

HOUSE BILL No. 2314

AN ACT concerning the juvenile justice authority; relating to the Kansas juvenile correctional complex; amending K.S.A. 38-1602, 72-978, 74-5344 and 76-3201 and K.S.A. 2002 Supp. 75-3765 and repealing the existing sections; also repealing K.S.A. 75-52,143.

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

New Section 1. (a) There is hereby established, as a separate institution, the Kansas juvenile correctional complex. Any reference in the laws of this state to a juvenile correctional facility or institution as defined in K.S.A. 38-1602, and amendments thereto, shall be construed as also referring to the Kansas juvenile correctional complex.

(b) The commissioner of juvenile justice shall have the management and control of the Kansas juvenile correctional complex.

(c) The superintendent of the Kansas juvenile correctional complex shall remit all moneys received by or for the superintendent from charges and other operations of such institution to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the Kansas juvenile correctional complex fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by such superintendent or by a person or persons designated by the superintendent.

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

(a) "Juvenile" means a person 10 or more years of age but less than 18 years of age.

(b) "Juvenile offender" means a person who commits an offense while a juvenile which if committed by an adult would constitute the commission of a felony or misdemeanor as defined by K.S.A. 21-3105, and amendments thereto, or who violates the provisions of K.S.A. 21-4204a or K.S.A. 41-727 or subsection (j) of K.S.A. 74-8810, and amendments thereto, but does not include:

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

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

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

(A) Convicted as an adult under the Kansas code of criminal procedure;

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

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

(c) "Parent," when used in relation to a juvenile or a juvenile offender, includes a guardian, conservator and every person who is by law liable to maintain, care for or support the juvenile.

(d) "Law enforcement officer" means any person who by virtue of that person's office or public employment is vested by law with a duty to maintain public order or to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.

(e) "Youth residential facility" means any home, foster home or structure which provides twenty-four-hour-a-day care for juveniles and which is licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated.

(f) "Juvenile detention facility" means any secure public or private facility which is used for the lawful custody of accused or adjudicated juvenile offenders and which shall not be a jail.

(g) "Juvenile correctional facility" means a facility operated by the commissioner for juvenile offenders.

(h) "Warrant" means a written order by a judge of the court directed to any law enforcement officer commanding the officer to take into custody the juvenile named or described therein.

(i) "Commissioner" means the commissioner of juvenile justice.

(j) "Jail" means:

(1) An adult jail or lockup; or

(2) a facility in the same building as an adult jail or lockup, unless the facility meets all applicable licensure requirements under law and there is (A) total separation of the juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities; (B) total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities; and (C) separate juvenile and adult staff, including management, security staff and direct care staff such as recreational, educational and counseling.

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

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

(m) “Institution” means the following institutions: The *Kansas juvenile correctional complex*, the Atchison juvenile correctional facility, the Beloit juvenile correctional facility, the Larned juvenile correctional facility and the Topeka juvenile correctional facility.

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

(o) “Sentencing risk assessment tool” means an instrument administered to juvenile offenders which delivers a score, or group of scores, describing, but not limited to describing, the juvenile’s potential risk to the community.

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

(q) “Educator” means any administrator, teacher or other professional or paraprofessional employee of an educational institution who has exposure to a pupil specified in subsection (a)(1) through (5) of K.S.A. ~~2000 Supp.~~ 72-89b03, and amendments thereto.

Sec. 3. K.S.A. 72-978 is hereby amended to read as follows: 72-978.

(a) (1) In each school year, in accordance with appropriations for special education and related services provided under this act, each school district which has provided special education and related services in compliance with the provisions of this act shall be entitled to receive:

(A) Reimbursement for actual travel allowances paid to special teachers at not to exceed the rate specified under K.S.A. 75-3203, and amendments thereto, for each mile actually traveled during the school year in connection with duties in providing special education or related services for exceptional children; such reimbursement shall be computed by the state board by ascertaining the actual travel allowances paid to special teachers by the school district for the school year and shall be in an amount equal to 80% of such actual travel allowances;

(B) reimbursement in an amount equal to 80% of the actual travel expenses incurred for providing transportation for exceptional children to special education or related services; such reimbursement shall not be paid if such child has been counted in determining the transportation weighting of the district under the provisions of the school district finance and quality performance act;

(C) reimbursement in an amount equal to 80% of the actual expenses incurred for the maintenance of an exceptional child at some place other than the residence of such child for the purpose of providing special education or related services; such reimbursement shall not exceed \$600 per exceptional child per school year; and

(D) except for those school districts entitled to receive reimbursement under subsection (b) or (c), after subtracting the amounts of re-

imbursement under paragraphs (A), (B) and (C) of this subsection (a) from the total amount appropriated for special education and related services under this act, an amount which bears the same proportion to the remaining amount appropriated as the number of full-time equivalent special teachers who are qualified to provide special education or related services to exceptional children and are employed by the school district for approved special education or related services bears to the total number of such qualified full-time equivalent special teachers employed by all school districts for approved special education or related services.

(2) Each special teacher who is qualified to assist in the provision of special education or related services to exceptional children shall be counted as $\frac{2}{3}$ full-time equivalent special teacher who is qualified to provide special education or related services to exceptional children.

(b) Each school district which has paid amounts for the provision of special education and related services under an interlocal agreement shall be entitled to receive reimbursement under subsection (a)(1)(D). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services under the interlocal agreement, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all school districts in the current school year who have entered into such interlocal agreement for provision of such special education and related services.

(c) Each contracting school district which has paid amounts for the provision of special education and related services as a member of a cooperative shall be entitled to receive reimbursement under subsection (a)(1)(D). The amount of such reimbursement for the district shall be the amount which bears the same relation to the aggregate amount available for reimbursement for the provision of special education and related services by the cooperative, as the amount paid by such district in the current school year for provision of such special education and related services bears to the aggregate of all amounts paid by all contracting school districts in the current school year by such cooperative for provision of such special education and related services.

(d) No time spent by a special teacher in connection with duties performed under a contract entered into by *the Kansas juvenile correctional complex*, the Atchison juvenile correctional facility, the Beloit juvenile correctional facility, the Larned juvenile correctional facility, or the Topeka juvenile correctional facility and a school district for the provision of special education services by such state institution shall be counted in making computations under this section.

Sec. 4. K.S.A. 74-5344 is hereby amended to read as follows: 74-5344. Nothing contained in the licensure of psychologists act of the state of Kansas shall be construed: (a) To prevent qualified members of other professional groups such as, but not limited to, ministers, Christian Science practitioners, social workers and sociologists from doing work of a psychological nature consistent with their training and consistent with any code of ethics of their respective professions so long as they do not hold themselves out to the public by any title or description of services incorporating the words "psychologic," "psychological," "psychologist" or "psychology";

(b) in any way to restrict any person from carrying on any of the aforesaid activities in the free expression or exchange of ideas concerning the practice of psychology, the application of its principles, the teaching of such subject matter and the conducting of research on problems relating to human behavior if such person does not represent such person or such person's services in any manner prohibited by such act;

(c) to limit the practice of psychology of a licensed masters level psychologist or a person who holds a temporary license to practice as a licensed masters level psychologist insofar as such practice is a part of the duties of any such person's salaried position, and insofar as such practice is performed solely on behalf of such person's employer or insofar as such person is engaged in public speaking with or without remuneration;

(d) to limit the practice of psychology or services of a student, intern or resident in psychology pursuing a degree in psychology in a school, college, university or other institution, with educational standards consis-

tent with those of the state universities of Kansas if such practice or services are supervised as a part of such person's degree program. Nothing contained in this section shall be construed as permitting such persons to offer their services as psychologists to any other person and to accept remuneration for such psychological services other than as specifically excepted herein, unless they have been licensed under the provisions of the licensure of psychologists act of the state of Kansas, registered under the provisions of K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto or granted a temporary license under the provisions of K.S.A. 74-5367 and amendments thereto;

(e) to prevent the employment, by a person, association, partnership or a corporation furnishing psychological services for remuneration, of persons not licensed as psychologists under the provisions of such act to practice psychology if such persons work under the supervision of a psychologist or psychologists licensed under the provisions of such act and if such persons are not in any manner held out to the public as psychologists licensed under the provisions of the licensure of psychologists act of the state of Kansas, as registered under the provisions of K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto or as holding a temporary license under the provisions of K.S.A. 74-5367 and amendments thereto;

(f) to restrict the use of tools, tests, instruments or techniques usually denominated "psychological" so long as the user does not represent oneself to be a licensed psychologist or a licensed masters level psychologist;

(g) to permit persons licensed as psychologists to engage in the practice of medicine as defined in the laws of this state, nor to require such licensed psychologists to comply with the Kansas healing arts act;

(h) to restrict the use of the term "social psychologist" by any person who has received a doctoral degree in sociology or social psychology from an institution whose credits in sociology or social psychology are acceptable by a school or college as defined in the licensure of psychologists act of the state of Kansas, and who has passed comprehensive examination in the field of social psychology as a part of the requirements for the doctoral degree or has had equivalent specialized training in social psychology;

(i) to restrict the practice of psychology by a person who is certified as a school psychologist by the state department of education so long as such practice is conducted as a part of the duties of employment by a unified school district or as part of an independent evaluation conducted in accordance with K.S.A. 72-963 and amendments thereto, including the use of the term "school psychologist" by such person in conjunction with such practice; or

(j) to restrict the use of the term psychologist or the practice of psychology by psychologists not licensed under the licensure of psychologists act of the state of Kansas in institutions for the mentally retarded, in ~~the a juvenile correctional facilities at Atchison, Beloit, Larned and Topeka facility, as defined in K.S.A. 38-1602, and amendments thereto~~, or in institutions within the department of corrections insofar as such term is used or such practice of psychology is performed solely in conjunction with such person's employment by any such institution or juvenile correctional facility.

Sec. 5. K.S.A. 2002 Supp. 75-3765 is hereby amended to read as follows: 75-3765. (a) (1) The secretary of administration shall assign space and facilities in all state-owned or operated property or buildings in Shawnee county, Kansas, except the state capitol, Topeka correctional facility, the Kansas neurological institute, the *Topeka* juvenile correctional facility ~~at Topeka~~, *the Kansas juvenile correctional complex*, the employment security administrative office building, 401 Topeka avenue, Kansas state employment service building, 1309 Topeka avenue, state highway shops and laboratory and property of the Kansas national guard for the use of the various state agencies. The secretary may determine, fix and establish a system of rental charges by the square foot and collect the same monthly for space and facilities occupied by each state agency whenever any appropriation for rental for space and facilities is made therefor, in an amount not to exceed the amount appropriated.

(2) The secretary of administration may assign space and facilities, establish a system of rental charges and collect rents for property and

buildings owned or controlled by the department of administration in other parts of the state.

(3) The amounts collected under paragraphs (1) and (2) shall be remitted by the secretary of administration to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state buildings operating fund or other funds of the department of administration as prescribed by the secretary of administration.

(4) On or before December 31 of each year, the secretary of administration shall present a report to the joint committee on state building construction concerning any actions taken by the secretary pursuant to authority granted to the secretary under this subsection. The report shall describe the action taken and the statutory authority authorizing such action.

(b) The secretary of administration shall require five-year building space utilization plans from all state agencies and develop a database of all state-owned or leased building and storage space. This database shall serve as the central repository of state-owned or leased building and storage space information. All changes made in the ownership or leasing status of all building space utilized by state agencies shall be reported to the secretary of administration and entered into this database. The database shall include the actual and budgeted amount of money paid by state agencies for building and storage space. The database may include any other information related to the building space needs of the state as determined to be necessary by the secretary of administration.

All state agencies shall cooperate with requests for information concerning building space and storage space made by the secretary of administration or the secretary of administration's designee.

On or before December 31 of each year, the secretary of administration shall present a report of state-owned or leased building and storage space information to the joint committee on state building construction and shall provide notice at the same time to the secretary of the senate and to the chief clerk of the house of representatives that such report is available to members of the legislature.

(c) As used in this section, "state agencies" also shall include any quasi-state agency.

Sec. 6. K.S.A. 76-3201 is hereby amended to read as follows: 76-3201. On and after July 1, 1997, the commissioner shall appoint the superintendents of the Atchison juvenile correctional facility, the Beloit juvenile correctional facility, the Topeka juvenile correctional facility and the Larned juvenile correctional facility. *On and after July 1, 2003, the commissioner shall appoint the superintendent of the Kansas juvenile correctional complex.* Superintendents shall be in the unclassified service under the Kansas civil service act. A superintendent may be removed at any time by the commissioner. Each superintendent shall receive an annual salary fixed by the commissioner, with the approval of the governor. The commissioner may appoint an acting superintendent for any institution which has a superintendent to serve temporarily until a vacancy is filled. Acting superintendents shall have the same powers, duties and functions as superintendents.

Sec. 7. K.S.A. 38-1602, 72-978, 74-5344, 75-52,143 and 76-3201 and K.S.A. 2002 Supp. 75-3765 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

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

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.