 3 (1) A statement that the assignment is in effect;
- 4 (2) the name of any ~~child~~ *juvenile* and the caretaker or other adult
5 for whom support has been ordered by the court;
- 6 (3) the number of the case in which support was ordered; and
- 7 (4) a request that the payments ordered be made to the commissioner
8 of juvenile justice.

9 (d) Upon receipt of the notice and without the requirement of a hear-
10 ing or order, the court shall forward all support payments, including those
11 made as a result of any garnishment, contempt, attachment, income with-
12 holding, income assignment or release of lien process, to the commis-
13 sioner until the court receives notification of the termination of the as-
14 signment.

15 (e) If the claim of the commissioner for repayment of ~~the child's share~~
16 ~~of the costs of care and custody of a child juvenile under K.S.A. 39-1601~~
17 ~~et seq., and amendments thereto the Kansas juvenile justice code~~, is not
18 satisfied when such aid is discontinued, the commissioner shall file a no-
19 tice of partial termination of assignment of support rights with the court
20 which will preserve the assignment in regard to unpaid support rights
21 which were due and owing at the time of the discontinuance of such aid.
22 A copy of the notice of the partial termination of the assignment need
23 not be provided to the obligee or obligor. The notice shall include:

- 24 (1) A statement that the assignment has been partially terminated;
- 25 (2) the name of any ~~child~~ *juvenile* and the caretaker or other adult
26 for whom support has been ordered by the court;
- 27 (3) the number of the case in which support was ordered; and
- 28 (4) the date the assignment was partially terminated.

29 (f) Upon receipt of the notice and without the requirement of a hear-
30 ing or order, the court shall forward *to the commissioner* all payments
31 made to satisfy support arrearages due and owing as of the date the as-
32 signment of support rights was partially terminated ~~to the commissioner~~
33 until the court receives notification of the termination of the assignment.

34 (g) If the commissioner or the commissioner's designee has on file
35 with the court ordering support payments, a notice of assignment of sup-
36 port rights pursuant to subsection (c) or a notice of partial termination of
37 assignment of support rights pursuant to subsection (e), the commissioner
38 shall be considered a necessary party in interest concerning any legal
39 action to enforce, modify, settle, satisfy or discharge an assigned support
40 obligation and, as such, shall be given notice by the party filing such action
41 in accordance with the rules of civil procedure.

42 (h) Upon written notification by the commissioner's designee that
43 assigned support has been collected pursuant to K.S.A. 44-718 or 75-

1 6201 *et seq.*, and amendments thereto, or section 464 of title IV, part D,
2 of the federal social security act, or any other method of direct payment
3 to the commissioner, the clerk of the court or other record keeper where
4 the support order was established, shall enter the amounts collected by
5 the commissioner in the court's payment ledger or other record to insure
6 that the obligor is credited for the amounts collected.

7 (i) An assignment of support rights pursuant to subsection (a) shall
8 remain in full force and effect so long as the commissioner is providing
9 public assistance in accordance with a plan under which federal moneys
10 are expended on behalf of the ~~child~~ *juvenile* for the expenses of a ~~child~~
11 *juvenile* in the commissioner's care or custody pursuant to K.S.A. 38-1601
12 *et seq.*, and amendments thereto. Upon discontinuance of all such assis-
13 tance and support enforcement services, the assignment shall remain in
14 effect as to unpaid support obligations due and owing at the time of the
15 discontinuance of assistance until the claim of the commissioner for re-
16 payment of the unreimbursed portion of any assistance is satisfied. Noth-
17 ing herein shall affect or limit the rights of the commissioner under an
18 assignment of rights to payment for medical care from a third party pur-
19 suant to K.S.A. 40-2,161, and amendments thereto.

20 ~~(j) This section shall be part of and supplemental to the Kansas ju-~~
21 ~~venile justice code.~~

22 Sec. 23. K.S.A. 38-16,128 is hereby amended to read as follows: 38-
23 16,128. (a) Except as provided in subsection (b), a ~~child's~~ *juvenile's* parent,
24 parents or guardian shall be liable to repay to the commissioner of juvenile
25 justice, or any other person or entity who provides services pursuant to a
26 court order issued under the juvenile justice code, any assistance exp-
27 ended on the ~~child's~~ *juvenile's* behalf, regardless of the specific program
28 under which the assistance is or has been provided. Such services shall
29 include, but not be limited to, probation, conditional release, aftercare
30 supervision, case management and community corrections. When more
31 than one person is legally obligated to support the ~~child~~ *juvenile*, liability
32 to the commissioner or other person or entity shall be joint and severable.
33 The commissioner or other person or entity shall have the power and
34 authority to file a civil action in the name of the commissioner or other
35 person or entity for repayment of the assistance, regardless of the exis-
36 tence of any other action involving the support of the ~~child~~ *juvenile*.

37 (b) With respect to an individual parent or guardian, the provisions
38 of subsection (a) shall not apply to:

39 (1) Assistance provided on behalf of any person other than the ~~child~~
40 *juvenile* of the parent or guardian;

41 (2) assistance provided during a month in which the needs of the
42 parent or guardian were included in the assistance provided to the ~~child~~
43 *juvenile*; or

1 (3) assistance provided during a month in which the parent or guard-
2 ian has fully complied with the terms of an order of support for the ~~child~~
3 *juvenile*, if a court of competent jurisdiction has considered the issue of
4 support. For the purposes of this subsection, if an order is silent on the
5 issue of support, it shall not be presumed that the court has considered
6 the issue of support. Amounts paid for a particular month pursuant to a
7 judgment under this section shall be credited against the amount accruing
8 for the same month under any other order of support for the ~~child ju-~~
9 *venile*, up to the amount of the current support obligation for that month.

10 (c) When the assistance provided during a month is on behalf of more
11 than one person, the amount of assistance provided on behalf of one
12 person for that month shall be determined by dividing the total assistance
13 by the number of people on whose behalf assistance was provided.

14 (d) Actions authorized herein are in addition to and not in substitu-
15 tion for any other remedies.

16 Sec. 24. K.S.A. 38-1617 is hereby amended to read as follows: 38-
17 1617. As used in K.S.A. 38-1618 and amendments thereto, unless the
18 context otherwise requires:

19 (a) “Central repository” has the meaning provided by K.S.A. 22-4701
20 and amendments thereto.

21 (b) “Director” means the director of the Kansas bureau of investi-
22 gation.

23 (c) “Juvenile offender information” means data relating to juveniles
24 alleged or adjudicated to be juvenile offenders; *and* offenses committed
25 or alleged to have been committed by juveniles in proceedings pursuant
26 to the Kansas juvenile code or Kansas juvenile justice code.

27 (d) “Juvenile justice agency” means any county or district attorney,
28 law enforcement agency of this state or of any political subdivision of this
29 state, court of this state or of a municipality of this state, administrative
30 agency of this state or any political subdivision of this state, juvenile cor-
31 rectional facility or juvenile detention facility.

32 (e) “Reportable event” means:

33 (1) Issuance of a warrant to take a juvenile into custody;

34 (2) taking a juvenile into custody pursuant to this code;

35 (3) release of a juvenile who has been taken into custody pursuant to
36 this code, without the filing of a complaint;

37 (4) dismissal of a complaint filed pursuant to this code;

38 (5) a trial in a proceeding pursuant to this code;

39 (6) a sentence in a proceeding pursuant to this code;

40 (7) commitment to or placement in a youth residential facility, juve-
41 nile detention facility or juvenile correctional facility pursuant to this
42 code;

43 (8) release or discharge from commitment or jurisdiction of the court

1 pursuant to this code;

2 (9) escape from commitment or placement pursuant to this code;

3 (10) entry of a ~~judgment~~ *mandate* of an appellate court that reverses
4 the ~~decision of the trial court or sentence pursuant to this code~~ *relating*
5 *to a reportable event*;

6 (11) an order authorizing prosecution as an adult;

7 (12) the issuance of an intake and assessment report;

8 (13) the report from a reception and diagnostic center; or

9 (14) any other event arising out of or occurring during the course of
10 proceedings pursuant to this code and declared to be reportable by rules
11 and regulations of the director.

12 Sec. 25. K.S.A. 38-1618 is hereby amended to read as follows: 38-
13 1618. (a) In order to properly advise the three branches of government
14 on the operation of the juvenile justice system, there is hereby established
15 within and as a part of the central repository, as defined by K.S.A. 22-
16 4701 and amendments thereto, a juvenile offender information system.
17 The system shall serve as a repository of juvenile offender information
18 which is collected by juvenile justice agencies and reported to the system.
19 ~~Unless extended by an official action of the Kansas criminal justice co-~~
20 ~~ordinating council, the juvenile offender information system shall be op-~~
21 ~~erational and functional on or before July 1, 1997.~~

22 (b) Except as otherwise provided by this subsection, every juvenile
23 justice agency shall report juvenile offender information, whether col-
24 lected manually or by means of an automated system, to the central re-
25 pository, in accordance with rules and regulations adopted pursuant to
26 this section. A juvenile justice agency shall report to the central repository
27 those reportable events involving a violation of a county resolution or city
28 ordinance only when required by rules and regulations adopted by the
29 director.

30 (c) Reporting methods may include:

31 (1) Submission of juvenile offender information by a juvenile justice
32 agency directly to the central repository;

33 (2) if the information can readily be collected and reported through
34 the court system, submission to the central repository by the office of
35 judicial administrator; or

36 (3) if the information can readily be collected and reported through
37 juvenile justice agencies that are part of a geographically based infor-
38 mation system, submission to the central repository by the agencies.

39 (d) The director may determine, by rule and regulation, the *statu-*
40 *torily required* reportable events to be reported by each juvenile justice
41 agency, in order to avoid duplication in reporting.

42 (e) Juvenile offender information maintained in the juvenile offender
43 information system is confidential and shall not be disseminated or pub-

1 lically disclosed in a manner which enables identification of any individual
 2 who is a subject of the information, except that the information shall be
 3 open to inspection by law enforcement agencies of this state, by the de-
 4 partment of social and rehabilitation services if related to an individual in
 5 the secretary's custody or control, by the juvenile justice authority if re-
 6 lated to an individual in the commissioner's custody or control, by the
 7 department of corrections if related to an individual in the commissioner's
 8 custody or control, by educational institutions to the extent necessary to
 9 ~~enable such institutions to~~ provide the safest possible environment for
 10 pupils, ~~teachers and other employees,~~ by any educator to the extent nec-
 11 essary ~~to enable the educator to protect the personal safety of the edu-~~
 12 ~~cator and the educator's~~ *for the protection of the educator and* pupils, by
 13 the officers of any public institution to which the individual is committed,
 14 by county and district attorneys, by attorneys for the parties to a pro-
 15 ceeding under this code, ~~the~~ *by an* intake and assessment worker or upon
 16 order of a judge of the district court or an appellate court.

17 (f) Any journal entry of a trial of a ~~juvenile adjudged to be a juvenile~~
 18 ~~offender adjudication~~ shall state the number of the statute under which
 19 the juvenile is adjudicated to be a juvenile offender and specify whether
 20 each offense, if done by an adult, would constitute a felony or misde-
 21 meanor, as defined by K.S.A. 21-3105 and amendments thereto.

22 (g) Any law enforcement agency that willfully fails to make any report
 23 required by this section shall be liable to the state for the payment of a
 24 civil penalty, recoverable in an action brought by the attorney general, in
 25 an amount not exceeding \$500 for each report not made. Any civil penalty
 26 recovered under this subsection shall be paid into the state general fund.

27 (h) The director shall adopt any rules and regulations necessary to
 28 implement, administer and enforce the provisions of this section.

29 (i) ~~K.S.A. 38-1617 and amendments thereto and this section shall be~~
 30 ~~part of and supplemental to the Kansas juvenile justice code.~~

31 ~~(j) The director shall develop incentives to encourage the timely entry~~
 32 ~~of juvenile offender information into the central repository.~~

33 Sec. 26. K.S.A. 38-1621 is hereby amended to read as follows: 38-
 34 1621. An action under this code shall be commenced by filing a verified
 35 complaint with the court and the issuance of process ~~thereon~~ *on the com-*
 36 *plaint. It shall be the duty of each county or district attorney to prepare*
 37 *and file the complaint alleging a juvenile to be a juvenile offender and to*
 38 *prosecute the case.*

39 Sec. 27. K.S.A. 38-1622 is hereby amended to read as follows: 38-
 40 1622. (a) *Complaint.* (1) ~~Any person 18 or more years of age having knowl-~~
 41 ~~edge of a juvenile who appears to be a juvenile offender may file with~~
 42 ~~the court having jurisdiction a verified complaint, in writing, which~~ *The*
 43 *complaint shall be in writing and shall state, if known:*

1 (A) The name, date of birth and residence address of the *alleged*
2 *juvenile offender, if known;*

3 (B) the name and residence address of the ~~juvenile's~~ *alleged juvenile*
4 *offender's parents, if known and if no parent can be found, the name and*
5 *address of the nearest known relative;*

6 (C) the name and residence address of any persons having custody
7 or control of the *alleged juvenile, or the nearest known relative if no*
8 ~~parent can be found~~ *offender;*

9 (D) plainly and concisely the essential facts constituting the offense
10 charged and, if the statement is drawn in the language of the statute,
11 ordinance or resolution alleged to have been violated, it shall be consid-
12 ered sufficient; and

13 (E) for each count, the official or customary citation of the statute,
14 ordinance or resolution which is alleged to have been violated, but error
15 in the citation or its omission shall not be grounds for dismissal of the
16 complaint or for reversal of ~~a trial~~ *an adjudication* if the error or omission
17 did not prejudice the ~~respondent~~ *juvenile*.

18 (2) The proceedings shall be entitled: "In the matter of _____,
19 ~~respondent a juvenile.~~"

20 (3) The complaint shall contain a ~~request that the parent or parents~~
21 ~~of the juvenile be ordered to pay child support. The request for child~~
22 ~~support may be omitted with respect to a parent already ordered to pay~~
23 ~~child support for the juvenile or with respect to a respondent 18 years of~~
24 ~~age or more. The request for child support shall be omitted with respect~~
25 ~~to one or both parents upon written request of the commissioner~~ *notice*
26 *provision that states parents may be required to pay child support in the*
27 *event the juvenile is removed from the home.*

28 (4) The precise time of the commission of an offense need not be
29 stated in the complaint, but it is sufficient if shown to have been within
30 the statute of limitations, except where the time is an indispensable ele-
31 ment of the offense.

32 (5) *At the time of filing* the prosecuting attorney shall endorse *upon*
33 *the complaint* the names of all *known* witnesses ~~known to the attorney~~
34 ~~upon the complaint at the time of filing.~~ The prosecuting attorney may
35 ~~endorse on the complaint~~ the names of other witnesses that afterward
36 become known to the *prosecuting attorney; may be endorsed* at such
37 times as the court prescribes by rule or otherwise.

38 (b) *Motions.* Motions may be made orally or in writing. The motion
39 shall state with particularity the grounds for the motion and shall state
40 the relief or order sought. *Motions available in civil and criminal proce-*
41 *dure are available to the parties under this code.*

42 Sec. 28. K.S.A. 38-1623 is hereby amended to read as follows: 38-
43 1623. ~~A respondent whose defense to the allegations in the complaint is~~

1 ~~that of alibi or mental disease or defect, within five days after the initial~~
 2 ~~appearance and denial of the charges, shall give written notice to the~~
 3 ~~county or district attorney and the court of the proposed defense. The~~
 4 ~~notice shall include the names and addresses of witnesses that the re-~~
 5 ~~spondent juvenile plans to call to provide evidence in support of the de-~~
 6 ~~fense. Upon receipt of the notice of the defense of mental disease or defect,~~
 7 ~~the court shall enter the orders that are appropriate under the circum-~~
 8 ~~stances, which may include may order an independent examination of~~
 9 ~~and report on the respondent claiming mental disease or defect. For good~~
 10 ~~cause shown the court may permit notice at a later date juvenile.~~

11 Sec. 29. K.S.A. 38-1624 is hereby amended to read as follows: 38-
 12 1624. (a) *By a law enforcement officer.* A law enforcement officer may
 13 take an alleged a juvenile offender into custody when:

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

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

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

21 (4) the officer has probable cause to believe that the juvenile is com-
 22 mitting or has committed an act which, if committed by an adult, would
 23 constitute:

24 (A) A felony; or

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

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

32 (6) *the officer receives a written statement pursuant to subsection (b).*

33 (b) *By a court services officer or juvenile community corrections of-*
 34 *ficer.* A court services officer or juvenile ~~community~~ corrections officer
 35 may take a juvenile into custody when: (1) There is a warrant commanding
 36 that the juvenile be taken into custody, ~~when~~; (2) the officer has probable
 37 cause to believe that a warrant or order commanding that the juvenile be
 38 taken into custody has been issued in this state or in another jurisdiction
 39 for an act committed therein; ~~or when~~ (3) there is probable cause to
 40 believe that the juvenile has violated ~~an order for electronic monitoring~~
 41 ~~as~~ a term of probation *or placement.*

42 (c) Any court services officer or juvenile ~~community correction cor-~~
 43 ~~rections~~ officer may arrest a juvenile without a warrant or may deputize

1 *request* any other officer with power of arrest to arrest a juvenile without
2 a warrant by giving the officer a written statement setting forth that the
3 juvenile, in the judgment of the court services officer or juvenile ~~com-~~
4 ~~munity correction corrections~~ officer, has violated the condition of the
5 juvenile's release. The written statement delivered with the juvenile by
6 the arresting officer to the official in charge of a juvenile detention facility
7 or other place of detention shall be sufficient warrant for the detention
8 of the juvenile.

9 ~~(e)~~ (d) *Procedure.* (1) ~~When any law enforcement officer takes an~~
10 ~~alleged juvenile offender into custody, the juvenile shall be taken~~ A ju-
11 ~~venile taken into custody by a law enforcement officer shall be brought~~
12 without unnecessary delay to an intake and assessment worker if an intake
13 and assessment program exists in the jurisdiction, or before the court for
14 proceedings in accordance with this code or, if the court is not open for
15 the regular conduct of business, to a court services officer, a juvenile
16 intake and assessment worker, a juvenile detention facility or youth res-
17 idential facility which the court or the commissioner shall have desig-
18 nated. The officer shall not take the juvenile to a juvenile detention facility
19 unless the juvenile meets one or more of the criteria listed in K.S.A. 38-
20 1640, and amendments thereto. ~~Even~~ If the juvenile meets one or more
21 of such criteria, the officer shall first consider whether taking the juvenile
22 to an available nonsecure facility is more appropriate.

23 (2) It shall be the duty of the officer to furnish the county or district
24 attorney or the juvenile intake and assessment worker if the officer has
25 delivered ~~such~~ *the* juvenile to the worker, with all of the information in
26 the possession of the officer pertaining to the juvenile; the juvenile's par-
27 ents, or other persons interested in or likely to be interested in the ju-
28 venile; and all other facts and circumstances which caused the juvenile to
29 be arrested or taken into custody.

30 ~~(3) (A) When the juvenile is less than 14 years of age, no in-custody~~
31 ~~or arrest admission or confession resulting from interrogation may be~~
32 ~~admitted into evidence unless the confession or admission was made fol-~~
33 ~~lowing a consultation between the juvenile and the juvenile's parents,~~
34 ~~guardian or attorney as to whether the juvenile will waive such juvenile's~~
35 ~~right to an attorney and right against self-incrimination. It shall be the~~
36 ~~duty of the facility where the juvenile has been delivered to make a rea-~~
37 ~~sonable effort to contact the parent or guardian immediately upon such~~
38 ~~juvenile's arrival unless such parent or guardian is the alleged victim or~~
39 ~~alleged codefendant of the crime under investigation.~~

40 ~~— (B) When a parent or guardian is the alleged victim or alleged cod-~~
41 ~~efendant of the crime under investigation and the juvenile is less than 14~~
42 ~~years of age, no in-custody or arrest admission or confession may be ad-~~
43 ~~mitted into evidence unless the confession or admission was made fol-~~

1 ~~lowing a consultation between the juvenile and a parent or guardian who~~
2 ~~is not involved in the investigation of the crime, or an attorney as to~~
3 ~~whether the juvenile will waive such juvenile's right to an attorney and~~
4 ~~right against self-incrimination. It shall be the duty of the facility where~~
5 ~~the juvenile has been delivered to make reasonable effort to contact a~~
6 ~~parent or guardian who is not involved in the investigation of the crime~~
7 ~~immediately upon such juvenile's arrival.~~

8 ~~(d)~~ (e) *Release prior to detention hearing.* In the absence of a court
9 order to the contrary, the court or officials designated by the court, the
10 county or district attorney or the law enforcement agency taking a juvenile
11 into custody shall have the authority to direct the release of the juvenile
12 prior to the time specified by subsection (a) of K.S.A. 38-1632 and amend-
13 ments thereto. In addition, if an agreement is established pursuant to
14 K.S.A. 38-1635, and amendments thereto, a juvenile intake and assess-
15 ment worker shall have the authority to direct the release of a juvenile
16 prior to a detention hearing after the completion of the intake and as-
17 sessment process if the juvenile intake and assessment worker has reason
18 to believe that if released the juvenile will appear for further proceedings
19 and will not be dangerous to self or others.

20 ~~(e)~~ (f) *Person 18 or over taken into custody; detention and release.*
21 Whenever a person 18 years of age or more is taken into custody by a
22 law enforcement officer for an alleged offense which was committed prior
23 to the time the person reached the age of 18, the officer shall notify and
24 refer the matter to the court for proceedings pursuant to this code, except
25 that the provisions of this code relating to detention hearings shall not
26 apply to that person. If detention is necessary, the person shall be de-
27 tained in jail. Unless the law enforcement officer took the person into
28 custody pursuant to a warrant issued by the court and the warrant spec-
29 ifies the amount of bond or indicates that the person may be released on
30 personal recognizance, the person shall be taken before the court of the
31 county where the alleged act took place or, at the request of the person,
32 the person shall be taken, without delay, before the nearest court. The
33 court shall fix the terms and conditions of an appearance bond upon which
34 the person may be released from custody. The provisions of article 28 of
35 chapter 22 of the Kansas Statutes Annotated and K.S.A. 22-2901 and
36 amendments thereto relating to appearance bonds and review of condi-
37 tions and release shall be applicable to appearance bonds provided for in
38 this section.

39 Sec. 30. K.S.A. 38-1640 is hereby amended to read as follows: 38-
40 1640. (a) *If no prior order removing a juvenile from the juvenile's home*
41 *pursuant to section 32 or 33, and amendments thereto, has been made,*
42 *before ordering the juvenile into a detention facility, the court shall de-*
43 *termine whether: (1) Reasonable efforts have been made to maintain the*

1 *juvenile in the juvenile's family or an emergency exists making reasonable*
2 *efforts unnecessary; and (2) it is contrary to the welfare of the juvenile to*
3 *remain in the home. The court shall state the basis for each finding in*
4 *writing.*

5 ~~(b)~~ Except as provided in subsection ~~(b)~~ ~~(c)~~, ~~the following are criteria~~
6 ~~for determining whether to place~~ a juvenile *may be placed* in a juvenile
7 detention facility pursuant to subsection (c) of K.S.A. 38-1624 or subsec-
8 tion (e) of K.S.A. 38-1632, and amendments thereto, *if one or more of*
9 *the following conditions are met:*

10 (1) There is oral or written verification that the juvenile is a fugitive
11 sought for an offense in another jurisdiction or that the juvenile is cur-
12 rently an escapee from a juvenile detention facility, *or that the juvenile*
13 *has absconded from a placement that is court ordered or designated by*
14 *the juvenile justice authority.*

15 (2) The juvenile is alleged to have committed an offense which if
16 committed by an adult would constitute a ~~class A, B or C felony if com-~~
17 ~~mitted prior to July 1, 1993, or would constitute an off-grid felony, a~~
18 ~~non-drug severity level 1, 2, 3, 4, 5, 6 or 7 felony or drug level 1, 2 or 3~~
19 ~~felony if committed on or after July 1, 1993, or would constitute a felony~~
20 *or any crime described in article 35 of chapter 21 of the Kansas Statutes*
21 *Annotated, and amendments thereto.*

22 (3) The juvenile *has been adjudicated for a nonstatus offense and is*
23 *awaiting final court action on another that offense which if committed by*
24 *an adult would constitute a felony.*

25 (4) The juvenile has a record of failure to appear in court or there is
26 probable cause to believe that the juvenile will flee the jurisdiction of the
27 court.

28 (5) The juvenile has a history of violent behavior toward others.

29 (6) The juvenile exhibited seriously assaultive or destructive behavior
30 *or self-destructive behavior* at the time of being taken into custody ~~and~~
31 ~~continued such behavior after taken into custody.~~

32 ~~(7) The juvenile exhibited self-destructive behavior at the time of~~
33 ~~being taken into custody and continued such behavior after taken into~~
34 ~~custody.~~

35 ~~(8) The juvenile has a record of adjudication or conviction of one or~~
36 ~~more offenses which if committed by an adult would constitute felonies.~~

37 ~~(9)~~ (8) The juvenile is a juvenile offender who has been expelled from
38 placement in a nonsecure facility as a result of the current alleged offense.

39 ~~(10)~~ (9) The juvenile has been arrested by any court services officer
40 or juvenile community correction officer pursuant to subsection (b) of
41 K.S.A. 38-1624 and amendments thereto.

42 (10) *The juvenile has violated probation or conditions of release.*

43 ~~(b)~~ (c) No person 18 years of age or more shall be placed in a juvenile

1 detention center.

2 ~~(c) This section shall be part of and supplemental to the Kansas ju-~~
3 ~~venile justice code.~~

4 New Sec. 31. (a) When the juvenile is less than 14 years of age, no
5 admission or confession resulting from interrogation while in custody or
6 under arrest may be admitted into evidence unless the confession or ad-
7 mission was made following a consultation between the juvenile's parents,
8 guardian or attorney as to whether the juvenile will waive the right to an
9 attorney and the right against self-incrimination. It shall be the duty of
10 the facility where the juvenile has been delivered to make a reasonable
11 effort to contact the parent or guardian immediately upon the juvenile's
12 arrival unless the parent or guardian is the alleged victim or alleged cod-
13 efendant of the crime under investigation.

14 (b) When a parent or guardian is the alleged victim or alleged cod-
15 efendant of the crime under investigation and the juvenile is less than 14
16 years of age, no admission or confession may be admitted into evidence
17 unless the confession or admission resulting from interrogation while in
18 custody or under arrest was made following a consultation between the
19 juvenile and an attorney, or a parent or guardian who is not involved in
20 the investigation of the crime, as to whether the juvenile will waive the
21 right to an attorney and the right against self-incrimination. It shall be
22 the duty of the facility where the juvenile has been delivered to make
23 reasonable effort to contact a parent or guardian who is not involved in
24 the investigation of the crime immediately upon such juvenile's arrival.

25 New Sec. 32. (a) The court, in the first warrant or order authorizing
26 or requiring placement of the juvenile outside the home, shall determine
27 whether permitting the juvenile to remain in the home would be contrary
28 to the juvenile's welfare and enter its determination in the warrant or
29 order.

30 (b) When a juvenile has been in foster care and has been placed at
31 home or allowed a trial home visit for a period of six months or more and
32 is again removed from the home, the court shall again make a determi-
33 nation pursuant to subsection (a).

34 New Sec. 33. (a) The court shall in the first warrant or order au-
35 thorizing or requiring removal of the juvenile from the juvenile's home,
36 determine whether reasonable efforts were made to maintain the family
37 unit and prevent unnecessary removal of the juvenile from the home and
38 include its determination in the court's warrant or order.

39 (1) If the juvenile is in the custody of the commissioner, the com-
40 missioner shall prepare a report for the court documenting such reason-
41 able efforts.

42 (2) If the juvenile is in the custody of the secretary of social and
43 rehabilitation services under the Kansas code for the care of children, the

1 secretary shall prepare a report for the court documenting such reason-
2 able efforts.

3 (3) In all other cases the person preparing the predisposition report
4 shall include documentation of such reasonable efforts in the report.

5 (b) If the court determines that reasonable efforts to maintain the
6 family unit and prevent unnecessary removal of a juvenile were not made,
7 the court shall determine whether such reasonable efforts were unnec-
8 essary because: (1) A court of competent jurisdiction has determined that
9 the parent has subjected the juvenile to aggravated circumstances;

10 (2) a court of competent jurisdiction has determined that the parent
11 has been convicted of a murder of another child of the parent; voluntary
12 manslaughter of another child of the parent; aiding or abetting, attempt-
13 ing, conspiring or soliciting to commit such a murder or such a voluntary
14 manslaughter; or a felony assault that results in serious bodily injury to
15 the juvenile or another child of the parent;

16 (3) the parental rights of the parent with respect to a sibling have
17 been terminated involuntarily; or

18 (4) an emergency exists requiring protection of the juvenile and ef-
19 forts to maintain the family unit and prevent unnecessary removal of the
20 juvenile from the home were not possible.

21 (c) Nothing in this section shall be construed to prohibit the court
22 from issuing a warrant or entering an order authorizing or requiring re-
23 moval of the juvenile from the home for the safety of the community.

24 (d) When the juvenile has been in foster care and has been placed at
25 home or allowed a trial home visit for a period of six months or more and
26 is again removed from the home, the court shall again make a determi-
27 nation pursuant to subsections (a) and (b).

28 Sec. 34. K.S.A. 38-1625 is hereby amended to read as follows: 38-
29 1625. Upon the filing of a complaint under this code, the court shall
30 proceed by one of the following methods:

31 (a) *At anytime the juvenile is not being detained, the court may issue*
32 *summons with copies of the complaint attached stating the place of the*
33 *hearing and time at which the respondent juvenile is required to appear*
34 *and answer the offenses charged in the complaint, which. The hearing*
35 *shall be within 30 days of the date the complaint is filed, and deliver it*
36 *with copies of the complaint attached to the sheriff. The summons and*
37 *the complaint shall be delivered to a law enforcement agency or a person*
38 *specially appointed to serve it them.*

39 (b) *If the respondent juvenile is being detained for a detention hear-*
40 *ing as provided in K.S.A. 38-1632, and amendments thereto, at the de-*
41 *tention hearing a copy of the complaint shall be served at the detention*
42 *hearing on the respondent juvenile and each parent or other person with*
43 *whom the respondent juvenile has been residing who is in attendance at*

1 the hearing and a record of the service made a part of the proceedings.
2 The court shall announce the time that the ~~respondent will be required~~
3 *juvenile is ordered* to appear again before the court for further proceed-
4 ings. If no parent appears at the hearing, the court shall summon the
5 parent or parents as provided in subsection (a).

6 (c) If the court is without sufficient information to accomplish service
7 of summons, the court may issue a warrant pursuant to K.S.A. 38-1631,
8 *and amendments thereto*.

9 Sec. 35. K.S.A. 38-1626 is hereby amended to read as follows: 38-
10 1626. (a) *Persons upon whom served*. The summons and a copy of the
11 complaint shall be served on the juvenile ~~alleged to be a juvenile offender,~~
12 the parents or parent having legal custody ~~or who may be ordered to pay~~
13 ~~child support by the court,~~ the person with whom the juvenile is residing,
14 and any other person designated by the county or district attorney.

15 (b) *Form*. The summons shall be issued by the clerk, dated the day
16 it is issued, contain the name of the court ~~and~~, the caption of the case
17 and be in substantially the following form:

18 (Name of Court)

19 In the Matter of

20 _____, ~~Respondent a juvenile~~ Case No. _____

21 Date of birth _____

22 A ___ male ___ female ~~under the age of 18 years.~~

23 S U M M O N S

24 TO:

25 _____
26 (Juvenile)

27 _____
28 (Father)

29 _____
30 (Mother)

31 _____
32 (Other having custody- (Address)
33 relationship)

34 A complaint has been filed in this court, a copy of which is attached.

35 On _____, ~~19~~ _____, at _____ o'clock ____m. the above-named juvenile
36 and a parent and any other person having legal custody are required to appear before this
37 court at _____. Failure to appear may cause the juvenile to be taken into custody
38 and brought before the court.

39 The juvenile will be required to plead guilty or not guilty to the statements in the com-
40 plaint. You have the right to hire an attorney to represent the above juvenile. If you do not
41 hire an attorney, the court will appoint an attorney for the juvenile. The juvenile, parent or
42 other person having legal custody of the juvenile may be required to repay the court for the
43 expense of the appointed attorney. The court may order one or both parents to pay child

1 support.

2 Date: _____, 19__

Clerk of the District Court

3 by _____

4 (Seal)

5 Sec. 36. K.S.A. 38-1627 is hereby amended to read as follows: 38-
6 1627. (a) Summons, notice of hearing or other process may be served by
7 ~~one of the following methods: pursuant to K.S.A. 60-303, and amend-~~
8 ~~ments thereto.~~

9 ~~(a) Personal service. Personal service is completed by delivering a~~
10 ~~copy of the process personally to the person named therein.~~

11 ~~(b) Residential service. Residential service is completed by leaving a~~
12 ~~copy of the process with a person of suitable age and discretion residing~~
13 ~~therein or in a conspicuous place at the usual place of residence of the~~
14 ~~person named therein at least 48 hours prior to the hearing for which the~~
15 ~~summons, notice or other process is issued.~~

16 ~~(c) Restricted mail service. Service by restricted mail is completed~~
17 ~~upon mailing in accordance with the provisions of K.S.A. 60-103 and~~
18 ~~amendments thereto.~~

19 ~~(d) Regular mail service. (b) Service may be made by regular mail,~~
20 ~~addressed to the individual to be served at the usual place of residence~~
21 ~~of the person with postage prepaid, and is completed upon the person~~
22 ~~appearing before the court in response thereto. If the person fails to~~
23 ~~appear, the summons, notice or other process shall be delivered by per-~~
24 ~~sonal, residential or restricted mail service pursuant to K.S.A. 60-303, and~~
25 ~~amendments thereto.~~

26 Sec. 37. K.S.A. 38-1628 is hereby amended to read as follows: 38-
27 1628. Proof of service shall be made as follows:

28 (a) *Personal or residential service.* (1) Every officer to whom sum-
29 mons or other process shall be delivered for service within the state shall
30 make written report of the place, manner and date of service of the pro-
31 cess in substantially the following form:

32 REPORT OF SERVICE

33 I certify that a true copy of the above summons and a copy of the complaint were served
34 on the persons above named in the manner and on the dates indicated below:

35 Name	Location of Service	Manner of Service	Date of Service
36 _____	_____	_____	_____
37 _____	_____	_____	_____
38 _____	_____	_____	_____

39 Date Returned: _____, 19__

40 Sheriff of _____ County, Kansas

41 by _____

42 _____

43 (Title)

1 (2) If the process is, by order of the court, delivered to a person other
2 than an officer for service, the person shall report the place, manner and
3 time of service by affidavit.

4 (b) *Service by mail.* The clerk or a deputy clerk shall make service by
5 mail and shall make written report of the service in substantially the fol-
6 lowing form:

7 CERTIFICATE OF MAILING

8 On _____, ~~19~~ _____, I mailed a copy of the above (summons or other process)
9 and a copy of the (complaint or other pleading) described therein to each of the parties
10 named therein at the address indicated on the process:

11 By placing in an envelope properly addressed and delivering the same to the United
12 States Postal Service for delivery with postage prepaid.

13 By registered or certified mail of the United States Postal Service endorsed "return
14 receipt requested showing address where delivered" and "deliver to addressee only"
15 with all appropriate fees paid.

16 Date: _____, ~~19~~ _____

17 _____
(Deputy) Clerk of the District Court

18 *Check paragraph to indicate method used.

19 (c) *Amendment of report.* The judge may allow an amendment of a
20 report of service at any time and upon the terms as are deemed just to
21 reflect correctly the true manner of service.

22 Sec. 38. K.S.A. 38-1629 is hereby amended to read as follows: 38-
23 1629. (a) *Proceedings upon filing.* Upon the filing of a subsequent plead-
24 ing requesting or indicating the necessity for a hearing, the court shall fix
25 the time and place for the hearing.

26 (b) *Form of notice.* The notice of hearing shall be given by the clerk,
27 dated the day it is issued, contain the name of the court and the caption
28 in the case and be substantially in the following form:

29 (Name of Court)

30 (Caption of Case)

31 NOTICE OF HEARING

32 TO:

33 _____

34 (Juvenile)

35 _____

36 (Father)

37 _____

38 (Mother)

39 _____

40 (Other having custody-
41 relationship)

(Address)

42 This court has received a _____,

43 (describe pleading)

1 a copy of which is attached, which will require a hearing before the court.

2 On _____, ~~19~~ _____, at _____ o'clock _____m. at _____, the court
3 will hear this matter.

4 The above named juvenile and a parent and any other person having legal custody of the
5 juvenile are required to be present. Failure to appear may cause the juvenile to be taken
6 into custody and brought before the court.

7 Date: _____, ~~19~~ _____ Clerk of the District Court
8 by _____

9 (Seal)

10 (c) *Method and report of service.* Notice of hearing and motions or
11 other pleadings subsequent to the complaint shall be served and report
12 of service shall be made in the same manner as service of the complaint
13 and summons.

14 Sec. 39. K.S.A. 38-1630 is hereby amended to read as follows: 38-
15 1630. (a) A party shall be entitled to the use of subpoenas and other
16 compulsory process to obtain the attendance of witnesses. Except as oth-
17 erwise provided by this code, the subpoenas and other compulsory pro-
18 cess shall be issued and served ~~in the same manner~~ and the disobedience
19 thereof shall be punished *in the same manner* as in other civil cases.

20 (b) The court shall have the power to compel the attendance of wit-
21 nesses from any county in the state *and from out of state* for proceedings
22 under this code.

23 (c) Only witnesses who have been subpoenaed shall be allowed wit-
24 ness fees and mileage. No witness shall be entitled to be paid the fee or
25 mileage before the witness' actual appearance at court.

26 Sec. 40. K.S.A. 38-1631 is hereby amended to read as follows: 38-
27 1631. ~~If the court finds there is probable cause to believe that an offense~~
28 ~~was committed and that it was committed by the respondent, or that a~~
29 ~~person has absconded while on probation or escaped from a facility or~~
30 ~~person vested with that person's legal custody or supervision pursuant to~~
31 ~~this code or the Kansas juvenile code for a nonstatus offense, the court~~
32 ~~may issue a warrant commanding that the respondent or person be taken~~
33 ~~into custody and brought before the court. The court may issue a warrant~~
34 ~~commanding the juvenile be taken into custody if there is probable cause~~
35 ~~to believe: (a) That an offense was committed and it was committed by~~
36 ~~the juvenile; (b) the juvenile violated probation, conditional release, con-~~
37 ~~ditions of release or placement; or (c) the juvenile has escaped from a~~
38 ~~facility. The warrant shall designate where or to whom the respondent~~
39 ~~or person juvenile is to be taken if the court is not open for the regular~~
40 ~~conduct of business. The warrant shall describe the offense or violation~~
41 ~~charged in the complaint or the applicable circumstances of the person's~~
42 ~~juvenile's absconding or escaping.~~

43 Sec. 41. K.S.A. 38-1632 is hereby amended to read as follows: 38-

1 1632. (a) *Length of detention.* ~~(1) Whenever an alleged a juvenile offender~~
 2 ~~is taken into custody and is thereafter taken before the court or to a~~
 3 ~~juvenile detention facility or youth residential facility designated by the~~
 4 ~~court, the juvenile shall not remain detained in detention for more than~~
 5 48 hours, excluding Saturdays, Sundays and legal holidays, from the time
 6 the initial detention was imposed, unless the court determines after hear-
 7 ing, within the 48-hour period, that further detention is necessary.

8 ~~(2) If a juvenile is detained in jail pursuant to subsection (b) of K.S.A.~~
 9 ~~38-1691 and amendments thereto, the detention hearing required by this~~
 10 ~~section shall be held within 24 hours after the juvenile is taken into cus-~~
 11 ~~tody.~~

12 (b) *Waiver of detention hearing.* ~~The right of a juvenile to a detention~~
 13 ~~hearing may be waived if the juvenile and the attorney for the juvenile~~
 14 ~~consent in writing to waive the right to a detention hearing and the judge~~
 15 ~~approves the waiver. Whenever the right to a detention hearing has been~~
 16 ~~waived, the juvenile, the attorney for the juvenile or the juvenile's parents~~
 17 ~~may reassert the right at any time not less than 48 hours prior to the time~~
 18 ~~scheduled for trial by submitting a written request to the judge. Upon~~
 19 ~~request, the judge shall immediately set the time and place for the hear-~~
 20 ~~ing, which shall be held not more than 48 hours after the receipt of the~~
 21 ~~request excluding Saturdays, Sundays and legal holidays. The detention~~
 22 ~~hearing may be waived in writing by the juvenile and the juvenile's at-~~
 23 ~~torney with approval of the court. The right to a detention hearing may~~
 24 ~~be reasserted in writing by the juvenile or the juvenile's attorney or par-~~
 25 ~~ents at anytime not less than 48 hours prior to trial.~~

26 (c) *Notice of hearing.* Whenever it is determined that a detention
 27 hearing is required the court shall immediately set the time and place for
 28 the hearing. Except as otherwise provided by subsection (b)(1) of K.S.A.
 29 38-1691 and amendments thereto, notice of the detention hearing shall
 30 be given at least 24 hours prior to the hearing, unless waived, and shall
 31 be in substantially the following form:

32 (Name of Court)

33 (Caption of Case)

34 NOTICE OF DETENTION HEARING

35 TO:

36 _____

37 (Juvenile)

38 _____

39 (Father)

40 _____

41 (Mother)

42
43

1 _____
 2 (Other having custody- (Address)
 3 relationship)

4 On _____, _____, _____, at ____o'clock ____m.
 5 (day) (date) (year)

6 there will be a hearing for the court to determine if there is a need for further detention of
 7 the above named juvenile. Each parent or other person having legal custody of the juvenile
 8 should be present at the hearing which will be held at _____.

9 You have the right to hire an attorney to represent the above juvenile. Upon failure to
 10 hire an attorney the court will appoint an attorney for the juvenile and the juvenile, parent
 11 or other person having legal custody of the juvenile may be required to repay the court for
 12 the expense of the appointed attorney. The court may order one or both parents to pay child
 13 support.

14 Date: _____, _____ Clerk of the District Court
 15 by _____
 16 (Seal)

17 REPORT OF SERVICE

18 I certify that I have delivered a true copy of the above notice on the persons above named
 19 in the manner and at the times indicated below:

20 Name	21 Location of Service (other than above)	22 Manner of Service	23 Date	24 Time
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

24 Date Returned: _____, _____
 25 (Signature)
 26 _____
 27 (Title)

28 (d) *Oral notice.* When there is insufficient time to give written notice,
 29 oral notice may be given and is completed upon filing a certificate of oral
 30 notice with the clerk in substantially the following form:

31 (Name of Court)
 32 (Caption of Case)

33 CERTIFICATE OF ORAL NOTICE OF DETENTION HEARING

34 I gave oral notice that the court will hold a hearing at ____o'clock ____m. on _____,
 35 _____, to the persons listed, in the manner and at the times indicated below:

36 Name	37 Relationship	38 Date	39 Time	Method of Communication (in person or telephone)
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

- 40 I advised each of the above named persons that:
- 41 (1) The hearing is to determine if the above named juvenile shall be detained;
 - 42 (2) each parent or person having legal custody should be present at the hearing;
 - 43 (3) they have the right to hire an attorney of their own choice for the juvenile;

- 1 (4) if an attorney is not hired, the court will appoint an attorney for the juvenile;
- 2 (5) the juvenile, parent or other person having custody of the juvenile may be required to
- 3 repay the court for the expense of the appointed attorney; and
- 4 (6) the court may order one or both parents to pay child support.

5 _____
6 (Signature)

7 _____
8 (Name Printed)

9 _____
10 (Title)

11 (e) *Hearing, finding, bond.* At the time set for the detention hearing
 12 if no retained attorney is present to represent the juvenile, the court shall
 13 appoint an attorney for the juvenile, and may recess the hearing for 24
 14 hours to obtain attendance of the attorney appointed ~~unless the juvenile~~
 15 ~~is detained in jail pursuant to subsection (b)(1) of K.S.A. 38-1601 and~~
 16 ~~amendments thereto.~~ At the detention hearing, if the court finds the
 17 juvenile is dangerous to self or others, the juvenile may be detained in a
 18 juvenile detention facility or youth residential facility which the court shall
 19 designate. If the court finds the juvenile is not likely to appear for further
 20 proceedings, the juvenile may be detained in a juvenile detention facility
 21 or youth residential facility which the court shall designate or may be
 22 released upon the giving of an appearance bond in an amount specified
 23 by the court and on the conditions the court may impose, in accordance
 24 with the applicable provisions of article 28 of chapter 22 of the Kansas
 25 Statutes Annotated and amendments thereto. In the absence of either
 26 finding, the court shall order the juvenile released or placed in temporary
 27 custody as provided in subsection (f).

28 In determining whether to place a juvenile in a juvenile detention fa-
 29 cility pursuant to this subsection, the court shall consider all relevant
 30 factors, including but not limited to the criteria listed in K.S.A. 38-1640
 31 and amendments thereto. If the court orders the juvenile to be detained
 32 in a juvenile detention facility, the court shall record the specific findings
 33 of fact upon which the order is based.

34 If detention is ordered and the parent was not notified of the hearing
 35 and did not appear and later requests a rehearing, the court shall rehear
 36 the matter without unnecessary delay.

37 (f) *Temporary custody.* If the court determines that ~~it~~ *detention* is
 38 not necessary to detain the juvenile but finds that release to the custody
 39 of a parent is not in the best interests of the juvenile, the court may place
 40 the juvenile in the temporary custody of a youth residential facility or
 41 some other suitable person willing to accept temporary custody.

42 (g) The court may enter an order removing a juvenile from the cus-
 43 tody of a parent and placing the child in the temporary custody of the

1 commissioner pursuant to K.S.A. 38-1664, and amendments thereto.

2 (h) *Audio-video communications.* Detention hearings may be con-
3 ducted by two-way electronic audio-video communication between the
4 ~~alleged juvenile offender~~ and the judge in lieu of personal presence of
5 the juvenile or the juvenile's ~~counsel attorney~~ in the courtroom from any
6 location within Kansas in the discretion of the court. The juvenile may
7 be accompanied by the juvenile's counsel during such proceedings or
8 counsel may be personally present in court as long as a means of *confi-*
9 *dential* communication between the juvenile and the juvenile's ~~counsel~~
10 ~~attorney~~ is available for consultation between the juvenile and the juve-
11 ~~nile's counsel in confidence.~~

12 Sec. 42. K.S.A. 38-1633 is hereby amended to read as follows: 38-
13 1633. (a) When the ~~respondent juvenile~~ appears *without an attorney* in
14 response to a complaint ~~without an attorney~~, the court shall inform the
15 ~~respondent juvenile~~ of the following:

- 16 (1) The nature of the charges in the complaint;
- 17 (2) the right to hire an attorney of the ~~respondent's juvenile's~~ own
18 choice;
- 19 (3) the duty of the court to appoint an attorney for the ~~respondent~~
20 ~~juvenile~~ if no attorney is hired by the ~~respondent juvenile~~ or parent; and
- 21 (4) that the court may require the ~~respondent juvenile~~ or parents to
22 pay the expense of a court appointed attorney.

23 Upon request the court shall give the ~~respondent juvenile~~ or parent an
24 opportunity to hire an attorney. If no request is made or the ~~respondent~~
25 ~~juvenile~~ or parents are financially unable to hire an attorney, the court
26 shall forthwith appoint an attorney for the ~~respondent juvenile~~. The court
27 shall afford the ~~respondent juvenile~~ an opportunity to confer with the
28 attorney before requiring the ~~respondent juvenile~~ to plead to the allega-
29 tions of the complaint.

30 (b) When the ~~respondent juvenile~~ appears with an attorney in re-
31 sponse to a complaint, the court shall require the ~~respondent juvenile~~ to
32 plead guilty, *nolo contendere* or not guilty to the allegations stated in the
33 complaint or plead *nolo contendere*, unless there is an application for and
34 approval of an immediate intervention program. Prior to making this re-
35 quirement, the court shall inform the ~~respondent juvenile~~ of the
36 following:

- 37 (1) The nature of the charges in the complaint;
- 38 (2) the right of the ~~respondent juvenile~~ to be presumed innocent of
39 each charge;
- 40 (3) the right to trial without unnecessary delay and to confront and
41 cross-examine witnesses appearing in support of the allegations of the
42 complaint;
- 43 (4) the right to subpoena witnesses;

1 (5) the right of the ~~respondent~~ *juvenile* to testify or to decline to
2 testify; and

3 (6) the sentencing alternatives the court may select as the result of
4 the juvenile being ~~adjudged to be~~ *adjudicated* a juvenile offender.

5 (c) If the ~~respondent~~ *juvenile* pleads guilty to the allegations con-
6 tained in a complaint or pleads *nolo contendere*, the court shall determine,
7 before accepting the plea and entering a sentence: (1) That there has
8 been a voluntary waiver of the rights enumerated in subsections (b)(2),
9 (3), (4) and (5); and (2) that there is a factual basis for the plea.

10 (d) If the ~~respondent~~ *juvenile* pleads not guilty, the court shall sched-
11 ule a time and date for trial to the court.

12 (e) ~~Pretrial hearings~~ *First appearance* may be conducted by two-way
13 electronic audio-video communication between the ~~alleged juvenile of-~~
14 ~~fender~~ and the judge in lieu of personal presence of the juvenile or the
15 juvenile's ~~counsel attorney~~ in the courtroom from any location within
16 Kansas in the discretion of the court. The juvenile may be accompanied
17 by the juvenile's ~~counsel attorney~~ during such proceedings or ~~counsel the~~
18 ~~attorney~~ may be personally present in court as long as a means of *confi-*
19 *dential* communication between the juvenile and the juvenile's ~~counsel~~
20 ~~attorney~~ is available ~~for consultation between the juvenile and the juve-~~
21 ~~nile's counsel in confidence.~~

22 Sec. 43. K.S.A. 38-1634 is hereby amended to read as follows: 38-
23 1634. A plea of *nolo contendere* is a formal declaration that the ~~respondent~~
24 ~~juvenile~~ does not contest the charge. When a plea of *nolo contendere* is
25 accepted the court shall ~~adjudge the respondent~~ *adjudicate the juvenile*
26 to be a juvenile offender. The plea cannot be used against the ~~respondent~~
27 ~~juvenile~~ as an admission in any other action based on the same act.

28 Sec. 44. K.S.A. 38-1635 is hereby amended to read as follows: 38-
29 1635. (a) Except as provided in subsection (b), each county or district
30 attorney may adopt a policy and establish guidelines for an immediate
31 intervention program by which a ~~respondent~~ *juvenile* may avoid prose-
32 cution ~~as a juvenile offender~~. In addition to the county or district attorney
33 adopting policies and guidelines for the immediate intervention pro-
34 grams, the court, the county or district attorney and the director of the
35 intake and assessment center, pursuant to a written agreement, may de-
36 velop local programs to:

37 (1) Provide for the direct referral of cases by the county or district
38 attorney or the intake and assessment worker, or both, to youth courts,
39 restorative justice centers, citizen review boards, hearing officers, or other
40 local programs as sanctioned by the court.

41 (2) Allow intake and assessment workers to issue a summons, as de-
42 fined in subsection (e) *or if the county or district attorney has adopted*
43 *appropriate policies and guidelines, allow law enforcement officers to is-*

1 *sue such a summons.*

2 (3) Allow the intake and assessment centers to directly purchase serv-
3 ices for the ~~juveniles~~ *juvenile* and the juvenile's family.

4 (4) Allow intake and assessment workers to direct the release of a
5 juvenile prior to a detention hearing after the completion of the intake
6 and assessment process if the juvenile intake and assessment worker has
7 reason to believe that if released the juvenile will appear for further pro-
8 ceedings and ~~will not be~~ *is not* dangerous to self or others.

9 (b) An immediate intervention program shall provide that a ~~respon-~~
10 ~~dent~~ *an alleged juvenile offender* is ineligible for such program if the
11 ~~respondent juvenile~~ *juvenile* has been previously adjudicated to be a juvenile of-
12 fender, ~~or faces pending charges as a juvenile offender,~~ for committing
13 acts which, if committed by an adult, would constitute:

14 (1) A violation of K.S.A. 8-1567 and amendments thereto and the
15 ~~respondent juvenile~~: (A) Has previously participated in an immediate in-
16 tervention program instead of prosecution of a complaint alleging a vio-
17 lation of that statute or an ordinance of a city in this state which prohibits
18 the acts prohibited by that statute; (B) has previously been adjudicated
19 of a violation of that statute or a violation of a law of another state or of
20 a political subdivision of this or any other state, which law prohibits the
21 acts prohibited by that statute; or (C) during the time of the alleged
22 violation was involved in a motor vehicle accident or collision resulting in
23 personal injury or death; or

24 (2) a violation of an off-grid crime, a person felony, or a felony or
25 misdemeanor committed when the ~~respondent juvenile~~ was illegally pos-
26 sessed a firearm or using a deadly weapon in the commission of such
27 crime.

28 (c) An immediate intervention program may include a stipulation,
29 agreed to by the ~~respondent juvenile~~, the ~~respondent's juvenile's~~ *juvenile's* attorney
30 and the attorney general or county or district attorney, of the facts upon
31 which the charge is based and a provision that if the ~~respondent juvenile~~
32 fails to fulfill the terms of the specific immediate intervention agreement
33 and the immediate intervention proceedings are resumed, the proceed-
34 ings, including any proceedings on appeal, shall be conducted on the
35 record of the stipulation of facts.

36 (d) The county or district attorney may require the parent or guardian
37 of a juvenile ~~offender~~ to be a part of the immediate intervention program
38 ~~for the juvenile offender.~~

39 (e) "Summons" means a written order issued by an intake and as-
40 sessment worker *or a law enforcement officer* directing that a ~~respondent~~
41 *juvenile* appear before a designated court at a stated time and place ~~and~~
42 ~~answer to a charge pending against the respondent~~ *to answer a pending*
43 *charge.*

1 (f) The provisions of this section shall not be applicable in judicial
2 districts that adopt district court rules pursuant to K.S.A. 20-342, and
3 amendments thereto, for the administration of immediate intervention
4 programs by the district court.

5 Sec. 45. K.S.A. 38-1636 is hereby amended to read as follows: 38-
6 1636. (a) (1) Except as *otherwise* provided ~~further in this section~~, at any
7 time after commencement of proceedings under this code against a re-
8 spondent juvenile and prior to the beginning of an evidentiary hearing at
9 which the court may enter a sentence as provided in K.S.A. 38-1655, and
10 amendments thereto, the county or district attorney *or the county or*
11 *district attorney's designee* may file a motion requesting that the court
12 authorize prosecution of the respondent juvenile as an adult under the
13 applicable criminal statute. The respondent juvenile shall be presumed
14 to be a juvenile unless good cause is shown to prosecute the respondent
15 juvenile as an adult.

16 (2) ~~At any time after commencement of proceedings under this code~~
17 ~~against a respondent who~~ *The alleged juvenile offender shall be presumed*
18 *to be an adult if the alleged juvenile offender was: (A) 14, 15, 16 or 17*
19 *years of age at the time of the offense or offenses alleged in the complaint,*
20 *if any such offense: (i) If committed by an adult, would constitute an*
21 ~~off-grid offense~~ *off-grid crime, a person felony, a nondrug severity level 1*
22 *through 6 felony or any drug severity level 1 or 2 or 3 felony; or (ii) was*
23 *committed while in possession of a firearm; or (B) charged with a felony*
24 *or with more than one offense of which, one or more of which constitutes*
25 *a felony, after having been adjudicated or convicted in a separate prior*
26 *juvenile proceeding as having committed an offense which would consti-*
27 *tute a felony if committed by an adult and the adjudications or convictions*
28 *occurred prior to the date of the commission of the new act charged and*
29 *prior to the beginning of an evidentiary hearing at which the court may*
30 *enter a sentence as provided in K.S.A. 38-1655, and amendments thereto;*
31 ~~the county or district attorney may file a motion requesting that the court~~
32 ~~authorize prosecution of the respondent as an adult under the applicable~~
33 ~~criminal statute. The respondent juvenile shall be presumed to be an~~
34 ~~adult. The burden of proof is on the respondent juvenile to rebut the~~
35 ~~presumption by a preponderance of the evidence.~~

36 (3) At any time after commencement of proceedings under this code
37 against a respondent juvenile offender and prior to the beginning of an
38 evidentiary hearing at which the court may enter a sentence as provided
39 in K.S.A. 38-1655, and amendments thereto, the county or district attor-
40 ney *or the county or district attorney's designee* may file a motion re-
41 questing that the court designate the proceedings as an extended juris-
42 diction juvenile prosecution ~~as provided further~~.

43 (4) If the county or district attorney *or the county or district attor-*

1 *ney's designee* files a motion to designate the proceedings as an extended
2 jurisdiction juvenile prosecution and the ~~respondent juvenile~~ was 14, 15,
3 16 or 17 years of age at the time of the offense or offenses alleged in the
4 complaint and: (A) charged with an offense: (i) If committed by an adult,
5 would constitute an ~~off-grid felony~~ *off-grid crime*, a person felony, a non-
6 drug severity level 1 through 6 felony or any drug severity level 1 ~~or~~, 2
7 or 3 felony; or (ii) was committed while in possession of a firearm; or (B)
8 charged with a felony or with more than, one offense ~~of which~~, one or
9 more *of which* constitutes a felony, after having been adjudicated or con-
10 victed in a separate ~~prior~~ juvenile proceeding as having committed an act
11 which would constitute a felony if committed by an adult and the adju-
12 dications or convictions occurred prior to the date of the commission of
13 the new offense charged, the burden ~~of proof~~ is on the ~~respondent ju-~~
14 *venile* to rebut the designation of an extended jurisdiction juvenile pros-
15 ecution *by a preponderance of the evidence*. In all other motions request-
16 ing that the court designate the proceedings as an extended jurisdiction
17 juvenile prosecution, the ~~respondent juvenile~~ is presumed to be a juvenile.
18 The burden of proof is on the prosecutor to prove the ~~respondent juvenile~~
19 should be designated as an extended jurisdiction juvenile.

20 (b) The motion also may contain a statement that the prosecuting
21 attorney will introduce evidence of the offenses alleged in the complaint
22 and request that, on hearing the motion and authorizing prosecution as
23 an adult or designating the proceedings as an extended jurisdiction ju-
24 venile prosecution under this code, the court may make the findings re-
25 quired in a preliminary examination provided for in K.S.A. 22-2902, and
26 amendments thereto, and the finding that there is no necessity for further
27 preliminary examination.

28 (c) (1) Upon receiving ~~a~~ *the* motion ~~as established in subsection (a),~~
29 the court shall set a time and place for hearing ~~on the motion~~. The court
30 shall give notice of the hearing to the ~~respondent juvenile~~, each parent
31 ~~of the respondent~~, if service is possible, and the attorney representing the
32 ~~respondent juvenile~~. The motion shall be heard and determined prior to
33 any further proceedings on the complaint.

34 (2) At the hearing, the court shall inform the ~~respondent juvenile~~ of
35 the following:

- 36 (A) The nature of the charges in the complaint;
37 (B) the right of the ~~respondent juvenile~~ to be presumed innocent of
38 each charge;
39 (C) the right to trial without unnecessary delay and to confront and
40 cross-examine witnesses appearing in support of the allegations of the
41 complaint;
42 (D) the right to subpoena witnesses;
43 (E) the right of the ~~respondent juvenile~~ to testify or to decline to

1 testify; and

2 (F) the sentencing alternatives the court may select as the result of
3 the juvenile being prosecuted under an extended jurisdiction juvenile
4 prosecution.

5 (d) If the ~~respondent juvenile~~ fails to appear for hearing on ~~a~~ *the*
6 motion ~~as established in subsection (a)~~ after having been served with
7 notice of the hearing, the court may hear and determine the motion in
8 the absence of the ~~respondent juvenile~~. If the court is unable to obtain
9 service of process and give notice of the hearing, the court may hear and
10 determine the motion in the absence of the ~~respondent~~ *alleged juvenile*
11 *offender* after having given notice of the hearing at least once a week for
12 two consecutive weeks in the official county newspaper of the county
13 where the hearing will be held.

14 (e) In determining whether or not prosecution as an adult should be
15 authorized or designating the proceeding as an extended jurisdiction ju-
16 venile prosecution, the court shall consider each of the following factors:
17 (1) The seriousness of the alleged offense and whether the protection of
18 the community requires prosecution as an adult or designating the pro-
19 ceeding as an extended jurisdiction juvenile prosecution; (2) whether the
20 alleged offense was committed in an aggressive, violent, premeditated or
21 willful manner; (3) whether the offense was against a person or against
22 property. Greater weight shall be given to offenses against persons, es-
23 pecially if personal injury resulted; (4) the number of alleged offenses
24 unadjudicated and pending against the ~~respondent juvenile~~; (5) the pre-
25 vious history of the ~~respondent juvenile~~, including whether the ~~respon-~~
26 ~~dent juvenile~~ had been adjudicated a juvenile offender under this code
27 and, if so, whether the offenses were against persons or property, and any
28 other previous history of antisocial behavior or patterns of physical vio-
29 lence; (6) the sophistication or maturity of the ~~respondent juvenile~~ as
30 determined by consideration of the ~~respondent's juvenile's~~ home, envi-
31 ronment, emotional attitude, pattern of living or desire to be treated as
32 an adult; (7) whether there are facilities or programs available to the court
33 which are likely to rehabilitate the ~~respondent juvenile~~ prior to the ex-
34 piration of the court's jurisdiction under this code; and (8) whether the
35 interests of the ~~respondent juvenile~~ or of the community would be better
36 served by criminal prosecution or extended jurisdiction juvenile prose-
37 cution. The insufficiency of evidence pertaining to any one or more of
38 the factors listed in this subsection, in and of itself, shall not be deter-
39 minative of the issue. Subject to the provisions of K.S.A. 38-1653, and
40 amendments thereto, written reports and other materials relating to the
41 ~~respondent's juvenile's~~ mental, physical, educational and social history
42 may be considered by the court.

43 (f) (1) The court may authorize prosecution as an adult upon com-

1 pletion of the hearing if the court finds ~~that there is substantial~~ *from a*
2 *preponderance of the* evidence that the ~~respondent~~ *alleged juvenile of-*
3 *fender* should be prosecuted as an adult for the offense ~~with which the~~
4 ~~respondent is~~ charged. In that case, the court shall direct the ~~respondent~~
5 *alleged juvenile offender* be prosecuted under the applicable criminal statu-
6 te and that the proceedings filed under this code be dismissed.

7 (2) The court may designate the proceeding as an extended jurisdic-
8 tion juvenile prosecution upon completion of the hearing if the ~~respon-~~
9 ~~dent juvenile~~ has failed to rebut the presumption or the court finds ~~that~~
10 ~~there is substantial~~ *from a preponderance of the* evidence that the ~~re-~~
11 ~~spondent juvenile~~ should be prosecuted under an extended jurisdiction
12 juvenile prosecution. A juvenile who is the subject of an extended jurisdic-
13 tion juvenile prosecution shall have the right to a trial by jury, to the
14 effective assistance of counsel and to all other rights of a defendant pur-
15 suant to the Kansas code of criminal procedure. Each court shall adopt
16 local rules to establish the basic procedures for extended juvenile jurisdic-
17 tion prosecution in their jurisdictions.

18 (3) After a proceeding in which prosecution as an adult is requested
19 pursuant to subsection (a)(2), and prosecution as an adult is not author-
20 ized, the court may designate the proceedings to be an extended juvenile
21 jurisdiction prosecution. A juvenile who is the subject of an extended
22 juvenile jurisdiction prosecution shall have the right to a trial by jury, to
23 the effective assistance of counsel and to all other rights of a defendant
24 pursuant to the Kansas code of criminal procedure. Each court shall adopt
25 local rules to establish the basic procedures for extended juvenile jurisdic-
26 tion prosecution in their jurisdictions.

27 (g) If the ~~respondent juvenile~~ is present in court and the court also
28 finds from the evidence that it appears a felony has been committed and
29 that there is probable cause to believe the felony has been committed by
30 the ~~respondent juvenile~~, the court may direct that there is no necessity
31 for further preliminary examination on the charges as provided for in
32 K.S.A. 22-2902, and amendments thereto. In that case, the court shall
33 order the ~~respondent juvenile~~ bound over to the district judge having
34 jurisdiction to try the case.

35 (h) If the ~~respondent juvenile~~ is convicted, the authorization for pros-
36 ecution as an adult shall attach and apply to any future ~~acts by prosecu-~~
37 ~~tions of the respondent juvenile~~ which are or would be cognizable under
38 this code. *If the juvenile is not convicted, the authorization for prosecution*
39 *as an adult shall not attach and shall not apply to future prosecutions of*
40 *the juvenile which are or would be recognizable under this code.*

41 (i) If the ~~respondent juvenile~~ is prosecuted as an adult under subsec-
42 tion (a)(2) and is not convicted in adult court of an offense listed in sub-
43 section (a)(2) but is convicted or adjudicated of a lesser included offense,

1 the ~~respondent juvenile~~ shall be a juvenile offender and receive a sentence
2 pursuant to K.S.A. 38-1663, and amendments thereto.

3 Sec. 46. K.S.A. 38-1637 is hereby amended to read as follows: 38-
4 1637. (a) For the purpose of this section, a ~~respondent is incompetent~~
5 ~~for hearing when~~ person charged as a juvenile offender ~~and is incompetent~~
6 ~~for adjudication as a juvenile offender if~~, because of mental illness or
7 defect, ~~such person~~ is unable:

8 (1) To understand the nature and purpose of the proceedings; or

9 (2) to make or assist in making a defense.

10 ~~(b)~~ Whenever the words “competent,” “competency,” “incompetent”
11 and “incompetency” are used without qualification in this code, they shall
12 refer to the ~~respondent’s competency or incompetency, as described in~~
13 ~~subsection (a) standard for incompetency described in this subsection.~~

14 ~~(c) (1) (b) (1)~~ If at any time after the ~~respondent~~ such person has
15 been charged with an act which, if the respondent is found to have com-
16 mitted, would result in being adjudged to be as a juvenile offender and
17 before trial, the respondent, the respondent’s attorney or the county or
18 district attorney may request a determination of the respondent’s com-
19 petency for hearing. If, upon the request of either party or upon one’s
20 own knowledge and observation, the judge before whom the case is pend-
21 ing ~~finds that~~ there is reason to believe that the ~~respondent juvenile~~ is
22 incompetent for ~~hearing~~ adjudication as a juvenile offender, the proceed-
23 ings shall be suspended and ~~the court before whom the case is pending~~
24 ~~shall conduct a hearing conducted~~ to determine the competency of the
25 ~~respondent juvenile~~. Such a hearing may be held upon the motion of the
26 juvenile’s attorney or the prosecuting attorney, or upon the court’s own
27 motion.

28 (2) ~~All proceedings under this section shall be in the court in which~~
29 ~~the case is pending.~~ The court shall determine the issue of competency
30 and may order. To facilitate in this determination, the court may: (A)
31 Appoint a licensed psychiatrist or psychologist to examine the juvenile; or
32 (B) designate a private or public mental health facility to conduct a psy-
33 chiatric or psychological examination of the respondent. To facilitate the
34 examination, the court may: (A) Appoint two qualified licensed physicians
35 or licensed psychologists, or one of each to examine the respondent or
36 (B) designate a private psychiatric or psychological facility or public men-
37 tal health center to conduct the examination and report to the court. If
38 either physician or the examining psychiatrist, psychologist, ~~the~~ or private
39 psychiatric facility or the public mental health center facility determines
40 that further examination is necessary, the court may commit the respon-
41 dent juvenile for not more than 60 days to any appropriate state, county
42 public or private institution for examination and appropriate report to the
43 court. For good cause shown, the commitment may be extended for an-

1 other 60 days. No statement made by the ~~respondent~~ *juvenile* in the
2 course of any examination provided for by this section, whether the ex-
3 amination is with or without the consent of the ~~respondent~~ *juvenile*, shall
4 be admitted in evidence against the ~~respondent~~ *juvenile* in any hearing.

5 (3) ~~If the respondent is found to be competent, the proceedings~~
6 ~~which have been suspended shall be resumed.~~

7 ~~(4) If the respondent is found to be incompetent, the respondent~~
8 ~~shall be committed for treatment and shall remain subject to the further~~
9 ~~order of the court.~~

10 ~~(5) The respondent~~ *Unless the court finds the attendance of the ju-*
11 *venile would be injurious to the juvenile's health, the juvenile shall be*
12 *present personally at all proceedings under this section.*

13 *(c) If the juvenile is found to be competent, the proceedings which*
14 *have been suspended shall be resumed.*

15 ~~(6) A respondent who~~ *(d) If the juvenile is found to be incompetent,*
16 *the juvenile shall remain subject to the jurisdiction of the court and shall*
17 *be committed for treatment to any appropriate state, county or private*
18 *institution during the continuance of that condition evaluation and treat-*
19 *ment pursuant to K.S.A. 38-1638 and 38-1639, and amendments thereto.*

20 *One or both parents of the respondent juvenile may be ordered to pay*
21 *child support pursuant to the Kansas child support guidelines. Upon ap-*
22 *plication of the respondent juvenile and in the discretion of the court, the*
23 *respondent juvenile may be released to any appropriate private institution*
24 *upon terms and conditions prescribed by the court.*

25 ~~(7) When~~ *(e) If at any time after proceedings have been suspended*
26 *under this section, there are reasonable grounds exist to believe that a*
27 *respondent juvenile who has been adjudged incompetent is now com-*
28 *petent, the court in which the case is pending shall conduct a hearing to*
29 *determine the respondent's juvenile's present mental condition. Reason-*
30 *able notice of the hearings shall be given to the county or district attorney,*
31 *the respondent and the respondent's prosecuting attorney, the juvenile*
32 *and the juvenile's attorney of record, if any. If the court, following the*
33 *hearing, finds the respondent juvenile to be competent, the pending pro-*
34 *ceedings pending against the respondent shall be resumed.*

35 Sec. 47. K.S.A. 38-1638 is hereby amended to read as follows: 38-
36 1638. (a) A ~~respondent~~ *juvenile* who is found to be incompetent ~~for hear-~~
37 ~~ing pursuant to K.S.A. 38-1637, and amendments thereto,~~ shall be com-
38 mitted for evaluation and treatment to any appropriate ~~state, county~~
39 *public* or private institution for a period ~~of~~ not to exceed 90 days. Within
40 90 days of the ~~respondent's~~ *juvenile's* commitment to the institution, the
41 chief medical officer of the institution shall certify to the court whether
42 the ~~respondent~~ *juvenile* has a substantial probability of attaining compe-
43 tency for hearing in the foreseeable future. ~~If the probability does exist,~~

1 the court shall order the respondent to remain in an appropriate state,
2 county or private institution until the respondent attains competency for
3 hearing or for a period of six months from the date of the original com-
4 mitment, whichever occurs first. If the probability does not exist, the court
5 shall order the secretary of social and rehabilitation services to commence
6 involuntary commitment proceedings pursuant to article 29 of chapter 59
7 of the Kansas Statutes Annotated.

8 (b) ~~If a respondent who was found to have a substantial probability~~
9 ~~of attaining competency for hearing, as provided in subsection (a), has~~
10 ~~not attained competency for hearing within six months from the date of~~
11 ~~the original commitment, the court shall order the secretary of social and~~
12 ~~rehabilitation services to commence involuntary commitment proceed-~~
13 ~~ings pursuant to article 29 of chapter 59 of the Kansas Statutes Annotated.~~
14 *If the institution certifies that a probability of attaining competency does*
15 *exist, the court shall order the juvenile to remain in an appropriate public*
16 *or private institution until the juvenile attains competency or for a period*
17 *of six months from the date of the original commitment, whichever occurs*
18 *first. If the juvenile does not attain competency within six months from*
19 *the date of the original commitment, the court shall order the county or*
20 *district attorney to commence proceedings pursuant to article 29 of chap-*
21 *ter 59 of the Kansas Statutes Annotated, and amendments thereto. If the*
22 *juvenile appears to have attained competency, the institution shall*
23 *promptly notify the court in which the case is pending. Upon notice the*
24 *court shall hold a hearing to determine competency pursuant to subsection*
25 *(e) of K.S.A. 38-1637, and amendments thereto.*

26 (c) ~~When reasonable grounds exist to believe that a respondent who~~
27 ~~has been adjudged incompetent for hearing is competent, the court in~~
28 ~~which the case is pending shall conduct a hearing in accordance with~~
29 ~~K.S.A. 38-1637, and amendments thereto, to determine the respondent's~~
30 ~~present mental condition. Reasonable notice of the hearing shall be given~~
31 ~~to the prosecuting attorney, the respondent and the respondent's attorney~~
32 ~~of record, if any. If the court, following the hearing, finds the respondent~~
33 ~~to be competent, the proceedings pending against the respondent shall~~
34 ~~be resumed. If the institution certifies that a probability of attaining com-~~
35 ~~petency does not exist, the court shall order the county or district attorney~~
36 ~~to commence proceedings pursuant to article 29 of chapter 59 of the Kan-~~
37 ~~sas Statutes Annotated, and amendments thereto.~~

38 Sec. 48. K.S.A. 38-1639 is hereby amended to read as follows: 38-
39 1639. (a) ~~Whenever involuntary commitment~~ *If, after proceedings have*
40 ~~been commenced by the secretary of social and rehabilitation services as~~
41 ~~required by K.S.A. 38-1638, and amendments thereto, and the respon-~~
42 ~~dent is not committed to a treatment facility as a patient, the respondent~~
43 *it is determined that a juvenile who has been found incompetent is not a*

1 *mentally ill person as defined in subsection (f) of K.S.A. 59-2946, and*
2 *amendments thereto, the juvenile shall remain in the institution where*
3 *committed pursuant to K.S.A. 38-1638, and amendments thereto. The*
4 *secretary of social and rehabilitation services shall promptly notify the*
5 *court in which the proceedings are pending and the commissioner of the*
6 *result of the involuntary commitment proceedings. The court shall then*
7 *proceed pursuant to subsection (c).*

8 ~~(b) Whenever involuntary commitment proceedings have been com-~~
9 ~~menced by the secretary of social and rehabilitation services as required~~
10 ~~by K.S.A. 38-1638, and amendments thereto, and the respondent is com-~~
11 ~~mitted to a treatment facility as a patient~~ *If a juvenile has been found to*
12 *be a mentally ill person and committed to a state psychiatric hospital for*
13 *evaluation and treatment pursuant to K.S.A. 38-1638, and amendments*
14 *thereto, but thereafter is to be discharged pursuant to article 20 of chapter*
15 *59 of the Kansas Statutes Annotated, the respondent shall remain in the*
16 *institution where committed pursuant to K.S.A. 38-1638, and amend-*
17 *ments thereto. The head of because such juvenile is not a mentally ill*
18 *person as defined in subsection (b) of K.S.A. 59-2902, and amendments*
19 *thereto, the treatment facility shall promptly notify the court in which the*
20 *proceedings are pending that the respondent juvenile is to be discharged.*
21 *The court shall then proceed pursuant to subsection (c).*

22 *(c) Unless the court finds pursuant to subsection (c) of K.S.A. 38-1637,*
23 *and amendments thereto, that the proceedings shall be resumed, within*
24 *five days after receiving notice pursuant to subsection (a) or (b), the court*
25 *shall order the respondent juvenile to be discharged from commitment*
26 *and shall dismiss without prejudice the charges against the respondent.*
27 *The period of limitation for the prosecution for the crime charged shall*
28 *not continue to run until the respondent juvenile has been determined*
29 *to have attained competency pursuant to subsection (e) of K.S.A. 38-1637,*
30 *and amendments thereto.*

31 Sec. 49. K.S.A. 38-1641 is hereby amended to read as follows: 38-
32 1641. (a) Any parent, ~~guardian,~~ or person with whom a juvenile resides
33 who is served with a summons as provided in K.S.A. 38-1626, and amend-
34 ments thereto, shall appear with the juvenile at all ~~juvenile~~ proceedings
35 concerning the juvenile, unless excused by the court having jurisdiction
36 of the matter.

37 (b) Any person required by this act to be present at all juvenile pro-
38 ceedings who fails to comply, without good cause, with the provisions of
39 subsection (a) may be proceeded against for indirect contempt of court
40 pursuant to the provisions of K.S.A. 20-1204a *et seq.*, and amendments
41 thereto.

42 (c) As used in this section: ~~(1),~~ “good cause” for failing to appear
43 includes, but is not limited to, a situation where a parent or ~~guardian:~~

1 ~~(A)~~ (1) Does not have physical custody of the juvenile and resides
2 outside of Kansas;

3 ~~(B)~~ (2) has physical custody of the juvenile, but resides outside of
4 Kansas and appearing in court will result in undue hardship to such parent
5 or guardian; or

6 ~~(C)~~ (3) resides in Kansas, but is outside of the state at the time of the
7 juvenile proceeding for reasons other than avoiding appearance before
8 the court and appearing in court will result in undue hardship to such
9 parent or guardian.

10 ~~(2) "Parent" means and includes a natural parent who has sole or~~
11 ~~joint custody, regardless of whether the parent is designated as the pri-~~
12 ~~mary residential custodian, or an adoptive parent. Parent does not include~~
13 ~~a person whose parental rights have been terminated pursuant to law.~~

14 (d) If the parent or guardian of any juvenile cannot be found or fails
15 to appear, the court may proceed with the case without the presence of
16 such parent or guardian.

17 ~~(e) This section shall be part of and supplemental to the Kansas ju-~~
18 ~~venile justice code.~~

19 Sec. 50. K.S.A. 38-1651 is hereby amended to read as follows: 38-
20 1651. All cases filed under ~~this~~ *the Kansas juvenile justice* code shall be
21 heard without unnecessary delay. Continuances may be granted to either
22 party for good cause shown.

23 Sec. 51. K.S.A. 38-1652 is hereby amended to read as follows: 38-
24 1652. (a) ~~The hearing shall be open to the public as to any respondent~~
25 ~~16 or more years of age at the time of the alleged offense or as to any~~
26 ~~respondent less than 16 years of age at the time of the alleged offense~~
27 ~~except if the judge determines that opening the hearing to the public is~~
28 ~~not in the best interest of such respondent who is less than 16 years of~~
29 ~~age. All hearings shall be open to the public, unless the judge determines~~
30 ~~that opening the hearing to the public is not in the best interests of the~~
31 ~~victim or of any juvenile who at the time of the alleged offense was less~~
32 ~~than 16 years of age.~~

33 (b) If the court determines that opening the court proceedings to the
34 public is not in the best interest of the ~~respondent juvenile~~, the court may
35 exclude all persons except the ~~respondent juvenile~~, the ~~respondent's ju-~~
36 ~~venile's~~ parents, attorneys for interested parties, officers of the court, the
37 witness testifying and the victim, as defined in subsection (b) of K.S.A.
38 74-7333 and amendments thereto or such members of the victim's family,
39 as defined in subsection (b)(2) of K.S.A. 74-7335 and amendments
40 thereto as the court deems appropriate. Upon agreement of all interested
41 parties, the court shall allow other persons to attend the hearing unless
42 the court finds the presence of the persons would be disruptive to the
43 proceedings.

1 (c) As used in this section, “hearings” shall include detention, first
2 appearance, adjudicatory, sentencing and all other hearings held under
3 this code. *Nothing in this section shall limit the judge’s authority to se-*
4 *quester witnesses.*

5 Sec. 52. K.S.A. 38-1653 is hereby amended to read as follows: 38-
6 1653. In all hearings pursuant to the Kansas juvenile justice code, the
7 rules of evidence of the code of civil procedure shall apply. The *presiding*
8 *judge presiding at the hearing* shall not consider, read or rely upon any
9 report not properly admitted according to the rules of evidence.

10 Sec. 53. K.S.A. 38-1654 is hereby amended to read as follows: 38-
11 1654. In all proceedings on complaints ~~alleging a respondent to be a~~
12 ~~juvenile offender~~ *pursuant to the Kansas juvenile justice code* the state
13 must prove beyond a reasonable doubt that the ~~respondent~~ *juvenile* com-
14 mitted the act or acts charged in the complaint or an included offense as
15 defined in *subsection (2) of K.S.A. 21-3107(2)* and amendments thereto.

16 Sec. 54. K.S.A. 38-1655 is hereby amended to read as follows: 38-
17 1655. (a) If the court finds that the evidence fails to prove an offense
18 charged or an included offense as defined in subsection (2) of K.S.A. 21-
19 3107 and amendments thereto, the court shall enter an order dismissing
20 the charge.

21 (b) If the court finds that the ~~respondent~~ *juvenile* committed the of-
22 fense charged or an included offense as defined in subsection (2) of K.S.A.
23 21-3107 and amendments thereto, the court shall adjudicate the ~~respon-~~
24 ~~dent~~ *juvenile* to be a juvenile offender and may issue a sentence as au-
25 thorized by this code.

26 (c) If the court finds that the ~~respondent~~ *juvenile* committed the acts
27 constituting the offense charged or an included offense as defined in
28 subsection (2) of K.S.A. 21-3107 and amendments thereto but is not re-
29 sponsible because of mental disease or defect, the ~~respondent~~ *juvenile*
30 shall not be adjudicated as a juvenile offender and shall be committed to
31 the custody of the secretary of social and rehabilitation services and placed
32 in a state hospital. The ~~respondent’s~~ *juvenile’s* continued commitment
33 shall be subject to annual review in the manner provided by K.S.A. 22-
34 3428a and amendments thereto for review of commitment of a defendant
35 suffering from mental disease or defect, and the ~~respondent~~ *juvenile* may
36 be discharged or conditionally released pursuant to that section. The ~~re-~~
37 ~~spondent~~ *juvenile* also may be discharged or conditionally released in the
38 same manner and subject to the same procedures as provided by K.S.A.
39 22-3428 and amendments thereto for discharge of or granting conditional
40 release to a defendant found suffering from mental disease or defect. If
41 the ~~respondent~~ *juvenile* violates any conditions of an order of conditional
42 release, the ~~respondent~~ *juvenile* shall be subject to contempt proceedings
43 and ~~return~~ *returned* to custody as provided by K.S.A. 22-3428b and

1 amendments thereto.

2 (d) A copy of the court's order shall be sent to the school district in
3 which the juvenile offender is enrolled or will be enrolled.

4 Sec. 55. K.S.A. 38-1656 is hereby amended to read as follows: 38-
5 1656. In all cases involving offenses committed by a juvenile which, if
6 done by an adult, would make the person liable to be arrested and pros-
7 ecuted for the commission of a felony, *upon motion*, the judge ~~may~~ shall
8 order that the juvenile be afforded a trial by jury. Upon the juvenile being
9 adjudged to be a juvenile offender, the court shall proceed with
10 sentencing.

11 Sec. 56. K.S.A. 38-1657 is hereby amended to read as follows: 38-
12 1657. (a) In any proceeding pursuant to the Kansas juvenile justice code
13 in which a child less than 13 years of age is alleged to be a victim of the
14 offense, a recording of an oral statement of the child, made before the
15 proceeding began, is admissible in evidence if:

16 (1) The court determines that the time, content and circumstances
17 of the statement provide sufficient indicia of reliability;

18 (2) no attorney for any party is present when the statement is made;

19 (3) the recording is both visual and aural and is recorded on film or
20 videotape or by other electronic means;

21 (4) the recording equipment is capable of making an accurate re-
22 cording, the operator of the equipment is competent and the recording
23 is accurate and has not been altered;

24 (5) the statement is not made in response to questioning calculated
25 to lead the child to make a particular statement or is clearly shown to be
26 the child's statement and not made solely as a result of a leading or sug-
27 gestive question;

28 (6) every voice on the recording is identified;

29 (7) the person conducting the interview of the child in the recording
30 is present at the proceeding and is available to testify or be cross-examined
31 by any party;

32 (8) each party to the proceeding is afforded an opportunity to view
33 the recording before it is offered into evidence, and a copy of a written
34 transcript is provided to the parties; and

35 (9) the child is available to testify.

36 (b) If a recording is admitted in evidence under this section, any party
37 to the proceeding may call the child to testify and be cross-examined,
38 either in the courtroom or as provided by K.S.A. 38-1658, and amend-
39 ments thereto.

40 ~~(c) This section shall be part of and supplemental to the Kansas ju-~~
41 ~~venile justice code.~~

42 Sec. 57. K.S.A. 38-1658 is hereby amended to read as follows: 38-
43 1658. (a) On motion of the attorney for any party to a proceeding pursuant

1 to the Kansas juvenile offenders code in which a child less than 13 years
2 of age is alleged to be a victim of the offense, the court may order that
3 the testimony of the child be taken:

4 (1) In a room other than the courtroom and be televised by closed-
5 circuit equipment in the courtroom to be viewed by the court and the
6 finder of fact in the proceeding; or

7 (2) outside the courtroom and be recorded for showing in the court-
8 room before the court and the finder of fact in the proceeding if: (A) The
9 recording is both visual and aural and is recorded on film or videotape or
10 by other electronic means; (B) the recording equipment is capable of
11 making an accurate recording, the operator of the equipment is compe-
12 tent and the recording is accurate and has not been altered; (C) every
13 voice on the recording is identified; and (D) each party to the proceeding
14 is afforded an opportunity to view the recording before it is shown in the
15 courtroom, and a copy of a written transcript is provided to the parties.

16 (b) At the taking of testimony under this section:

17 (1) Only the attorneys for the ~~respondent~~ *juvenile*, the state and the
18 child, any person whose presence would contribute to the welfare and
19 well-being of the child and persons necessary to operate the recording or
20 closed-circuit equipment may be present in the room with the child dur-
21 ing the child's testimony;

22 (2) only the attorneys may question the child;

23 (3) the persons operating the recording or closed-circuit equipment
24 shall be confined to an adjacent room or behind a screen or mirror that
25 permits them to see and hear the child during the child's testimony but
26 does not permit the child to see or hear them; and

27 (4) the court shall permit the ~~respondent~~ *juvenile* to observe and hear
28 the testimony of the child in person, but shall ensure that the child cannot
29 hear or see the ~~respondent~~ *juvenile*.

30 (c) If the testimony of a child is taken as provided by this section, the
31 child shall not be compelled to testify in court during the proceeding.

32 (d) (1) Any objection by any party to the proceeding to a recording
33 under subsection (a)(2) is inadmissible must be made by written motion
34 filed with the court at least seven days before the commencement of the
35 proceeding. An objection under this subsection shall specify the portion
36 of the recording which is objectionable and the reasons for the objection.
37 Failure to file an objection within the time provided by this subsection
38 shall constitute waiver of the right to object to the admissibility of the
39 recording unless the court, in its discretion, determines otherwise.

40 (2) The provisions of this subsection (d) shall not apply to any objec-
41 tion to admissibility for the reason that the recording has been materially
42 altered.

43 ~~(e) This section shall be part of and supplemental to the Kansas ju-~~

1 ~~venile justice code.~~

2 Sec. 58. K.S.A. 38-1661 is hereby amended to read as follows: 38-
3 1661. ~~(a) (1) Prior to a sentencing hearing, the court shall request an~~
4 ~~investigation and report by a court services officer unless the court finds~~
5 ~~that adequate and current information is available from a previous inves-~~
6 ~~tigation, report or other sources. Upon request of the prosecuting attor-~~
7 ~~ney or the attorney for the respondent, the court shall make available to~~
8 ~~the attorney the report of the investigation and shall allow the attorney a~~
9 ~~reasonable time to review the report before ordering the sentencing of~~
10 ~~the respondent.~~

11 ~~—(2) The judicial administrator shall designate a sentencing risk as-~~
12 ~~essment tool to be used statewide. Such assessment tool shall be com-~~
13 ~~pleted prior to sentencing and be used by the court in determining sen-~~
14 ~~tencing. The commissioner shall have access to completed sentencing risk~~
15 ~~assessment tools.~~

16 ~~—(b) The court may direct that the investigation include the circum-~~
17 ~~stances of the offense, the attitude of the complainant, victim or the vic-~~
18 ~~tim's family, and the record of juvenile offenses, the social history and~~
19 ~~the present condition of the respondent. Except where specifically pro-~~
20 ~~hibited by law, all local governmental public and private educational in-~~
21 ~~stitutions and state agencies shall furnish to the officer conducting the~~
22 ~~predispositional investigation the records the officer requests. If ordered~~
23 ~~by the court, the predispositional investigation shall include a physical~~
24 ~~examination and mental examination of the respondent if sufficient re-~~
25 ~~ports are not already available to the investigating officer. Predispositional~~
26 ~~investigations shall contain other information prescribed by the court.~~

27 ~~—(c) At any time after the respondent has been adjudicated to be a~~
28 ~~juvenile offender and prior to sentencing, the judge, at the request of an~~
29 ~~interested party, shall hear additional evidence as to proposals for rea-~~
30 ~~sonable and appropriate sentencing of the case. (a) At any time after the~~
31 ~~juvenile has been adjudicated to be a juvenile offender, the court shall~~
32 ~~order one or more of the tools described in this section to be submitted to~~
33 ~~assist the court unless the court finds that adequate and current infor-~~
34 ~~mation is available from a previous investigation, report or other sources:~~

35 *(1) An evaluation and written report by a mental health or a qualified*
36 *professional stating the psychological or emotional development or needs*
37 *of the juvenile. The court also may order a report from any mental health*
38 *or qualified professional who has previously evaluated the juvenile stating*
39 *the psychological or emotional development needs of the juvenile. If the*
40 *court orders an evaluation as provided in this section, a parent of the*
41 *juvenile shall have the right to obtain an independent evaluation at the*
42 *expense of the parent.*

43 *(2) A report of the medical condition and needs of the juvenile. The*

1 court also may order a report from any physician who has been attending
2 the juvenile, stating the diagnosis, condition and treatment afforded the
3 juvenile.

4 (3) An educational needs assessment of the juvenile from the chief
5 administrative officer of the school which the juvenile attends or attended
6 to provide to the court information that is readily available which the
7 school officials feel would properly indicate the educational needs of the
8 juvenile. The educational needs assessment may include a meeting involv-
9 ing any of the following: (A) The juvenile's parents; (B) the juvenile's
10 teacher or teachers; (C) the school psychologist; (D) a school special serv-
11 ices representative; (E) a representative of the commissioner; (F) the ju-
12 venile's court appointed special advocate; (G) the juvenile's foster parents
13 or legal guardian; and (H) other persons that the chief administrative
14 officer of the school, or the officer's designee, deems appropriate.

15 (4) Any other predispositional investigation and report from a court
16 services officer which includes the circumstances of the offense; the atti-
17 tude of the complainant, victim or the victim's family; and the record of
18 juvenile offenses, the social history and the present condition of the ju-
19 venile. Except where specifically prohibited by law, all local governmental
20 public and private educational institutions and state agencies shall furnish
21 to the officer conducting the predispositional investigation the records the
22 officer requests. Predispositional investigations shall contain other infor-
23 mation prescribed by the court.

24 (b) Expenses for post adjudication tools may be waived or assessed
25 pursuant to subsection (c)(2) of K.S.A. 38-1613, and amendments thereto.

26 (c) The court shall make any of the reports ordered pursuant to sub-
27 section (a) available to the attorneys and shall allow the attorneys a rea-
28 sonable time to review them before ordering the sentencing of the juvenile
29 offender.

30 (d) At any time prior to sentencing, the judge, at the request of an
31 interested party, shall hear additional evidence as to proposals for rea-
32 sonable and appropriate sentencing of the case.

33 Sec. 59. K.S.A. 38-1663 is hereby amended to read as follows: 38-
34 1663. ~~(a) When a respondent has been adjudicated to be a juvenile of-~~
35 ~~fender, the judge may select from the following alternatives:~~

36 ~~—(1) Place the juvenile offender on probation for a fixed period, subject~~
37 ~~to the terms and conditions the court deems appropriate based on the~~
38 ~~juvenile justice programs in the community, including a requirement of~~
39 ~~making restitution as required by subsection (d).~~

40 ~~—(2) Place the juvenile offender in the custody of a parent or other~~
41 ~~suitable person, subject to the terms and conditions the court orders~~
42 ~~based on the juvenile justice programs in the community, including a~~
43 ~~requirement of making restitution as required by subsection (d).~~

1 ~~—(3) Place the juvenile offender in the custody of a youth residential~~
2 ~~facility or, in the case of a chronic runaway youth, place the youth in a~~
3 ~~secure facility, subject to the terms and conditions the court orders.~~

4 ~~—(4) Place the juvenile offender in the custody of the commissioner,~~
5 ~~as provided in K.S.A. 38-1664, and amendments thereto.~~

6 ~~—(5) Commit the juvenile offender to a sanctions house for a period~~
7 ~~no longer than seven days. Following such period, the court shall review~~
8 ~~the placement. The court may continue to recommit the juvenile offender~~
9 ~~to a sanctions house for a period no longer than seven days followed by~~
10 ~~a court review. Commitment to a sanctions house shall not exceed 28~~
11 ~~total days for the same act or transaction. If in the adjudication order, the~~
12 ~~court orders a sanctions house placement for a verifiable probation vio-~~
13 ~~lation and such probation violation occurs, the juvenile may immediately~~
14 ~~be taken to a sanctions house and detained for no more than 48 hours,~~
15 ~~excluding Saturdays, Sundays and holidays, prior to court review of the~~
16 ~~placement. The court and all other interested parties shall be notified of~~
17 ~~the sanctions house placement. An offender over 18 years of age or less~~
18 ~~than 23 years of age at sentencing may be committed to a county jail, in~~
19 ~~lieu of a sanctions house, under the same time restrictions imposed by~~
20 ~~this paragraph. No offender may be committed under this paragraph un-~~
21 ~~less such offender has violated the terms of probation.~~

22 ~~—(6) Commit the juvenile offender to a community based program~~
23 ~~available in such judicial district subject to the terms and conditions the~~
24 ~~court orders.~~

25 ~~—(7) Impose any appropriate combination of paragraphs (1) through~~
26 ~~(6) of this subsection and make other orders directed to the juvenile~~
27 ~~offender as the court deems appropriate.~~

28 ~~—(8) Commit the juvenile offender to a juvenile correctional facility as~~
29 ~~provided by the placement matrix established in K.S.A. 38-16,129, and~~
30 ~~amendments thereto. The provisions of K.S.A. 38-1664, and amendments~~
31 ~~thereto, shall not apply to juvenile offenders committed directly to a ju-~~
32 ~~venile correctional facility.~~

33 ~~—(9) Place the juvenile offender under a house arrest program admin-~~
34 ~~istered by the court pursuant to K.S.A. 21-4603b, and amendments~~
35 ~~thereto.~~

36 ~~—(b) (1) In addition to any other order authorized by this section, the~~
37 ~~court may order the: (A) Juvenile offender and the parents of the juvenile~~
38 ~~offender to:~~

39 ~~—(i) Attend counseling sessions as the court directs; or~~

40 ~~—(ii) participate in mediation as the court directs. Participants in such~~
41 ~~mediation may include, but shall not be limited to, the victim, the juvenile~~
42 ~~offender and the juvenile offender's parents. Mediation shall not be man-~~
43 ~~datory for the victim;~~

1 ~~—(B)—~~parents of the juvenile offender to participate in parenting classes;
2 ~~or~~
3 ~~—(C)—~~juvenile offender to participate in a program of education offered
4 by a local board of education including placement in an alternative edu-
5 cational program approved by a local board of education.
6 ~~—(2)—~~Upon entering an order requiring a juvenile offender's parent to
7 attend counseling sessions or mediation, the court shall give the parent
8 notice of the order. The notice shall inform the parent of the parent's
9 right to request a hearing within 10 days after entry of the order and the
10 parent's right to employ an attorney to represent the parent at the hearing
11 or, if the parent is financially unable to employ an attorney, the parent's
12 right to request the court to appoint an attorney to represent the parent.
13 If the parent does not request a hearing within 10 days after entry of the
14 order, the order shall take effect at that time. If the parent requests a
15 hearing, the court shall set the matter for hearing and, if requested, shall
16 appoint an attorney to represent the parent. The expense and fees of the
17 appointed attorney may be allowed and assessed as provided by K.S.A.
18 38-1606, and amendments thereto.
19 ~~—(3)—~~The costs of any counseling or mediation may be assessed as ex-
20 penses in the case. No mental health center shall charge a fee for court-
21 ordered counseling greater than what the center would have charged the
22 person receiving the counseling if the person had requested counseling
23 on the person's own initiative. No mediator shall charge a fee for court-
24 ordered mediation greater than what the mediator would have charged
25 the person participating in the mediation if the person had requested
26 mediation on the person's own initiative.
27 ~~—(c) (1)—~~If a respondent has been adjudged to be a juvenile offender,
28 the court, in addition to any other order authorized by this section, may
29 suspend the juvenile offender's driver's license or privilege to operate a
30 motor vehicle on the streets and highways of this state. The duration of
31 the suspension ordered by the court shall be for a definite time period to
32 be determined by the court. Upon suspension of a license pursuant to
33 this subsection, the court shall require the juvenile offender to surrender
34 the license to the court. The court shall transmit the license to the division
35 of motor vehicles of the department of revenue, to be retained until the
36 period of suspension expires. At that time, the licensee may apply to the
37 division for return of the license. If the license has expired, the juvenile
38 offender may apply for a new license, which shall be issued promptly
39 upon payment of the proper fee and satisfaction of other conditions es-
40 tablished by law for obtaining a license unless another suspension or rev-
41 ocation of the juvenile offender's privilege to operate a motor vehicle is
42 in effect. As used in this subsection, "highway" and "street" have the
43 meanings provided by K.S.A. 8-1424 and 8-1473, and amendments

1 thereto. Any respondent who is adjudicated to be a juvenile offender who
2 does not have a driver's license may have such juvenile offender's driving
3 privileges revoked. No Kansas driver's license shall be issued to a juvenile
4 offender whose driving privileges have been revoked pursuant to this
5 section for a definite time period to be determined by the court.

6 —(2)— In lieu of suspending the driver's license or privilege to operate
7 a motor vehicle on the highways of this state of any respondent adjudi-
8 cated to be a juvenile offender, as provided in subsection (c)(1), the court
9 in which such juvenile offender was adjudicated to be a juvenile offender
10 may enter an order which places conditions on such juvenile offender's
11 privilege of operating a motor vehicle on the streets and highways of this
12 state, a certified copy of which such juvenile offender shall be required
13 to carry any time such juvenile offender is operating a motor vehicle on
14 the streets and highways of this state. Any such order shall prescribe the
15 duration of the conditions imposed and shall specify that such duration
16 shall be for a definite time period to be determined by the court. Upon
17 entering an order restricting a juvenile offender's license hereunder, the
18 court shall require such juvenile offender to surrender such juvenile of-
19 fender's driver's license to the court. The court shall transmit the license
20 to the division of vehicles, together with a copy of the order. Upon receipt
21 thereof, the division of vehicles shall issue without charge a driver's li-
22 cense which shall indicate on its face that conditions have been imposed
23 on such juvenile offender's privilege of operating a motor vehicle and that
24 a certified copy of the order imposing such conditions is required to be
25 carried by the juvenile offender for whom the license was issued any time
26 such juvenile offender is operating a motor vehicle on the streets and
27 highways of this state. If the juvenile offender is a nonresident, the court
28 shall cause a copy of the order to be transmitted to the division and the
29 division shall forward a copy of it to the motor vehicle administrator of
30 such juvenile offender's state of residence. Such court shall furnish to any
31 juvenile offender whose driver's license has had conditions imposed on
32 it under this section a copy of the order, which shall be recognized as a
33 valid Kansas driver's license until such time as the division shall issue the
34 restricted license provided for in this subsection. Upon expiration of the
35 period of time for which conditions are imposed pursuant to this subsec-
36 tion, the licensee may apply to the division for the return of the license
37 previously surrendered by such licensee. In the event such license has
38 expired, such juvenile offender may apply to the division for a new license,
39 which shall be issued immediately by the division upon payment of the
40 proper fee and satisfaction of the other conditions established by law,
41 unless such juvenile offender's privilege to operate a motor vehicle on
42 the streets and highways of this state has been suspended or revoked
43 prior thereto. If any juvenile offender shall violate any of the conditions

1 imposed under this subsection, such juvenile offender's driver's license
2 or privilege to operate a motor vehicle on the streets and highways of this
3 state shall be revoked for a period as determined by the court in which
4 such juvenile offender is convicted of violating such conditions.

5 ~~—(d) Whenever a juvenile offender is placed pursuant to subsection
6 (a)(1) or (2), the court, unless it finds compelling circumstances which
7 would render a plan of restitution unworkable, shall order the juvenile
8 offender to make restitution to persons who sustained loss by reason of
9 the offense. The restitution shall be made either by payment of an amount
10 fixed by the court or by working for the persons in order to compensate
11 for the loss. If the court finds compelling circumstances which would
12 render a plan of restitution unworkable, the court may order the juvenile
13 offender to perform charitable or social service for organizations perform-
14 ing services for the community.~~

15 ~~— Nothing in this subsection shall be construed to limit a court's authority
16 to order a juvenile offender to make restitution or perform charitable or
17 social service under circumstances other than those specified by this sub-
18 section or when placement is made pursuant to subsection (a)(3) or (4).~~

19 ~~—(e) In addition to or in lieu of any other order authorized by this
20 section, the court may order a juvenile offender to pay a fine not exceed-
21 ing \$250 for each offense. In determining whether to impose a fine and
22 the amount to be imposed, the court shall consider the following:~~

23 ~~—(1) Imposition of a fine is most appropriate in cases where the juve-
24 nile offender has derived pecuniary gain from the offense.~~

25 ~~—(2) The amount of the fine should be related directly to the serious-
26 ness of the juvenile offender's offense and the juvenile offender's ability
27 to pay.~~

28 ~~—(3) Payment of a fine may be required in a lump sum or installments.~~

29 ~~—(4) Imposition of a restitution order is preferable to imposition of a
30 fine.~~

31 ~~—(5) The juvenile offender's duty of payment should be limited in du-
32 ration and in no event should the time necessary for payment exceed the
33 maximum term which would be authorized if the offense had been com-
34 mitted by an adult.~~

35 ~~—(f) In addition to or in lieu of any other order authorized by this
36 section, if a juvenile is adjudicated to be a juvenile offender by reason of
37 a violation of K.S.A. 41-719, 41-727, 65-4101 through 65-4164 or K.S.A.
38 2000 Supp. § 1509, and amendments thereto, the court shall order the
39 juvenile offender to submit to and complete an alcohol and drug evalua-
40 tion by a community-based alcohol and drug safety action program cer-
41 tified pursuant to K.S.A. § 1008, and amendments thereto, and to pay a
42 fee not to exceed the fee established by that statute for such evaluation.
43 The court may waive such evaluation if the court finds that the juvenile~~

1 offender has completed successfully an alcohol and drug evaluation, ap-
2 proved by the community-based alcohol and drug safety action program,
3 within 12 months before sentencing. If such evaluation occurred more
4 than 12 months before sentencing, the court shall order the juvenile of-
5 fender to resubmit to and complete such evaluation and program as pro-
6 vided herein. If the court finds that the juvenile offender and those legally
7 liable for the offender's support are indigent, the fee may be waived. In
8 no event shall the fee be assessed against the commissioner or the juvenile
9 justice authority. The court may require the parent or guardian of the
10 juvenile offender to attend such program with the juvenile offender.

11 —(g)—The board of county commissioners of a county may provide by
12 resolution that the parents or guardians of any juvenile offender placed
13 under a house arrest program pursuant to subsection (a)(9) shall be re-
14 quired to pay to the county the cost of such house arrest program. The
15 board of county commissioners shall prepare a sliding financial scale
16 based on the ability of the parents to pay for such a program.

17 —(h)—In addition to any other order authorized by this section, if child
18 support has been requested and the parent or parents have a duty to
19 support the respondent the court may order, and when custody is placed
20 with the commissioner shall order, one or both parents to pay child sup-
21 port. The court shall determine, for each parent separately, whether the
22 parent already is subject to an order to pay support for the respondent.
23 If the parent currently is not ordered to pay support for the respondent
24 and the court has personal jurisdiction over the parent, the court shall
25 order the parent to pay child support in an amount determined under
26 K.S.A. 38-16,117, and amendments thereto. Except for good cause
27 shown, the court shall issue an immediate income withholding order pur-
28 suant to K.S.A. 23-4,105 *et seq.*, and amendments thereto, for each parent
29 ordered to pay support under this subsection, regardless of whether a
30 payor has been identified for the parent. A parent ordered to pay child
31 support under this subsection shall be notified, at the hearing or other-
32 wise, that the child support order may be registered pursuant to K.S.A.
33 38-16,119, and amendments thereto. The parent also shall be informed
34 that, after registration, the income withholding order may be served on
35 the parent's employer without further notice to the parent and the child
36 support order may be enforced by any method allowed by law. Failure
37 to provide this notice shall not affect the validity of the child support
38 order.

39 —(i)—Any order issued by the judge pursuant to this section shall be in
40 effect immediately upon entry into the court's journal.

41 —(j)—In addition to the requirements of K.S.A. 38-1671, and amend-
42 ments thereto, if a person is under 18 years of age and convicted of a
43 felony or adjudicated as a juvenile offender for an offense if committed

1 by an adult would constitute the commission of a felony, the court shall
2 forward a signed copy of the journal entry to the commissioner within 30
3 days of final disposition.

4 ~~— (k) The sentencing hearing shall be open to the public as provided in~~
5 ~~K.S.A. 38-1652, and amendments thereto. (a) Upon adjudication as a~~
6 ~~juvenile offender pursuant to K.S.A. 38-1655, modification of sentence~~
7 ~~pursuant to K.S.A. 38-1665 or violation of a condition of sentence pur-~~
8 ~~suant to K.S.A. 38-1666 and subject to subsection (a) of K.S.A. 38-1664,~~
9 ~~and amendments thereto, the judge may impose one or more of the fol-~~
10 ~~lowing sentencing alternatives. In the event that any sentencing alterna-~~
11 ~~tive chosen constitutes the first order authorizing or requiring removal of~~
12 ~~the juvenile from the juvenile's home, the court shall make determinations~~
13 ~~as required by sections 32 and 33, and amendments thereto:~~

14 (1) Place the juvenile offender on probation through court services or
15 community corrections for a fixed period, subject to terms and conditions
16 consistent with juvenile justice programs in the community;

17 (2) place the juvenile offender in the custody of a parent or other
18 suitable person, subject to terms and conditions consistent with juvenile
19 justice programs in the community;

20 (3) order the juvenile offender to attend counseling, educational, me-
21 diation or other sessions, or to undergo a drug evaluation pursuant to
22 subsection (b);

23 (4) suspend or restrict the juvenile offender's driver's license or priv-
24 ilege to operate a motor vehicle on the streets and highways of this state
25 pursuant to subsection (c);

26 (5) order the juvenile offender to perform charitable or community
27 service work;

28 (6) order the juvenile offender to make appropriate reparation or res-
29 titution pursuant to subsection (d);

30 (7) order the juvenile offender to pay a fine not exceeding \$1,000
31 pursuant to subsection (e);

32 (8) place the juvenile offender under a house arrest program admin-
33 istered by the court pursuant to K.S.A. 21-4603b, and amendments
34 thereto;

35 (9) place the juvenile offender in the custody of the commissioner, as
36 provided in K.S.A. 38-1664, and amendments thereto;

37 (10) commit the juvenile offender to a sanctions house for a period
38 no longer than 28 days subject to the provisions of subsection (f); or

39 (11) commit the juvenile offender to a juvenile correctional facility as
40 provided by the placement matrix established in K.S.A. 38-16,129, and
41 amendments thereto. The provisions of K.S.A. 38-1664, and amendments
42 thereto, shall not apply to juvenile offenders committed directly to a ju-
43 venile correctional facility.

1 (b) *If the court orders the juvenile offender to attend counseling, ed-*
2 *ucational, mediation or other sessions, or to undergo a drug evaluation*
3 *pursuant to subsection (a)(3), the following provisions apply:*

4 (1) *The court may order the juvenile offender to participate in coun-*
5 *seling or mediation sessions or a program of education, including place-*
6 *ment in an alternative educational program approved by a local school*
7 *board. The costs of any counseling or mediation may be assessed as ex-*
8 *penditures in the case. No mental health center shall charge a fee for court-*
9 *ordered counseling greater than what the center would have charged the*
10 *person receiving the counseling if the person had requested counseling on*
11 *the person's own initiative. No mediator shall charge a fee for court-*
12 *ordered mediation greater than what the mediator would have charged*
13 *the person participating in the mediation if the person had requested*
14 *mediation on the person's own initiative. Mediation may include the vic-*
15 *tim but shall not be mandatory for the victim; and*

16 (2) *if the juvenile has been adjudicated to be a juvenile by reason of*
17 *a violation of the uniform controlled substances act, K.S.A. 8-1599, 41-*
18 *719 or 41-727, and amendments thereto, or any other offense, the court*
19 *may order the juvenile offender to submit to and complete an alcohol and*
20 *drug evaluation by a community-based alcohol and drug safety action*
21 *program certified pursuant to K.S.A. 8-1008, and amendments thereto,*
22 *and to pay a fee not to exceed the fee established by that statute for such*
23 *evaluation. The court may waive the evaluation if the court finds that the*
24 *juvenile offender has completed successfully an alcohol and drug evalu-*
25 *ation, approved by the community-based alcohol and drug safety action*
26 *program, within 12 months before sentencing. If the evaluation occurred*
27 *more than 12 months before sentencing, the court shall order the juvenile*
28 *offender to resubmit to and complete the evaluation and program as pro-*
29 *vided in this section. If the court finds that the juvenile offender and those*
30 *legally liable for such juvenile offender's support are indigent, the fee may*
31 *be waived. In no event shall the fee be assessed against the commissioner*
32 *or the juvenile justice authority.*

33 (c) *If the court orders suspension or restriction of a juvenile offender's*
34 *driver's license or privilege to operate a motor vehicle on the streets and*
35 *highways of this state pursuant to subsection (a)(4), the following provi-*
36 *sions apply:*

37 (1) *The duration of the suspension ordered by the court shall be for*
38 *a definite time period to be determined by the court. Upon suspension of*
39 *a license pursuant to this subsection, the court shall require the juvenile*
40 *offender to surrender the license to the court. The court shall transmit the*
41 *license to the division of motor vehicles of the department of revenue, to*
42 *be retained until the period of suspension expires. At that time, the licensee*
43 *may apply to the division for return of the license. If the license has*

1 expired, the juvenile offender may apply for a new license, which shall be
2 issued promptly upon payment of the proper fee and satisfaction of other
3 conditions established by law for obtaining a license unless another sus-
4 pension or revocation of the juvenile offender's privilege to operate a mo-
5 tor vehicle is in effect. As used in this subsection, highway and street have
6 the meanings provided by K.S.A. 8-1424 and 8-1473, and amendments
7 thereto. Any juvenile offender who does not have a driver's license may
8 have such juvenile offender's driving privileges revoked. No Kansas
9 driver's license shall be issued to a juvenile offender whose driving priv-
10 ileges have been revoked pursuant to this section for a definite time period
11 to be determined by the court; and

12 (2) in lieu of suspending a juvenile offender's driver's license or priv-
13 ilege to operate a motor vehicle on the highways of this state, the court
14 may enter an order which places conditions on the juvenile offender's
15 privilege of operating a motor vehicle on the streets and highways of this
16 state, a certified copy of which the juvenile offender shall be required to
17 carry any time the juvenile offender is operating a motor vehicle on the
18 streets and highways of this state. The order shall prescribe a definite time
19 period for the conditions imposed. Upon entering an order restricting a
20 juvenile offender's license, the court shall require the juvenile offender to
21 surrender such juvenile offender's license to the court. The court shall
22 transmit the license to the division of vehicles, together with a copy of the
23 order. Upon receipt thereof, the division of vehicles shall issue without
24 charge a driver's license which shall indicate on its face that conditions
25 have been imposed on the juvenile offender's privilege of operating a mo-
26 tor vehicle and that a certified copy of the order imposing the conditions
27 is required to be carried by the juvenile offender when operating a motor
28 vehicle on the streets and highways of this state. If the juvenile offender
29 is a nonresident, the court shall cause a copy of the order to be transmitted
30 to the division and the division shall forward a copy of it to the motor
31 vehicle administrator of the juvenile offender's state of residence. The
32 court shall furnish to any juvenile offender whose driver's license has had
33 conditions imposed on it under this section a copy of the order, which
34 shall be recognized as a valid Kansas driver's license until the division
35 issues the restricted license provided for in this subsection. Upon expi-
36 ration of the period of time for which conditions are imposed pursuant to
37 this subsection, the juvenile offender may apply to the division for the
38 return of the license previously surrendered by the juvenile offender. In
39 the event the license has expired, the juvenile offender may apply to the
40 division for a new license, which shall be issued immediately by the di-
41 vision upon payment of the proper fee and satisfaction of the other con-
42 ditions established by law unless such juvenile offender's privilege to op-
43 erate a motor vehicle on the streets and highways of this state has been

1 suspended or revoked prior thereto. If any juvenile offender violates any
2 of the conditions imposed under this subsection, the juvenile offender's
3 driver's license or privilege to operate a motor vehicle on the streets and
4 highways of this state shall be revoked for a period as determined by the
5 court in which the juvenile offender is convicted of violating such
6 conditions.

7 (d) The following provisions apply to the court's determination of
8 whether to order reparation or restitution pursuant to subsection (a)(6):

9 (1) The court shall order the juvenile offender to make reparation or
10 restitution to the aggrieved party for the damage or loss caused by the
11 juvenile offender's offense unless it finds compelling circumstances which
12 would render a plan of reparation or restitution unworkable. If the court
13 finds compelling circumstances which would render a plan of reparation
14 or restitution unworkable, the court shall state on the record, in detail,
15 the reasons therefor. In lieu of reparation or restitution, the court may
16 order the juvenile offender to perform charitable or social service for or-
17 ganizations performing services for the community; and

18 (2) restitution may include, but shall not be limited to, the amount of
19 damage or loss caused by the juvenile offender's offense. Restitution may
20 be made by payment of an amount fixed by the court or by working for
21 the parties sustaining loss in the manner ordered by the court. An order
22 of restitution shall be a judgment against the juvenile offender which may
23 be collected by the court by garnishment or other execution as on judg-
24 ments in civil cases. Such judgment shall not be affected by the termina-
25 tion of the court's jurisdiction over the juvenile offender.

26 (e) If the court imposes a fine pursuant to subsection (a)(6), the fol-
27 lowing provisions apply:

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

32 (2) in determining whether to impose a fine and the amount to be
33 imposed, the court shall consider that imposition of a fine is most appro-
34 priate in cases where the juvenile offender has derived pecuniary gain
35 from the offense and that imposition of a restitution order is preferable
36 to imposition of a fine; and

37 (3) any fine imposed by court shall be a judgment against the juvenile
38 offender which may be collected by the court by garnishment or other
39 execution as on judgments in civil cases. Such judgment shall not be af-
40 fected by the termination of the court's jurisdiction over the juvenile
41 offender.

42 (f) If the court commits the juvenile offender to a sanctions house
43 pursuant to subsection (a)(10), the following provisions shall apply:

1 (1) *The court may order commitment for up to 28 days for the same*
2 *offense or violation of sentencing condition. The court shall review the*
3 *commitment every seven days and, shorten the initial commitment or, if*
4 *the initial term is less than 28 days, may extend the commitment;*

5 (2) *if, in the adjudication order, the court orders a sanctions house*
6 *placement for a verifiable probation violation and such probation viola-*
7 *tion occurs, the juvenile may immediately be taken to a sanctions house*
8 *and detained for no more than 48 hours, excluding Saturday, Sundays*
9 *and holidays, prior to court review of the placement. The court and all*
10 *other interested parties shall be notified of the sanctions house placement;*
11 *and*

12 (3) *an offender over 18 years of age and less than 23 years of age at*
13 *sentencing may be committed to a county jail, in lieu of a sanctions house,*
14 *under the same time restrictions imposed by subsection (f)(1).*

15 (g) *Any order issued by the judge pursuant to this section shall be in*
16 *effect immediately upon entry in to the court's journal.*

17 (h) *In addition to the requirements of K.S.A. 38-1671, and amend-*
18 *ments thereto, if a person is under 18 years of age and convicted of a*
19 *felony or adjudicated as a juvenile offender for an offense if committed*
20 *by an adult would constitute the commission of a felony, the court shall*
21 *forward a signed copy of the journal entry to the commissioner within 30*
22 *days of final disposition.*

23 (i) *The sentencing hearing shall be open to the public as provided in*
24 *K.S.A. 38-1652, and amendments thereto.*

25 New Sec. 60. (a) *When sentencing a juvenile offender, the court may*
26 *order a juvenile offender's parent or parents, as defined in K.S.A. 38-*
27 *1602, and amendments thereto, to participate in counseling, mediation*
28 *sessions or an alcohol and drug evaluation and treatment program ordered*
29 *as part of the juvenile offender's sentence under K.S.A. 38-1663, and*
30 *amendments thereto, or to participate in parenting classes.*

31 (1) *Upon entering an order requiring a juvenile offender's parent to*
32 *attend counseling sessions or mediation, the court shall give the parent*
33 *notice of the order. The notice shall inform the parent of the parent's*
34 *right to request a hearing within 10 days after entry of the order and the*
35 *parent's right to employ an attorney to represent the parent at the hearing*
36 *or, if the parent is financially unable to employ an attorney, the parent's*
37 *right to request the court to appoint an attorney to represent the parent.*

38 (2) *If the parent does not request a hearing within 10 days after entry*
39 *of the order, the order shall take effect at that time.*

40 (3) *If the parent requests a hearing, the court shall set the matter for*
41 *hearing and, if requested, shall appoint an attorney to represent the par-*
42 *ent. The expense and fees of the appointed attorney may be allowed and*
43 *assessed as provided by K.S.A. 38-1606, and amendments thereto.*

1 (b) In addition to any other orders provided for by this section, the
2 parent of a juvenile offender may be held responsible for the costs of
3 sanctions or the support of the juvenile offender as follows:

4 (1) The board of county commissioners of a county may provide by
5 resolution that the parents or guardians of any juvenile offender placed
6 under a house arrest program pursuant to subsection (a)(9) shall be re-
7 quired to pay to the county the cost of such house arrest program. The
8 board of county commissioners shall prepare a sliding financial scale
9 based on the ability of the parents to pay for such a program.

10 (2) If child support has been requested and the parent or parents
11 have a duty to support the juvenile offender the court may order, and
12 when custody is placed with the commissioner shall order, one or both
13 parents to pay child support. The court shall determine, for each parent
14 separately, whether the parent already is subject to an order to pay sup-
15 port for the juvenile. If the parent currently is not ordered to pay support
16 for the juvenile and the court has personal jurisdiction over the parent,
17 the court shall order the parent to pay child support in an amount deter-
18 mined under K.S.A. 38-16,117, and amendments thereto. Except for good
19 cause shown, the court shall issue an immediate income withholding or-
20 der pursuant to K.S.A. 23-4,105 *et seq.*, and amendments thereto, for
21 each parent ordered to pay support under this subsection, regardless of
22 whether a payor has been identified for the parent. A parent ordered to
23 pay child support under this subsection shall be notified, at the hearing
24 or otherwise, that the child support order may be registered pursuant to
25 K.S.A. 38-16,119, and amendments thereto. The parent also shall be in-
26 formed that, after registration, the income withholding order may be
27 served on the parent's employer without further notice to the parent and
28 the child support order may be enforced by any method allowed by law.
29 Failure to provide this notice shall not affect the validity of the child
30 support order.

31 Sec. 61. K.S.A. 38-1668 is hereby amended to read as follows: 38-
32 1668. ~~(a)~~ A parent, guardian or person with whom a juvenile resides may
33 be ordered by the court to report any probation violations or conditional
34 release contract violations, aid in enforcing terms and conditions of pro-
35 bation or conditional release or other orders of the court or any of the
36 above. Any person placed under an order to report any probation viola-
37 tions or conditional release contract violations, aid in enforcing terms and
38 conditions of probation or conditional release or other orders of the court
39 or any of the above who fails to do so may be proceeded against for
40 indirect contempt of court as provided in K.S.A. 20-1204a *et seq.*, and
41 amendments thereto.

42 ~~(b) This section shall be part of and supplemental to the Kansas ju-~~
43 ~~venile justice code.~~

1 Sec. 62. K.S.A. 38-16,126 is hereby amended to read as follows: 38-
2 16,126. On and after January 1, 1998:

3 (a) If an extended jurisdiction juvenile prosecution results in a guilty
4 plea or finding of guilt, the court shall:

5 (1) Impose one or more juvenile sentences under K.S.A. 38-1663,
6 and amendments thereto; and

7 (2) impose an adult criminal sentence, the execution of which shall
8 be stayed on the condition that the juvenile offender not violate the pro-
9 visions of the juvenile sentence and not commit a new offense.

10 (b) When it appears that a person ~~convicted~~ *sentenced* as an extended
11 jurisdiction juvenile has violated the conditions of the juvenile sentence
12 or is alleged to have committed a new offense, the court, without notice,
13 may revoke the stay and probation and direct that the juvenile offender
14 be taken into immediate custody and ~~deliver~~ *delivered* to the secretary of
15 corrections pursuant to K.S.A. 21-4621, and amendments thereto. The
16 court shall notify the juvenile offender and such juvenile offender's at-
17 torney of record, in writing by personal service, as provided in K.S.A. 60-
18 303, and amendments thereto, or certified mail, return receipt requested,
19 of the reasons alleged to exist for revocation of the stay of execution of
20 the adult sentence. If the juvenile offender challenges the reasons, the
21 court shall hold a hearing on the issue at which the juvenile offender is
22 entitled to be heard and represented by counsel. After the hearing, if the
23 court finds by substantial evidence that ~~the juvenile has violated the con-~~
24 ~~ditions of the juvenile sentence~~ *conditions of the juvenile's sentence have*
25 *been violated*, the court shall revoke the juvenile sentence and order the
26 imposition of the adult sentence previously ordered pursuant to subsec-
27 tion (a)(2). Upon such finding, the juvenile's extended jurisdiction status
28 is terminated, and juvenile court jurisdiction is terminated. The ongoing
29 jurisdiction for any adult sanction, other than the commitment to the
30 department of corrections, is with the adult court. ~~Such~~ *The* juvenile
31 offender shall be credited for time served in a juvenile correctional or
32 detention facility on the juvenile sentence as service on any authorized
33 adult sanction.

34 (c) *Upon becoming 18 years of age*, any juvenile who has been sen-
35 tenced pursuant to subsection (a) and is serving the juvenile sentence,
36 ~~upon becoming 18 years of age, such juvenile~~ is allowed a court hearing
37 to review ~~such juvenile~~ *the* sentence. If ~~such juvenile~~ *the* sentence is
38 continued, the court shall set a date of further review in no later than 36
39 months.

40 ~~(d) This section shall be part of and supplemental to the Kansas ju-~~
41 ~~venile justice code.~~

42 Sec. 63. K.S.A. 38-1664 is hereby amended to read as follows: 38-
43 1664. ~~(a) Prior to placing a juvenile offender in the custody of the com-~~

1 ~~missioner and recommending out-of-home placement, the court shall~~
2 ~~consider and determine that, where consistent with the need for protec-~~
3 ~~tion of the community:~~

4 ~~—(1) Reasonable efforts have been made to maintain the family unit~~
5 ~~and prevent unnecessary removal of a juvenile offender from the juvenile~~
6 ~~offender's home, as long as the juvenile offender's safety is assured, or~~
7 ~~an emergency exists which threatens the safety of the juvenile offender.~~
8 ~~If the juvenile offender is in the custody of the secretary of social and~~
9 ~~rehabilitation services under the Kansas code for the care of children, the~~
10 ~~secretary shall prepare a report for the court documenting such reason-~~
11 ~~able efforts. If the juvenile offender is in the custody of the commissioner,~~
12 ~~the commissioner shall prepare a report for the court documenting such~~
13 ~~reasonable efforts. Otherwise, the predisposition investigation writer shall~~
14 ~~prepare a report to the court documenting such reasonable efforts. Reason-~~
15 ~~able efforts are not required prior to removal if the court finds:~~

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

18 ~~—(B) a court of competent jurisdiction has determined that the parent~~
19 ~~has been convicted of a murder of another child of the parent, voluntary~~
20 ~~manslaughter of another child of the parent, aiding or abetting, attempt-~~
21 ~~ing, conspiring or soliciting to commit such a murder of such a voluntary~~
22 ~~manslaughter, or a felony assault that results in serious bodily injury to~~
23 ~~the juvenile offender or another child of the parent, or~~

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

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

27 ~~—(2) The juvenile offender's removal from the home must be the result~~
28 ~~of a judicial determination to the effect that continuation of residence in~~
29 ~~the home would be contrary to the welfare, or that placement would be~~
30 ~~in the best interests, of the juvenile offender. The contrary to the welfare~~
31 ~~determination must be made in the first court ruling that sanctions the~~
32 ~~removal of a juvenile offender from the home.~~

33 ~~—(3) A permanency plan must be presented at disposition or within 30~~
34 ~~days thereafter. If a permanency plan is in place under a child in need of~~
35 ~~care proceeding, the court may adopt the plan under the present pro-~~
36 ~~ceeding. If the juvenile offender is placed in the custody of the commis-~~
37 ~~sioner, the commissioner shall prepare the plan. The plan must comply~~
38 ~~with the requirements of subsection (a) of K.S.A. 38-1565, and amend-~~
39 ~~ments thereto. The court shall have the authority to require any person~~
40 ~~or entity agreeing to participate in the plan to perform as set out in the~~
41 ~~plan.~~

42 ~~—(4) The court must determine that reasonable efforts have been made~~
43 ~~and what progress has been made to finalize the permanency plan that is~~

1 in effect within 12 months of the date the juvenile offender is considered
2 to have entered foster care and at least once every 12 months thereafter
3 while the juvenile offender is in foster care.

4 ~~—(5)—~~The court must reflect reasonable efforts and contrary to the wel-
5 fare findings in orders awarding custody to the commissioner temporarily,
6 at sentencing and at modification hearings. If the juvenile offender is
7 placed in the custody of the commissioner, the court shall provide the
8 commissioner with a written copy of any orders entered upon making the
9 order for the purpose of documenting the orders.

10 ~~—(6)—~~If the juvenile offender is placed in the commissioner's custody,
11 the commissioner shall document in writing the reasonable efforts that
12 have been made and the progress made to finalize the permanency plan,
13 before each hearing reviewing the plan.

14 ~~—(b)—~~When a juvenile offender has been placed in the custody of the
15 commissioner, the commissioner shall notify the court in writing of the
16 initial placement of the juvenile offender as soon as the placement has
17 been accomplished. The court shall have no power to direct a specific
18 placement by the commissioner, but may make recommendations to the
19 commissioner. The commissioner may place the juvenile offender in an
20 institution operated by the commissioner, a youth residential facility or a
21 community mental health center. If the court has recommended an out-
22 of-home placement, the commissioner may not return the juvenile of-
23 fender to the home from which removed without first notifying the court
24 of the plan.

25 ~~—(c)—~~During the time a juvenile offender remains in the custody of the
26 commissioner, the commissioner shall report to the court at least each six
27 months as to the current living arrangement and social and mental de-
28 velopment of the juvenile offender and document in writing the reason-
29 able efforts that have been made and the progress made to finalize the
30 permanency plan.

31 ~~—(d)—~~If the juvenile offender is placed outside the juvenile offender's
32 home, a permanency hearing shall be held not more than 12 months after
33 the juvenile offender is placed outside the juvenile offender's home and,
34 if reintegration is a viable alternative, every 12 months thereafter. The
35 court may appoint a guardian ad litem to represent the juvenile offender
36 at the permanency hearing. Juvenile offenders who have been in extended
37 out of home placement shall be provided a permanency hearing within
38 30 days of a request from the commissioner. If reintegration is not a viable
39 alternative and either adoption or permanent guardianship might be in
40 the best interests of the juvenile offender the county or district attorney
41 shall file a petition alleging the juvenile is a child in need of care and
42 requesting termination of parental rights or the appointment of a per-
43 manent guardian pursuant to the Kansas code for care of children. If the

1 juvenile offender is placed in foster care, the foster parent or parents shall
 2 submit to the court, at least every six months, a report in regard to the
 3 juvenile offender's adjustment, progress and condition. The juvenile jus-
 4 tice authority shall notify the foster parent or parents of the foster parents'
 5 or parent's duty to submit such report, on a form provided by the juvenile
 6 justice authority, at least two weeks prior to the date when the report is
 7 due, and the name of the judge and the address of the court to which the
 8 report is to be submitted. Such report shall be confidential and shall only
 9 be reviewed by the court and the child's attorney.

10 —(c) The report made by foster parents and provided by the commis-
 11 sioner of juvenile justice, pursuant to this section, shall be in substantially
 12 the following form:

13 REPORT FROM FOSTER PARENTS
 14 CONFIDENTIAL

15	=====	=====
16	Child's Name	Current Address
17	=====	=====
18	Parent's Name	Foster Parents
19	=====	

20 Primary Social Worker

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

- 22 1. Child's adjustment in the home
 23 excellent _____ good _____ satisfactory _____ needs improvement _____
 24 2. Child's interaction with foster parents and family members
 25 excellent _____ good _____ satisfactory _____ needs improvement _____
 26 3. Child's interaction with others
 27 excellent _____ good _____ satisfactory _____ needs improvement _____
 28 4. Child's respect for property
 29 excellent _____ good _____ satisfactory _____ needs improvement _____
 30 5. Physical and emotional condition of the child
 31 excellent _____ good _____ satisfactory _____ needs improvement _____
 32 6. Social worker's interaction with the child and foster family
 33 excellent _____ good _____ satisfactory _____ needs improvement _____
 34 7. School status of child:

35	=====	=====
36	School	Grade
37	Grades Good _____ Fair _____ Poor _____	
38	Attendance Good _____ Fair _____ Poor _____	
39	Behavior Good _____ Fair _____ Poor _____	

40 8. If visitation with parents has occurred, describe the frequency of visits, with whom,
 41 supervised or unsupervised, and any significant events which have occurred. _____
 42 _____

43 9. Your opinion regarding the overall adjustment, progress and condition of the child. _____

1 _____
2 10. Do you have any special concerns or comments with regard to the child not addressed
3 by this form? Please specify. _____

4 (a) When a juvenile offender has been placed in the custody of the
5 commissioner, the commissioner shall have a reasonable time to make a
6 placement. If the juvenile offender has not been placed, any party who
7 believes that the amount of time elapsed without placement has exceeded
8 a reasonable time may file a motion for review with the court. In deter-
9 mining what is a reasonable amount of time, matters considered by the
10 court shall include, but not be limited to the nature of the underlying
11 offense, efforts made for placement of the juvenile offender and the avail-
12 ability of a suitable placement. The commissioner shall notify the court
13 and the juvenile offender's parent in writing of the initial placement and
14 any subsequent change of placement as soon as the placement has been
15 accomplished. The notice to the juvenile offender's parent shall be sent to
16 such parent's last known address or addresses. The court shall have no
17 power to direct a specific placement by the commissioner, but may make
18 recommendations to the commissioner. The commissioner may place the
19 juvenile offender in an institution operated by the commissioner, a youth
20 residential facility or any other appropriate placement. If the court has
21 recommended an out-of-home placement, the commissioner may not re-
22 turn the juvenile offender to the home from which removed without first
23 notifying the court of the plan.

24 (b) If a juvenile is in the custody of the commissioner, the commis-
25 sioner shall prepare and present a permanency plan at sentencing or
26 within 30 days thereafter. If a permanency plan is already in place under
27 a child in need of care proceeding, the court may adopt the plan under
28 the present proceeding. The written permanency plan shall provide for
29 reintegration of the juvenile into such juvenile's family or, if reintegration
30 is not a viable alternative, for other permanent placement of the juvenile.
31 Reintegration may not be a viable alternative when: (1) The parent has
32 been found by a court to have committed murder in the first degree, K.S.A.
33 21-3401, and amendments thereto, murder in the second degree, K.S.A.
34 21-3402, and amendments thereto, capital murder, K.S.A. 21-3439, and
35 amendments thereto, voluntary manslaughter, K.S.A. 21-3403, and
36 amendments thereto or violated a law of another state which prohibits
37 such murder or manslaughter of a child;

38 (2) the parent aided or abetted, attempted, conspired or solicited to
39 commit such murder or voluntary manslaughter of a child;

40 (3) the parent committed a felony battery that resulted in bodily in-
41 jury to the juvenile who is the subject of this proceeding or another child;

42 (4) the parent has subjected the juvenile who is the subject of this
43 proceeding or another child to aggravated circumstances as defined in

1 K.S.A. 38-1502, and amendments thereto;

2 (5) the parental rights of the parent to another child have been ter-
3 minated involuntarily; or

4 (6) the juvenile has been in extended out-of-home placement as de-
5 fined in K.S.A. 38-1502, and amendments thereto.

6 (c) If the juvenile is placed in the custody of the commissioner, the
7 plan shall be prepared and submitted by the commissioner. If the juvenile
8 is placed in the custody of a facility or person other than the commissioner,
9 the plan shall be prepared and submitted by a court services officer. If
10 the permanency goal is reintegration into the family, the permanency plan
11 shall include measurable objectives and time schedules for reintegration.

12 (d) During the time a juvenile remains in the custody of the commis-
13 sioner, the commissioner shall submit to the court, at least every six
14 months, a written report of the progress being made toward the goals of
15 the permanency plan submitted pursuant to subsections (b) and (c) and
16 the specific actions taken to achieve the goals of the permanency plan. If
17 the juvenile is placed in foster care, the court may request the foster parent
18 to submit to the court, at least every six months, a report in regard to the
19 juvenile's adjustment, progress and condition. Such report shall be made
20 a part of the juvenile's court social file. The court shall review the plan
21 submitted by the commissioner and the report, if any, submitted by the
22 foster parents and determine whether reasonable efforts and progress
23 have been made to achieve the goals of the permanency plan. If the court
24 determines that progress is inadequate or that the permanency plan is no
25 longer viable, the court shall hold a hearing pursuant to subsection (e).

26 (e) When the commissioner has custody of the juvenile, a permanency
27 hearing shall be held no more than 12 months after the juvenile is first
28 placed outside such juvenile's home and at least every 12 months there-
29 after. Juvenile offenders who have been in extended out-of-home place-
30 ment shall be provided a permanency hearing within 30 days of a request
31 from the commissioner. The court may appoint a guardian ad litem to
32 represent the juvenile offender at the permanency hearing. At each hear-
33 ing, the court shall make a written finding whether reasonable efforts have
34 been made to accomplish the permanency goal and whether continued
35 out-of-home placement is necessary for the juvenile's safety.

36 (f) Whenever a hearing is required under subsection (e), the court
37 shall notify all interested parties of the hearing date, the commissioner,
38 foster parents and preadoptive parents or relatives providing care for the
39 juvenile and hold a hearing. Individuals receiving notice pursuant to this
40 subsection shall not be made a party to the action solely on the basis of
41 this notice and opportunity to be heard. After providing the persons re-
42 ceiving notice an opportunity to be heard, the court shall determine
43 whether the juvenile's needs are being adequately met; whether services

1 *set out in the permanency plan necessary for the safe return of the juvenile*
2 *have been made available to the parent with whom reintegration is*
3 *planned; and whether reasonable efforts and progress have been made to*
4 *achieve the goals of the permanency plan.*

5 (g) *If the court finds reintegration continues to be a viable alternative,*
6 *the court shall determine whether and, if applicable, when the juvenile*
7 *will be returned to the parents and may rescind any of its prior disposi-*
8 *tional orders and enter any dispositional order authorized by this code*
9 *or may order that a new plan for the reintegration be prepared and sub-*
10 *mitted to the court. If reintegration cannot be accomplished as approved*
11 *by the court, the court shall be informed and shall schedule a hearing*
12 *pursuant to subsection (f). No such hearing is required when the parents*
13 *voluntarily relinquish parental rights or agree to appointment of a per-*
14 *manent guardian.*

15 (h) *When the court finds any of the following conditions exist, the*
16 *county or district attorney or the county or district attorney's designee*
17 *shall file a petition alleging the juvenile to be a child in need of care and*
18 *requesting termination of parental rights pursuant to the Kansas code for*
19 *care of children: (1) The court determines that reintegration is not a viable*
20 *alternative and either adoption or permanent guardianship might be in*
21 *the best interests of the juvenile;*

22 (2) *the goal of the permanency plan is reintegration into the family*
23 *and the court determines after 12 months from the time such plan is first*
24 *submitted that progress is inadequate; or*

25 (3) *the juvenile has been in out-of-home placement for a cumulative*
26 *total of 15 of the last 22 months, excluding trial home visits and juvenile*
27 *in runaway status.*

28 *Nothing in this subsection shall be interpreted to prohibit termination*
29 *of parental rights prior to the expiration of 12 months.*

30 (i) *A petition to terminate parental rights is not required to be filed*
31 *if one of the following exceptions is documented to exist: (1) The juvenile*
32 *is in a stable placement with relatives;*

33 (2) *services set out in the case plan necessary for the safe return of*
34 *the juvenile have not been made available to the parent with whom re-*
35 *integration is planned; or*

36 (3) *there are one or more documented reasons why such filing would*
37 *not be in the best interests of the juvenile. Documented reasons may in-*
38 *clude but are not limited to: The juvenile has close emotional bonds with*
39 *a parent or parents which should not be broken; the juvenile is 14 years*
40 *of age or older and, after advice and counsel, refuses to be adopted; in-*
41 *sufficient grounds exist for termination of parental rights; the juvenile is*
42 *an unaccompanied refugee minor; or there are international legal or com-*
43 *PELLING foreign policy reasons precluding termination of parental rights.*

1 Sec. 64. K.S.A. 38-16,111 is hereby amended to read as follows: 38-
2 16,111. (a) When a juvenile *offender* who is under 16 years of age at
3 the time of the sentencing, has been prosecuted and convicted as an adult
4 or under the extended jurisdiction juvenile prosecution, and has been
5 placed in the custody of the secretary of the department of corrections,
6 the secretary shall notify the sheriff having ~~such the~~ juvenile *offender* in
7 custody to convey such *juvenile* offender at a time designated by the
8 juvenile justice authority to a juvenile correctional facility. The commis-
9 sioner shall notify the court in writing of the initial placement of the
10 juvenile *offender* in the specific juvenile correctional facility as soon as
11 the placement has been accomplished. The commissioner shall not permit
12 the juvenile *offender* to remain detained in any jail for more than 72 hours,
13 excluding Saturdays, Sundays and legal holidays, after the commissioner
14 has received the written order of the court placing the juvenile *offender*
15 in the custody of the commissioner. If such placement cannot be accom-
16 plished, the juvenile *offender* may remain in jail for an additional period
17 of time, not exceeding 10 days, which is specified by the commissioner
18 and approved by the court.

19 (b) A juvenile *offender* who has been prosecuted and convicted as an
20 adult, shall not be eligible for admission to a juvenile correctional facility.
21 All other conditions of ~~such the~~ juvenile offender's sentence imposed
22 under this code, including restitution orders, may remain intact. The pro-
23 visions of this subsection shall not apply to a juvenile *offender* who: (1) Is
24 under 16 years of age at the time of the sentencing; (2) has been pros-
25 ecuted as an adult or under extended juvenile jurisdiction; and (3) has
26 been placed in the custody of the secretary of corrections, requiring ad-
27 mission to a juvenile correctional facility pursuant to subsection (a).

28 Sec. 65. K.S.A. 38-1665 is hereby amended to read as follows: 38-
29 1665. ~~(a) When a juvenile offender has been placed in a youth residential
30 facility or in the custody of a person other than a parent, the court may
31 cause the juvenile offender to be brought before it, together with the
32 person or persons in whose custody the juvenile offender may be. If it
33 appears that a continuance of the custody or placement is not in the best
34 interests of the juvenile offender, the court may rescind and set aside the
35 order giving custody and make a further order for the custody of the
36 juvenile offender as is appropriate, except that a child support order
37 which has been registered under K.S.A. 38-16,110 and amendments
38 thereto may only be modified pursuant to K.S.A. 38-16,110 and amend-
39 ments thereto.~~

40 ~~—(b) At any time after the entry of an order awarding custody of a
41 juvenile offender to a person other than a parent, the court on its own
42 motion, or the commissioner, the attorney for the juvenile offender or
43 any party or parent may file a motion with the court for a rehearing on~~

1 the issue of custody. Upon receipt of the motion, the court shall fix a time
2 and place for hearing and shall notify each party of the time and place.
3 After the hearing, the court may enter any sentence, except that a child
4 support order which has been registered under K.S.A. 38-16,119 and
5 amendments thereto may only be modified pursuant to K.S.A. 38-16,119
6 and amendments thereto. If the court determines that it is in the best
7 interests of the juvenile offender to be returned to the custody of the
8 parent or parents, the court shall so order. (a) At any time after the entry
9 of an order modifying custody or placement of a juvenile offender, the
10 court, upon the court's own motion or the motion of the commissioner or
11 parent or any party, may modify the sentence imposed. Upon receipt of
12 the motion, the court shall fix a time and place for hearing and provide
13 notice to the movant and to the current custodian and placement of the
14 juvenile offender and to each party to the proceeding. Except as set out
15 in subsection (b), after the hearing, if the court finds that the sentence
16 previously imposed is not in the best interests of the juvenile offender, the
17 court may rescind and set aside the sentence, and enter any sentence
18 pursuant to K.S.A. 38-1663, and amendments thereto, except that a child
19 support order which has been registered under K.S.A. 38-1616d, and
20 amendments thereto, may only be modified pursuant to K.S.A. 38-1616d,
21 and amendments thereto.

22 (b) The court shall rescind an order granting custody to a parent only
23 upon finding that: (1) Reasonable efforts have been made to maintain the
24 juvenile in such juvenile's family or an emergency exists making reason-
25 able efforts unnecessary; and (2) it is contrary to the welfare of the juvenile
26 to remain at home. The court shall state the basis of each finding.

27 (c) Any time within 60 days after a court has committed a juvenile
28 offender to a juvenile correctional facility the court may modify the sen-
29 tence and enter any other sentence, except that a child support order
30 which has been registered under K.S.A. 38-16,119 and amendments
31 thereto may only be modified pursuant to K.S.A. 38-16,119 and amend-
32 ments thereto.

33 (d) The commissioner of juvenile justice may petition the court to
34 modify the placement sentence established in K.S.A. 38-1669, and amend-
35 ments thereto, based upon exceptional circumstances.

36 Sec. 66. K.S.A. 38-1666 is hereby amended to read as follows: 38-
37 1666. (a) If it is alleged that a juvenile offender has violated a condition
38 of probation or of a court-ordered placement ~~that would not constitute~~
39 ~~grounds for filing a new complaint,~~ the county or district attorney, the
40 victim of the offense committed by the offender, the assigned court serv-
41 ices officer or the ~~person in whom care, custody and control of the ju-~~
42 ~~venile offender has been placed~~ current custodian and placement of the
43 juvenile offender may file a report with the court describing the alleged

1 violation and requesting a hearing thereon. The court shall then proceed
2 in the same manner and under the same procedure as for a hearing on a
3 complaint. The court shall provide copies of the report to the parties to
4 the proceeding. The court, upon the court's own motion or the motion of
5 the commissioner or the parent or any party, shall set the matter for
6 hearing and may issue a warrant pursuant to K.S.A. 38-1631, and amend-
7 ments thereto. Upon receipt of the motion, the court shall fix a time and
8 place for hearing and provide notice to the movant and to the current
9 custodian and placement of the juvenile offender and to each party to the
10 proceeding. Except as set out in subsection (b), if the court finds at the
11 hearing that the juvenile offender violated a condition of probation or
12 placement, the court may extend or modify the terms of probation or
13 placement or enter another sentence pursuant to K.S.A. 38-1663, and
14 amendments thereto, except that a child support order which has been
15 registered under K.S.A. 38-16,119 and amendments thereto may only be
16 modified pursuant to K.S.A. 38-16,119 and amendments thereto.

17 (b) The court shall enter an order removing custody from a parent
18 only upon finding: (1) Reasonable efforts have been made to maintain a
19 juvenile in such juvenile's family or an emergency exists making reason-
20 able efforts unnecessary; and (2) it is contrary to the welfare of the juvenile
21 to remain at home. The court shall state the basis of each finding in writ-
22 ing.

23 Sec. 67. K.S.A. 38-16,129 is hereby amended to read as follows: 38-
24 16,129. On and after July 1, 1999: (a) For the purpose of committing
25 juvenile offenders to a juvenile correctional facility, the following place-
26 ments shall be applied by the judge in felony or misdemeanor cases for
27 offenses committed on or after July 1, 1999. If used, the court shall es-
28 tablish a specific term of commitment as specified in this subsection,
29 unless the judge conducts a departure hearing and finds substantial and
30 compelling reasons to impose a departure sentence as provided in K.S.A.
31 38-16,132 and amendments thereto.

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

40 (B) The violent offender II is defined as an offender adjudicated as
41 a juvenile offender for an offense which, if committed by an adult, would
42 constitute a nondrug level 1, 2 or 3 felony. Offenders in this category may
43 be committed to a juvenile correctional facility for a minimum term of

1 24 months and up to a maximum term of the offender reaching the age
2 22 years, six months. The aftercare term for this offender is set at a min-
3 imum term of six months and up to a maximum term of the offender
4 reaching the ~~of~~ age of 23 years.

5 (2) *Serious Offenders.* (A) The serious offender I is defined as an
6 offender adjudicated as a juvenile offender for an offense which, if com-
7 mitted by an adult, would constitute a nondrug severity level 4, 5 or 6
8 person felony or a severity level 1 or 2 drug felony. Offenders in this
9 category may be committed to a juvenile correctional facility for a mini-
10 mum term of 18 months and up to a maximum term of 36 months. The
11 aftercare term for this offender is set at a minimum term of six months
12 and up to a maximum term of 24 months.

13 (B) The serious offender II is defined as an offender adjudicated as
14 a juvenile offender for an offense which, if committed by an adult, would
15 constitute a nondrug severity level 7, 8, 9 or 10 person felony with one
16 prior felony adjudication. Offenders in this category may be committed
17 to a juvenile correctional facility for a minimum term of nine months and
18 up to a maximum term of 18 months. The aftercare term for this offender
19 is set at a minimum term of six months and up to a maximum term of 24
20 months.

21 (3) *Chronic Offenders.* (A) The chronic offender I, chronic felon is
22 defined as an offender adjudicated as a juvenile offender for an offense
23 which, if committed by an adult, would constitute:

24 (i) One present nonperson felony adjudication and two prior felony
25 adjudications; or

26 (ii) one present severity level 3 drug felony adjudication and two prior
27 felony adjudications.

28 Offenders in this category may be committed to a juvenile correctional
29 facility for a minimum term of six months and up to a maximum term of
30 18 months. The aftercare term for this offender is set at a minimum term
31 of six months and up to a maximum term of 12 months.

32 (B) The chronic offender II, escalating felon is defined as an offender
33 adjudicated as a juvenile offender for an offense which, if committed by
34 an adult, would constitute:

35 (i) One present felony adjudication and two prior misdemeanor ad-
36 judications;

37 (ii) one present felony adjudication and two prior severity level 4 drug
38 adjudications;

39 (iii) one present severity level 3 drug felony adjudication and two
40 prior misdemeanor adjudications; or

41 (iv) one present severity level 3 drug felony adjudication and two
42 prior severity level 4 drug adjudications.

43 Offenders in this category may be committed to a juvenile correctional

1 facility for a minimum term of six months and up to a maximum term of
2 18 months. The aftercare term for this offender is set at a minimum term
3 of six months and up to a maximum term of 12 months.

4 (C) The chronic offender III, escalating misdemeanant is defined as
5 an offender adjudicated as a juvenile offender for an offense which, if
6 committed by an adult, would constitute:

7 (i) One present misdemeanor adjudication and two prior misde-
8 meanor adjudications and two out-of-home placement failures;

9 (ii) one present misdemeanor adjudication and two prior severity
10 level 4 drug felony adjudications and two out-of-home placement failures;

11 (iii) one present severity level 4 drug felony adjudication and two
12 prior misdemeanor adjudications and two out-of-home placement fail-
13 ures; or

14 (iv) one present severity level 4 drug felony adjudication and two
15 prior severity level 4 drug felony adjudications and two out-of-home
16 placement failures.

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

21 (4) *Conditional Release Violators.* Conditional release violators may
22 be committed to a juvenile correctional facility, youth residential facility,
23 juvenile detention facility, institution, a sanctions house or to other ap-
24 propriate community placement for a minimum term of three months
25 and up to a maximum term of six months. The aftercare term for this
26 offender is set at a minimum term of two months and up to a maximum
27 term of six months, or the maximum term of the original aftercare term,
28 whichever is longer.

29 (b) As used in this section: (1) “Placement failure” means a juvenile
30 offender ~~has been placed out-of-home on probation in a community~~
31 ~~placement accredited by the commissioner in a juvenile offender case~~
32 ~~and the offender has violated significantly the terms of probation in that~~
33 ~~case in the custody of the juvenile justice authority has significantly failed~~
34 ~~the terms of conditional release or has been placed out-of-home in a com-~~
35 ~~munity placement accredited by the commissioner and has significantly~~
36 ~~violated the terms of that placement or violated the terms of probation.~~

37 (2) “Adjudication” includes out-of-state juvenile adjudications. An
38 out-of-state offense which if committed by an adult would constitute the
39 commission of a felony or misdemeanor shall be classified as either a
40 felony or a misdemeanor according to the adjudicating jurisdiction. If an
41 offense which if committed by an adult would constitute the commission
42 of a felony is a felony in another state, it will be deemed a felony in Kansas.
43 The state of Kansas shall classify the offense, which if committed by an

1 adult would constitute the commission of a felony or misdemeanor, as
2 person or nonperson. In designating such offense as person or nonperson,
3 reference to comparable offenses shall be made. If the state of Kansas
4 does not have a comparable offense, the out-of-state adjudication shall
5 be classified as a nonperson offense.

6 (c) All appropriate community placement options shall have been ex-
7 hausted before a chronic offender III, escalating misdemeanor shall be
8 placed in a juvenile correctional facility. A court finding shall be made
9 acknowledging that appropriate community placement options have been
10 pursued and no such option is appropriate.

11 (d) The commissioner shall work with the community to provide on-
12 going support and incentives for the development of additional commu-
13 nity placements to ensure that the chronic offender III, escalating mis-
14 demeanant sentencing category is not frequently utilized.

15 (e) *The following is a placement matrix which sets forth in chart form*
16 *the placements provided for in subsection (a):*

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PLACEMENT MATRIX CHART

<u>Offender Type</u>	<u>Offense Level</u>	<u>Length of Stay</u>	<u>Aftercare</u>
<u>Violent I</u> 38-1669(a)(1)(A)	Off-grid	60 mo-22½ yoa	6 mo-23 yoa
<u>Violent II</u> 38-1669(a)(1)(B)	1 - 3 Person Felony	24 mo-22½ yoa	6 mo-23 yoa
<u>Serious I</u> 38-1669(a)(2)(A)	4-6 Person Felony OR 1-2 Drug Felony	18 - 36 mo	6 - 24 mo
<u>Serious II</u> 38-1669(a)(2)(B)	7 - 10 Person Felony AND Prior Felony	9 - 18 mo	6 - 24 mo
<u>Chronic I –</u> <u>Chronic Felon</u> 38-1669(a)(3)(A)	Present: Non Person Felony OR Level 3 Drug Felony Prior: 2 prior felony adjudications	6 - 18 mo	6 - 12 mo
<u>Chronic II –</u> <u>Escalating Felon</u> 38-1669(a)(3)(B)	Present: Felony OR Level 3 Drug Felony Prior: 2 prior misdemeanor OR level 4 Drug Felony	6 - 18 mo	6 - 12 mo
<u>Chronic III –</u> <u>Escalating</u> <u>Misdemeanant</u> 38-1669(a)(3)(C)	Present: Misdemeanor OR Level 4 Drug Felony Prior: 2 prior misdemeanor OR level 4 Drug Felony PLUS 2 placement failures PLUS finding	3 - 6 mo	3 - 6 mo
<u>Conditional Release</u> <u>Violator</u> 38-1669(a)(4)	All	3 - 6 mo	2 - 6 mo

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1 Sec. 68. K.S.A. 38-16,130 is hereby amended to read as follows: 38-
2 16,130. On and after July 1, 1999:

3 (a) For purposes of determining release of a juvenile offender for an
4 offense committed on or after July 1, 1999, a system shall be developed
5 whereby good behavior ~~by juvenile offenders~~ is the expected norm and
6 negative behavior will be punished.

7 (b) The commissioner of juvenile justice ~~is hereby authorized to~~ *shall*
8 adopt rules and regulations to carry out the provisions of this section
9 regarding good time calculations. Such rules and regulations shall provide
10 circumstances upon which a juvenile offender may earn good time credits
11 through participation in programs which may include, but not be limited
12 to, education programs, work participation, treatment programs, voca-
13 tional programs, activities and behavior modification. Such good time
14 credits may also include the juvenile offender's willingness to examine
15 and confront the past behavior patterns that resulted in the commission
16 of the juvenile's offense.

17 (c) If the placement sentence established in K.S.A. 38-16,129, and
18 amendments thereto, is used by the court, the juvenile offender shall
19 serve no less than the minimum term authorized under the specific cat-
20 egory of such placement sentence.

21 Sec. 69. K.S.A. 38-16,132 is hereby amended to read as follows: 38-
22 16,132. (a) (1) Whenever a person is adjudicated as a juvenile offender,
23 the court upon motion of the state, shall hold a hearing to consider im-
24 position of a departure sentence. The motion shall state that a departure
25 is sought and the reasons and factors relied upon. The hearing shall be
26 scheduled so that the parties have adequate time to prepare and present
27 arguments regarding the issues of departure sentencing. The victim of a
28 crime or the victim's family shall be notified of the right to be present at
29 the hearing for the convicted person by the county or district attorney.
30 The parties may submit written arguments to the court prior to the date
31 of the hearing and may make oral arguments before the court at the
32 hearing. The court shall review the victim impact statement, if available.
33 Prior to the hearing, the court shall transmit to the ~~defendant~~ *juvenile*
34 *offender* or the ~~defendant's~~ *juvenile offender's* attorney and the prose-
35 cuting attorney copies of the predispositional investigation report.

36 (2) At the conclusion of the hearing or within 20 days thereafter, the
37 court shall issue findings of fact and conclusions of law regarding the
38 issues submitted by the parties, and shall enter an appropriate order.

39 (3) If a factual aspect of a crime is a statutory element of the crime
40 or is used to determine crime severity, that aspect of the current crime
41 of conviction may be used as an aggravating factor only if the criminal
42 conduct constituting that aspect of the current crime of conviction is
43 significantly different from the usual criminal conduct captured by the

1 aspect of the crime. Subject to this provision, the nonexclusive lists of
2 aggravating factors provided in subsection (b)(2) of K.S.A. 21-4716, and
3 amendments thereto, and in subsection (a) of K.S.A. 21-4717, and amend-
4 ments thereto, may be considered in determining whether substantial and
5 compelling reasons exist.

6 (b) If the court decides to depart on its own volition, without a motion
7 from the state, the court must notify all parties of its intent and allow
8 reasonable time for either party to respond if they request. The notice
9 shall state that a departure is intended by the court and the reasons and
10 factors relied upon.

11 (c) In each case in which the court imposes a sentence that deviates
12 from the presumptive sentence, the court shall make findings of fact as
13 to the reasons for departure regardless of whether a hearing is requested.

14 (d) If the sentencing judge departs from the presumptive sentence,
15 the judge shall state on the record at the time of sentencing the substantial
16 and compelling reasons for the departure. When a departure sentence is
17 appropriate, the sentencing judge may depart from the matrix as provided
18 in this section. When a sentencing judge departs in setting the duration
19 of a presumptive term of imprisonment:

20 (1) The presumptive term of imprisonment set in such departure
21 shall not total more than double the maximum duration of the presump-
22 tive imprisonment term;

23 (2) the court shall have no authority to reduce the minimum term of
24 confinement as defined within the sentencing matrix; and

25 (3) the maximum term for commitment of any juvenile offender to a
26 juvenile correctional facility is age 22 years, 6 months.

27 (e) A departure sentence may be appealed as provided in K.S.A. 38-
28 1681, and amendments thereto.

29 Sec. 70. K.S.A. 38-16,133 is hereby amended to read as follows: 38-
30 16,133. In any action pursuant to the Kansas juvenile justice code in which
31 the ~~respondent~~ *juvenile* is adjudicated upon a plea of guilty or trial by
32 court or jury or upon completion of an appeal, the judge, if sentencing
33 the ~~respondent to confinement~~ *juvenile to incarceration*, shall direct that,
34 for the purpose of computing ~~respondent's~~ *juvenile's* sentence and re-
35 lease, eligibility and conditional release dates thereunder, that such sen-
36 tence is to be computed from a date, to be specifically designated by the
37 court in the sentencing order. Such date shall be established to reflect
38 and shall be computed as an allowance for the time which the ~~respondent~~
39 *juvenile* has spent incarcerated pending the disposition of the ~~respon-~~
40 ~~dent's~~ *juvenile's* case. In recording the date of commencement of such
41 sentence, the date as specifically set forth by the court shall be used as
42 the date of sentence and all good time calculations authorized by law are
43 to be allowed on such sentence from such date as though the ~~defendant~~

1 *juvenile* were actually incarcerated in a juvenile correctional facility. Such
2 credit shall not reduce the minimum term of incarceration authorized by
3 law for the offense of which the ~~respondent~~ *juvenile* has been adjudicated.

4 Sec. 71. K.S.A. 38-1671 is hereby amended to read as follows: 38-
5 1671. (a) *Actions by the court.* (1) When a juvenile offender has been
6 committed to a juvenile correctional facility, the clerk of the court shall
7 forthwith notify the commissioner of the commitment and provide the
8 commissioner with a certified copy of the complaint, the journal entry of
9 the ~~trial adjudication~~ and ~~the sentence~~ *sentencing*. The court shall ~~also~~
10 ~~forward~~ *provide* those items from the social file which could relate to a
11 rehabilitative program. If the court wishes to recommend placement of
12 the juvenile offender in a specific juvenile correctional facility, the rec-
13 ommendation shall be included in the sentence. After the court has re-
14 ceived notice of the juvenile correctional facility designated as provided
15 in subsection (b), it shall be the duty of the court or the sheriff of the
16 county to deliver the juvenile offender to the facility at the time desig-
17 nated by the commissioner.

18 (2) When a juvenile offender is residing in a juvenile correctional
19 facility and is required to go back to court for any reason, the county
20 demanding the juvenile's presence shall be responsible for transportation,
21 detention, custody and control of such offender. In these cases, the county
22 sheriff shall be responsible for all transportation, detention, custody and
23 control of such offender.

24 (b) *Actions by the commissioner.* (1) After receiving notice of com-
25 mitment as provided in subsection (a), the commissioner shall give the
26 committing court notice designating the juvenile correctional facility to
27 which the juvenile offender is to be admitted and the date of the admis-
28 sion.

29 (2) Except as provided by K.S.A. 38-1691, and amendments thereto,
30 the commissioner may make any temporary out-of-home placement the
31 commissioner deems appropriate pending placement of the juvenile of-
32 fender in a juvenile correctional facility, and the commissioner shall notify
33 the court, local law enforcement agency and school district in which the
34 juvenile will be residing if the juvenile is still required to attend a sec-
35 ondary school of that placement.

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

39 Sec. 72. K.S.A. 38-1673 is hereby amended to read as follows: 38-
40 1673. (a) When a juvenile offender has satisfactorily completed ~~such of-~~
41 ~~fender's~~ *the* term of incarceration at the juvenile correctional facility to
42 which the juvenile offender was committed or placed, the person in
43 charge of the juvenile correctional facility shall have authority to release

1 the juvenile offender under appropriate conditions and for a specified
2 period of time. Prior to release from a juvenile correctional facility, the
3 commissioner shall consider any recommendations made by the juvenile
4 offender's community case management officer.

5 (b) At least 20 days prior to releasing a juvenile offender as provided
6 in subsection (a), the person in charge of the juvenile correctional facility
7 shall notify the committing court of the date and conditions upon which
8 it is proposed the juvenile offender is to be released. The person in charge
9 of the juvenile correctional facility shall notify the school district in which
10 the juvenile offender will be residing if the juvenile is still required to
11 attend a school. Such notification to the school shall include the name of
12 the juvenile offender, address upon release, contact person with whom
13 the juvenile offender will be residing upon release, anticipated date of
14 release, anticipated date of enrollment in school, name and phone num-
15 ber of case worker, crime or crimes of adjudication if not confidential
16 based upon other statutes, conditions of release, and any other informa-
17 tion the commissioner deems appropriate. To ensure the educational suc-
18 cess of the student, the community case manager or a representative from
19 the residential facility where the juvenile offender will reside shall contact
20 the principal of the receiving school in a timely manner to review the
21 juvenile offender's case. If such juvenile offender's offense would have
22 constituted an off-grid ~~felony~~ *crime*, nondrug felony crime ranked at se-
23 verity level 1, 2, 3, 4 or 5, or a drug felony crime ranked at severity level
24 1, 2 or 3, on or after July 1, 1993, if committed by an adult, the person
25 in charge of the juvenile correctional facility shall notify the county or
26 district attorney of the county where the offender was adjudicated a ju-
27 venile offender of the date and conditions upon which it is proposed the
28 juvenile offender is to be released. The county or district attorney shall
29 give written notice at least five days prior to the release of the juvenile
30 offender to: (1) Any victim of the juvenile offender's crime who is alive
31 and whose address is known to the court or, if the victim is deceased, to
32 the victim's family if the family's address is known to the court; and (2)
33 the local law enforcement agency. Failure to notify pursuant to this sec-
34 tion shall not be a reason to postpone a release. Nothing in this section
35 shall create a cause of action against the state or county or an employee
36 of the state or county acting within the scope of the employee's employ-
37 ment as a result of the failure to notify pursuant to this section.

38 (c) Upon receipt of the notice required by subsection (b), the court
39 shall review the *terms of the proposed conditions of conditional* release
40 and may recommend modifications or additions to the ~~conditions~~ *terms*.

41 (d) If, during the conditional release, the juvenile offender is not re-
42 turning to the county from which committed, the person in charge of the
43 juvenile correctional facility shall also give notice to the court of the

1 county in which the juvenile offender is to be residing.

2 (e) To assure compliance with ~~conditions of~~ *conditional* release from
3 a juvenile correctional facility, the commissioner shall have the authority
4 to prescribe the manner in which compliance with the conditions shall
5 be supervised. When requested by the commissioner, the appropriate
6 court may assist in supervising compliance with the conditions of release
7 during the term of the conditional release. The commissioner may require
8 the parents or guardians of the juvenile offender to cooperate and partic-
9 ipate with the ~~conditions of~~ *conditional* release.

10 (f) For acts committed before July 1, 1999, the juvenile justice au-
11 thority shall notify at least 45 days prior to the discharge of the juvenile
12 offender the county or district attorney of the county where the offender
13 was adjudicated a juvenile offender of the release of such juvenile of-
14 fender, if such juvenile offender's offense would have constituted a class
15 A, B or C felony before July 1, 1993, or an off-grid ~~felony~~ *crime*, a nondrug
16 crime ranked at severity level 1, 2, 3, 4 or 5 or a drug crime ranked at
17 severity level 1, 2 or 3, on or after July 1, 1993, if committed by an adult.
18 The county or district attorney shall give written notice at least 30 days
19 prior to the release of the juvenile offender to: (1) Any victim of the
20 juvenile offender's crime who is alive and whose address is known to the
21 court or, if the victim is deceased, to the victim's family if the family's
22 address is known to the court; and (2) the local law enforcement agency.
23 Failure to notify pursuant to this section shall not be a reason to postpone
24 a release. Nothing in this section shall create a cause of action against the
25 state or county or an employee of the state or county acting within the
26 scope of the employee's employment as a result of the failure to notify
27 pursuant to this section.

28 (g) Conditional release programs shall include, but not be limited to,
29 the treatment options of aftercare services.

30 Sec. 73. K.S.A. 38-1674 is hereby amended to read as follows: 38-
31 1674. If it is alleged that a juvenile offender who has been conditionally
32 released from a juvenile correctional facility has failed to obey the spec-
33 ified conditions of release, any officer assigned to supervise compliance
34 with the conditions of release or the county or district attorney may file
35 a ~~motion~~ *report* with the committing court or the court of the county in
36 which the juvenile offender is residing *describing the alleged violation*.
37 ~~The motion shall describe the alleged violation and request a hearing~~
38 ~~thereon. The court shall then proceed in the same manner and under the~~
39 ~~same procedure as provided for a hearing on a complaint filed under this~~
40 ~~code. The court shall provide copies of the report to the parties to the~~
41 ~~proceedings. The court, upon the court's own motion or the county or~~
42 ~~district attorney, shall set the matter for hearing. The movant shall pro-~~
43 ~~vide notice of the motion and hearing to each party to the proceeding and~~

1 *the current custodian and placement of the juvenile offender.* If the court
2 finds that a condition of release has been violated, the court may modify
3 or impose additional conditions of release that the court considers appro-
4 priate or order that the juvenile offender be returned to the juvenile
5 correctional facility to serve the conditional release revocation incarceration
6 and after care term set by the court pursuant to the placement
7 matrix as provided in K.S.A. 38-16,129, and amendments thereto.

8 Sec. 74. K.S.A. 38-1675 is hereby amended to read as follows: 38-
9 1675. (a) ~~Unless a juvenile is sentenced pursuant to an extended jurisdic-~~
10 ~~tion juvenile prosecution upon court order, and the commissioner trans-~~
11 ~~fers the juvenile offender to the custody of the secretary of corrections,~~
12 ~~when a juvenile offender has reached the age 23 years or has completed~~
13 ~~the prescribed term of incarceration at a juvenile correctional facility to-~~
14 ~~gether with any conditional release following the program, the commis-~~
15 ~~sioner shall discharge the juvenile offender from any further obligation~~
16 ~~under the commitment. When a juvenile offender has reached the age of~~
17 ~~23 years or has completed the prescribed terms of incarceration at a ju-~~
18 ~~venile correctional facility, together with any conditional release following~~
19 ~~the program, the juvenile shall be discharged by the commissioner from~~
20 ~~any further obligation under the commitment unless the juvenile was sen-~~
21 ~~tenced pursuant to an extended jurisdiction juvenile prosecution upon~~
22 ~~court order and the commissioner transfers the juvenile to the custody of~~
23 ~~the secretary of corrections.~~ The discharge shall operate as a full and
24 complete release from any obligations imposed on the juvenile offender
25 arising from the offense for which the juvenile offender was committed.

26 (b) ~~For acts committed before July 1, 1999,~~ At least 45 days prior to
27 the discharge of the juvenile offender, the juvenile justice authority shall
28 notify the court and the county or district attorney of the county where
29 the offender was adjudicated a juvenile offender of the *pending* discharge
30 of such juvenile offender, ~~if such juvenile offender's~~ *the* offense would
31 have constituted a class A, B or C felony before July 1, 1993, or an off-
32 grid ~~felony~~ *crime*, a nondrug crime ranked at severity level 1, 2, 3, 4 or 5
33 or a drug crime ranked at severity level 1, 2 or 3, on or after July 1, 1993,
34 if committed by an adult. The county or district attorney shall give written
35 notice at least 30 days prior to the discharge of the juvenile offender ~~to:~~
36 ~~(1) Any victim of the juvenile offender's crime who is alive and whose~~
37 ~~address is known to the court or, if the victim is deceased, to the victim's~~
38 ~~family if the family's address is known to the court, and (2) the local law~~
39 ~~enforcement agency. Failure to notify pursuant to this section shall not~~
40 ~~be a reason to postpone a discharge. Nothing in this section shall create~~
41 ~~a cause of action against the state or county or an employee of the state~~
42 ~~or county acting within the scope of the employee's employment as a~~
43 ~~result of the failure to notify pursuant to this section pursuant to section~~

1 77, and amendments thereto.

2 Sec. 75. K.S.A. 38-1676 is hereby amended to read as follows: 38-
3 1676. (a) ~~For acts committed before July 1, 1999, if a~~ *The commissioner*
4 *shall notify the county or district attorney, the court, the local law en-*
5 *forcement agency and the school district in which the juvenile offender*
6 *will be residing of such pending release at least 45 days before release if*
7 *the juvenile is still required to attend school, if the juvenile offender has*
8 *committed an act prior to July 1, 1999, which, if committed by a person*
9 *18 years of age or over, would constitute have constituted: (1) A class A*
10 *or B felony, if the offense was committed before July 1, 1993, or (2) an*
11 *off-grid felony crime, a nondrug crime ranked at severity level 1, 2 or, 3, 4*
12 *or 5 or a drug crime ranked at severity level 1 or, 2 or 3, if the offense*
13 *was committed on or after July 1, 1993, and, if such juvenile offender is*
14 *to be released, 45 days before release, the commissioner shall notify the*
15 *county attorney or district attorney, the court, the local law enforcement*
16 *agency, and the school district in which the juvenile offender will be*
17 *residing if the juvenile is still required to attend a secondary school, of*
18 *such pending release. The county or district attorney shall give written*
19 *notice at least 30 days prior to discharge of the juvenile offender pursuant*
20 *to section 77, and amendments thereto. The county attorney, district at-*
21 *torney or the court on its own motion may file a motion with the court*
22 *for a hearing to determine if the juvenile offender should be retained in*
23 *the custody of the commissioner, pursuant to K.S.A. 38-1675, and amend-*
24 *ments thereto. The court shall fix a time and place for hearing and shall*
25 *notify each party of the time and place.*

26 (b) Following the hearing if the court orders ~~for~~ the commissioner to
27 retain custody, the juvenile offender shall not be held in a juvenile cor-
28 rectional facility for longer than the maximum term of imprisonment
29 which could be imposed upon an adult convicted of the offense or of-
30 fenses which the juvenile offender has been adjudicated to have com-
31 mitted.

32 (c) As used in this section, "maximum term of imprisonment" means
33 the greatest maximum sentence authorized by K.S.A. 21-4501 and
34 amendments thereto, applying any enhanced penalty which would be
35 applicable under K.S.A. 21-4504 and amendments thereto and computing
36 terms as consecutive when required by K.S.A. 21-4608 and amendments
37 thereto.

38 ~~(d) This section shall be part of and supplemental to the Kansas ju-~~
39 ~~venile justice code.~~

40 Sec. 76. K.S.A. 38-1677 is hereby amended to read as follows: 38-
41 1677. ~~The commissioner shall develop policies to involve the school dis-~~
42 ~~trict in which the juvenile offender will be residing, if the juvenile is still~~
43 ~~required to attend a secondary school, in planning for the juvenile's re-~~

1 ~~lease or discharge. The policies shall include a plan to send to such school~~
2 ~~district the educational records of the juvenile and notice of the offense~~
3 ~~the juvenile committed which resulted in the juvenile being adjudicated~~
4 ~~as a juvenile offender and sent to the juvenile correctional facility. The~~
5 ~~commissioner and the school district in which a juvenile offender will be~~
6 ~~residing shall plan for the juvenile offender's release or discharge if the~~
7 ~~juvenile offender is required to attend school. The commissioner shall send~~
8 ~~the educational records for the juvenile and notice of the offenses the~~
9 ~~juvenile committed to the school district that the juvenile will be attending.~~

10 New Sec. 77. (a) When a statute requires that the county or district
11 attorney shall give written notice at least 30 days prior to the release of
12 the juvenile offender, such notice shall be given to:

13 (1) Any victim of the juvenile offender's crime who is alive and whose
14 address is known to the court or, if the victim is deceased, to the victim's
15 family if the family's address is known to the court;

16 (2) the local law enforcement agency; and

17 (3) the school district in which the juvenile offender will be residing
18 if the juvenile is still required to attend school.

19 (b) Failure to notify pursuant to this section shall not be a reason to
20 postpone a release. Nothing in this section shall create a cause of action
21 against the state or county of an employee of the state or county acting
22 within the scope of the employee's employment as a result of the failure
23 to notify pursuant to this section.

24 Sec. 78. K.S.A. 38-1681 is hereby amended to read as follows: 38-
25 1681. (a) *Order authorizing prosecution as an adult or extended jurisdic-*
26 *tion juvenile prosecution.* (1) Unless the ~~respondent~~ juvenile offender has
27 consented to the order, ~~an appeal may be taken by a respondent~~ a juvenile
28 offender may take an appeal from an order authorizing prosecution as an
29 adult. The appeal shall be taken only after conviction *as an adult* and in
30 the same manner as ~~other~~ criminal appeals, except that ~~(A)~~ where the
31 ~~criminal~~ prosecution has resulted in a judgment of conviction upon a plea
32 of guilty or *nolo contendere*, an appeal may be taken from the order
33 authorizing prosecution pursuant to K.S.A. 38-1636, and amendments
34 thereto, notwithstanding the provisions of subsection (a) of K.S.A. 22-
35 3602 and amendments thereto, ~~and (B) if the criminal prosecution results~~
36 ~~in an acquittal, an appeal may nevertheless be taken from the order au-~~
37 ~~thorizing prosecution pursuant to K.S.A. 38-1636, and amendments~~
38 ~~thereto, if the order provides that it attaches to future acts by the re-~~
39 ~~spondent as authorized by subsection (h) of K.S.A. 38-1636, and amend-~~
40 ~~ments thereto.~~

41 (2) If on appeal the order authorizing prosecution as an adult is re-
42 versed but the finding of guilty is affirmed or the conviction was based
43 on a plea of guilty or *nolo contendere*, the ~~respondent~~ juvenile shall be

1 deemed adjudicated to be a juvenile offender. On remand the district
2 court shall proceed with sentencing.

3 (b) *Orders of adjudgment and sentencing.* ~~An appeal may be taken~~
4 ~~by a respondent from an order of such respondent being adjudged to be~~
5 ~~a juvenile offender or sentencing, or both. The appeal shall be taken after,~~
6 ~~but within 10 days of, the entry of the sentence.~~

7 ~~—(c) A departure sentence is subject to appeal by the defendant. The~~
8 ~~appeal shall be to the appellate courts in accordance with rules adopted~~
9 ~~by the supreme court. *The juvenile offender may appeal from an order*~~
10 ~~*of adjudication or sentencing, or both. The appeal shall be pursuant to*~~
11 ~~*K.S.A. 38-1683, and amendments thereto.*~~

12 (1) Pending review of the sentence, the sentencing court or the ap-
13 pellate court may order the defendant confined or placed on conditional
14 release, including bond.

15 (2) On appeal from a judgment or conviction entered for an offense
16 committed on or after July 1, 1999, the appellate court shall not review:

17 (A) Any sentence that is within the presumptive sentence for the
18 crime; or

19 (B) any sentence resulting from an agreement between the state and
20 the defendant which the sentencing court approves on the record.

21 (3) In any appeal from a judgment of conviction imposing a sentence
22 that departs from the presumptive sentence, sentence review shall be
23 limited to whether the sentencing court's findings of fact and reasons
24 justifying a departure:

25 (A) Are supported by the evidence in the record; and

26 (B) constitute substantial and compelling reasons for departure.

27 (4) In any appeal, the appellate court may review a claim that:

28 (A) A sentence that departs from the presumptive sentence resulted
29 from partiality, prejudice, oppression or corrupt motive;

30 (B) the sentencing court erred in either including or excluding rec-
31 ognition of prior convictions or adjudications; or

32 (C) the sentencing court erred in ranking the crime severity level of
33 the current crime or in determining the appropriate classification of a
34 prior conviction or juvenile adjudication for criminal history purposes.

35 (5) The appellate court may reverse or affirm the sentence. If the
36 appellate court concludes that the trial court's factual findings are not
37 supported by evidence in the record or do not establish substantial and
38 compelling reasons for a departure, it shall remand the case to the trial
39 court for resentencing.

40 (6) The appellate court shall issue a written opinion whenever the
41 judgment of the sentencing court is reversed. The court may issue a writ-
42 ten opinion in any other case when it is believed that a written opinion
43 will provide guidance to sentencing judges and others in implementing

1 the placement. The appellate courts may provide by rule for summary
2 disposition of cases arising under this section when no substantial ques-
3 tion is presented by the appeal.

4 (7) A review under summary disposition shall be made solely upon
5 the record that was before the sentencing court. Written briefs shall not
6 be required unless ordered by the appellate court and the review and
7 decision shall be made in an expedited manner according to rules adopted
8 by the supreme court.

9 ~~(d)~~ (c) *Priority.* Appeals under this section shall have priority over
10 other cases except those having statutory priority.

11 Sec. 79. K.S.A. 38-1682 is hereby amended to read as follows: 38-
12 1682. An appeal may be taken by the prosecution from an order dismiss-
13 ing proceedings when jeopardy has not attached, from an order denying
14 authorization to prosecute a ~~respondent~~ *juvenile* as an adult or upon a
15 question reserved by the prosecution. An appeal upon a question reserved
16 by the prosecution shall be taken within 10 days after the ~~respondent~~
17 *juvenile* has been adjudged to be a juvenile offender. Other appeals by
18 the prosecution shall be taken within 10 days after the entry of the order
19 appealed from.

20 Sec. 80. K.S.A. 38-1683 is hereby amended to read as follows: 38-
21 1683. (a) An appeal from a district magistrate judge shall be to a district
22 judge. ~~Except as otherwise provided, the appeal shall be from the record~~
23 ~~made of the proceedings, except that the respondent may call additional~~
24 ~~witnesses not called at the original proceedings. If no record was made~~
25 ~~of the proceedings,~~ The appeal shall be *by trial de novo unless the parties*
26 *agree to a de novo* review on the record of the proceedings. The appeal
27 shall be heard within 30 days from the date the notice of appeal was filed.

28 (b) *Appeals from a district judge shall be to the court of appeals.*

29 (c) Procedure on appeal shall be governed by article 21 of chapter
30 60 of the Kansas Statutes Annotated, and amendments thereto.

31 Sec. 81. K.S.A. 38-1684 is hereby amended to read as follows: 38-
32 1684. (a) Pending the determination of ~~the an~~ appeal, any order appealed
33 from shall continue in force unless modified by temporary orders as pro-
34 vided in subsection (b).

35 ~~The court on appeal, pending a hearing,~~ *While an appeal is pend-*
36 *ing, the district court* may modify the order appealed from and may make
37 temporary orders concerning the care and custody of the ~~respondent~~
38 *juvenile* as the court considers advisable.

39 Sec. 82. K.S.A. 38-1685 is hereby amended to read as follows: 38-
40 1685. When an appeal is taken pursuant to this code, fees of an attorney
41 appointed to represent the ~~respondent~~ *juvenile offender* shall be fixed by
42 the district court. The fees, together with the costs of transcripts and
43 records on appeal, shall be taxed as expenses on appeal. The court on

1 appeal may assess the fees and expenses against the appealing party or
2 order that they be paid from the *county* general fund ~~of the county~~. When
3 the court orders the fees and expenses assessed against the appealing
4 party:

5 (a) The fees and expenses shall be paid from the county general fund,
6 subject to reimbursement by the appealing party; and

7 (b) the county may enforce the order as a civil judgment, except the
8 county shall not be required to pay the docket fee or fee for execution.

9 Sec. 83. K.S.A. 38-1691 is hereby amended to read as follows: 38-
10 1691. (a) ~~On and after January 1, 1993,~~ No juvenile shall be detained or
11 placed in any jail pursuant to the Kansas juvenile justice code except as
12 provided by subsections (b), (c) and (d).

13 (b) Upon being taken into custody, ~~an alleged~~ a juvenile offender may
14 be detained temporarily in a jail, in quarters with sight and sound separa-
15 tion from adult prisoners, for the purpose of identifying and processing
16 the juvenile and transferring the juvenile to a youth residential facility or
17 juvenile detention facility. If a juvenile is detained in jail under this sub-
18 section, the juvenile shall be detained only for the minimum time nec-
19 essary, not to exceed six hours, and in no case overnight.

20 (c) The provisions of this section shall not apply to detention of a
21 juvenile:

22 (1) (A) Against whom a motion has been filed requesting prosecution
23 as an adult pursuant to K.S.A. 38-1636, and amendments thereto; and
24 (B) who has received the benefit of a detention hearing pursuant to K.S.A.
25 38-1640, and amendments thereto;

26 (2) whose prosecution as an adult or classification as an extended
27 jurisdiction juvenile has been authorized pursuant to K.S.A. 38-1636, and
28 amendments thereto; or

29 (3) who has been convicted previously as an adult under the code of
30 criminal procedure or the criminal laws of another state or foreign juris-
31 diction.

32 (d) The provisions of this section shall not apply to the detention of
33 any person 18 years of age or more who is taken into custody and is being
34 prosecuted in accordance with the provisions of the Kansas juvenile jus-
35 tice code.

36 (e) The Kansas juvenile justice authority or the authority's contractor
37 shall have authority to review jail records to determine compliance with
38 the provisions of this section.

39 ~~(f) This section shall be part of and supplemental to the Kansas ju-~~
40 ~~venile justice code.~~

41 Sec. 84. K.S.A. 2002 Supp. 38-1692 is hereby amended to read as
42 follows: 38-1692. (a) As used in this section:

43 (1) "Adjudicated person" means a person ~~adjudged~~ found to be a

1 juvenile offender or a person not adjudicated because of mental disease
2 or defect.

3 (2) "Laboratory confirmation of HIV or hepatitis B infection" means
4 positive test results from a confirmation test approved by the secretary of
5 health and environment.

6 (3) "Sexual act" means contact between the penis and the vulva, the
7 penis and the anus, the mouth and the penis, the mouth and the vulva or
8 the mouth and the anus. For purposes of this definition contact involving
9 the penis occurs upon penetration, however slight.

10 (4) "Test for HIV or hepatitis B infection" means a test approved by
11 the secretary of health and environment to detect the etiologic agent for
12 the disease acquired immune deficiency syndrome or hepatitis B.

13 (5) "Body fluids" means blood, semen or vaginal secretions or any
14 body fluid visibly contaminated with blood.

15 (b) At the time of the first appearance before the court of a person
16 charged with an offense involving a sexual act committed while the person
17 was a juvenile, or in which it appears from the nature of the charge that
18 the transmission of body fluids from one person to another may have
19 been involved, the judge shall inform the person or the parent or legal
20 guardian of the person of the availability of testing for HIV or hepatitis
21 B infection and counseling and shall cause each alleged victim of the
22 offense *and if the alleged victim is a minor, the parent*, if any, to be
23 notified that testing for HIV or hepatitis B infection and counseling is
24 available.

25 (c) If the victim of the offense *or if the victim is a minor, the victim's*
26 *parent* requests the court to order infectious disease tests of the alleged
27 offender or if the person charged with the offense stated to law enforce-
28 ment officers that ~~the such person charged with the offense~~ has an in-
29 fectious disease or is infected with an infectious disease, or used words
30 of like effect, the court shall order the person charged with the offense
31 to submit to infectious disease tests as defined in K.S.A. 65-6001 and
32 amendments thereto.

33 (d) For any offense by an adjudicated person which the court deter-
34 mines, from the facts of the case, involved or was likely to have involved
35 the transmission of body fluids from one person to another or involved a
36 sexual act, the court: (1) May order the adjudicated person to submit to
37 a test for HIV or hepatitis B infection; or (2) shall order the adjudicated
38 person to submit to a test for HIV or hepatitis B infection if a victim of
39 the offense, or the parent or legal guardian of the victim if the victim is
40 a minor, requests the court to make such order. If a test for HIV or
41 hepatitis B infection is ordered under this subsection, a victim who is an
42 adult shall designate a health care provider or counselor to receive the
43 information on behalf of the victim. If a victim is a minor, the parent or

1 legal guardian of the victim shall designate the health care provider or
2 counselor to receive the information. If the test results in a negative re-
3 action, the court shall order the adjudicated person to submit to another
4 test for HIV or hepatitis B infection six months after the first test was
5 administered.

6 (e) The results of any test for HIV or hepatitis B infection ordered
7 under this section shall be disclosed to the court which ordered the test,
8 to the adjudicated person, or the parent or legal guardian of the adjudi-
9 cated person, and to each person designated under subsection (d) by a
10 victim or by the parent or legal guardian of a victim. If a test for HIV or
11 hepatitis B infection ordered under this section results in a laboratory
12 confirmation of HIV or hepatitis B infection, the results shall be reported
13 to the secretary of health and environment and to: (1) The commissioner
14 of juvenile justice, in the case of a juvenile offender or a person not
15 adjudicated because of mental disease or defect, for inclusion in such
16 offender's or person's medical file; or (2) the secretary of corrections, in
17 the case of a person under 16 years of age who has been convicted as an
18 adult, for inclusion in such person's medical file. The secretary of health
19 and environment shall provide to each victim of the crime or sexual act,
20 at the option of such victim, counseling regarding the human immuno-
21 deficiency virus and hepatitis B, testing for HIV or hepatitis B infection
22 in accordance with K.S.A. 65-6001 *et seq.* and amendments thereto and
23 referral for appropriate health care and services.

24 (f) The costs of any counseling and testing provided under subsection
25 (e) by the secretary of health and environment shall be paid from amounts
26 appropriated to the department of health and environment for that pur-
27 pose. The court shall order the adjudicated person to pay restitution to
28 the department of health and environment for the costs of any counseling
29 provided under this section and the costs of any test ordered or otherwise
30 performed under this section.

31 (g) When a court orders an adjudicated person to submit to a test for
32 HIV or hepatitis B infection under this section, the withdrawal of the
33 blood may be performed only by: (1) A person licensed to practice med-
34 icine and surgery or a person acting under the supervision of any such
35 licensed person; (2) a licensed professional nurse or a licensed practical
36 nurse; or (3) a qualified medical technician. No person authorized by this
37 subsection to withdraw blood, no person assisting in the performance of
38 the test for HIV or hepatitis B infection nor any medical care facility
39 where blood is withdrawn or tested that has been ordered by the court
40 to withdraw or test blood shall be liable in any civil or criminal action
41 when the test is performed in a reasonable manner according to generally
42 accepted medical practices.

43 (h) The results of tests or reports, or information therein, obtained

1 under this section shall be confidential and shall not be divulged to any
2 person not authorized by this section to receive the results or information.
3 Any violation of this section is a class C *nonperson* misdemeanor.

4 Sec. 85. K.S.A. 38-1601, 38-1602, 38-1603, 38-1604, 38-1605, 38-
5 1606, 38-1606a, 38-1607, 38-1608, 38-1609, 38-1610, 38-1612, 38-1613,
6 38-1614, 38-1615, 38-1616, 38-1617, 38-1618, 38-1621, 38-1622, 38-
7 1623, 38-1624, 38-1625, 38-1626, 38-1627, 38-1628, 38-1629, 38-1630,
8 38-1631, 38-1632, 38-1633, 38-1634, 38-1635, 38-1636, 38-1637, 38-
9 1638, 38-1639, 38-1640, 38-1641, 38-1651, 38-1652, 38-1653, 38-1654,
10 38-1655, 38-1656, 38-1657, 38-1658, 38-1661, 38-1662, 38-1663, 38-
11 1664, 38-1665, 38-1666, 38-1667, 38-1668, 38-1671, 38-1673, 38-1674,
12 38-1675, 38-1676, 38-1677, 38-1681, 38-1682, 38-1683, 38-1684, 38-
13 1685, 38-1691, 38-16,111, 38-16,116, 38-16,117, 38-16,118, 38-16,119,
14 38-16,120, 38-16,126, 38-16,127, 38-16,128, 38-16,129, 38-16,130, 38-
15 16,131, 38-16,132 and 38-16,133 and K.S.A. 2002 Supp. 38-1611 and 38-
16 1692 are hereby repealed.

17 Sec. 86. This act shall take effect and be in force from and after its
18 publication in the statute book.

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