

As Amended by House Committee

Session of 2004

HOUSE BILL No. 2862

By Committee on Corrections and Juvenile Justice

2-12

10 AN ACT concerning juveniles; amending K.S.A. 38-1604, ~~38-1616~~, 38-
11 1663, 38-1671, 38-1691, 38-16,130 and 38-16,133 and K.S.A. 2003
12 Supp. 21-3811, ~~21-3826~~, 38-1611 and 75-7023 and repealing the ex-
13 isting sections; also repealing K.S.A. 76-2111.

14

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

16

17 Section 1. K.S.A. 2003 Supp. 21-3811 is hereby amended to read as
18 follows: 21-3811. Aiding escape is:

19 (a) Assisting another who is in lawful custody on a charge or convic-
20 tion of crime, on a charge or adjudication ~~of~~ *as a juvenile offender, as*
21 *defined in K.S.A. 38-1602, and amendments thereto, where the act, if*
22 *committed by an adult, would constitute* a misdemeanor or felony, or on
23 a commitment to the state security hospital as provided in K.S.A. 22-3428
24 and amendments thereto based on a finding that the person committed
25 an act constituting any crime, to escape from such custody; or

26 (b) supplying to another who is in lawful custody on a charge or con-
27 viction of crime, on a charge or adjudication ~~of~~ *as a juvenile offender, as*
28 *defined in K.S.A. 38-1602, and amendments thereto, where the act, if*
29 *committed by an adult, would constitute* a misdemeanor or felony, or on
30 a commitment to the state security hospital as provided in K.S.A. 22-3428
31 and amendments thereto based on a finding that the person committed
32 an act constituting any crime, any object or thing adapted or designed for
33 use in making an escape, with intent that it shall be so used; or

34 (c) introducing into an institution in which a person is confined on a
35 charge or conviction of crime, on a charge or adjudication ~~of~~ *as a juvenile*
36 *offender, as defined in K.S.A. 38-1602, and amendments thereto, where*
37 *the act, if committed by an adult, would constitute* a misdemeanor or
38 felony, or into the state security hospital if such person is confined on a
39 commitment to the state security hospital as provided in K.S.A. 22-3428
40 and amendments thereto based on a finding that the person committed
41 an act constituting any crime, any object or thing adapted or designed for
42 use in making any escape, with intent that it shall be so used.

43 Aiding escape is a severity level 8, nonperson felony.

1 ~~Sec. 2. K.S.A. 2003 Supp. 21-3826 is hereby amended to read as~~
2 ~~follows. 21-3826. (a) Traffic in contraband in a correctional institution is~~
3 ~~introducing or attempting to introduce into or upon the grounds of any~~
4 ~~correctional institution or taking, sending, attempting to take or attempt-~~
5 ~~ing to send from any correctional institution or any unauthorized posses-~~
6 ~~sion while in any correctional institution or distributing within any cor-~~
7 ~~rectional institution, any item without the consent of the administrator of~~
8 ~~the correctional institution.~~

9 ~~—(b) For purposes of this section, “correctional institution” means any~~
10 ~~state correctional institution or facility, conservation camp, state security~~
11 ~~hospital, juvenile correctional facility, community correction center or~~
12 ~~facility for detention or confinement, juvenile detention facility or jail.~~

13 ~~—(c) (1) Traffic in contraband in a correctional institution of firearms,~~
14 ~~ammunition, explosives or a controlled substance which is defined in sub-~~
15 ~~section (c) of K.S.A. 65-4101, and amendments thereto, is a severity level~~
16 ~~5, nonperson felony.~~

17 ~~—(2) Traffic in any contraband, as defined by rules and regulations~~
18 ~~adopted by the secretary or the commissioner of juvenile justice, in a~~
19 ~~correctional institution by an employee of a correctional institution is a~~
20 ~~severity level 5, nonperson felony.~~

21 ~~—(d) Except as provided in subsection (c), traffic in contraband in a~~
22 ~~correctional institution is a severity level 6, nonperson felony.~~

23 ~~Sec. 3. 2. K.S.A. 38-1604 is hereby amended to read as follows: 38-~~
24 ~~1604. (a) Except as provided in K.S.A. 38-1636, and amendments thereto,~~
25 ~~proceedings concerning a juvenile who appears to be a juvenile offender~~
26 ~~shall be governed by the provisions of this code.~~

27 ~~(b) The district court shall have original jurisdiction to receive and~~
28 ~~determine proceedings under this code.~~

29 ~~(c) ~~When~~ Except as provided in subsection (d), once jurisdiction is~~
30 ~~acquired by the district court over an alleged juvenile offender it may~~
31 ~~continue until: (1) Sixty days after sentencing, if the juvenile is committed~~
32 ~~directly to a juvenile correctional facility; (2) the juvenile has attained the~~
33 ~~age of 23 years, if committed to the custody of the commissioner pursuant~~
34 ~~to subsection (c) of K.S.A. 38-1665, and amendments thereto, unless an~~
35 ~~adult sentence is imposed pursuant to an extended jurisdiction juvenile~~
36 ~~prosecution. If such adult sentence is imposed, jurisdiction shall continue~~
37 ~~until discharged by the court or other process for the adult sentence; (3)~~
38 ~~the juvenile has been discharged by the court, or (4) the juvenile has been~~
39 ~~discharged under the provisions of K.S.A. 38-1675, and amendments~~
40 ~~thereto, jurisdiction shall continue until whichever of the following first~~
41 ~~occurs:~~

42 ~~(1) The complaint is dismissed;~~

43 ~~(2) the juvenile is adjudicated not guilty at trial; or~~

- 1 (3) *the juvenile, after being adjudicated guilty and sentenced:*
2 (A) *Is discharged by the court pursuant to K.S.A. 38-1667, and*
3 *amendments thereto;*
4 (B) *is discharged by the commissioner pursuant to K.S.A. 38-1675,*
5 *and amendments thereto; or*
6 (C) *the juvenile reaches 21 years of age and no exceptions apply that*
7 *extend jurisdiction beyond 21 years of age.*

8 **Termination of jurisdiction pursuant to this section shall have**
9 **no effect on the juvenile offender's continuing responsibility to pay**
10 **restitution pursuant to subsection (d) of K.S.A. 38-1663, and**
11 **amendments thereto.**

12 (d) *Once jurisdiction is acquired by the district court over an alleged*
13 *juvenile offender, jurisdiction shall continue when the juvenile offender*
14 *reaches 21 years of age but no later than when the juvenile offender*
15 *reaches 23 years of age if either or both of the following conditions apply:*

16 (1) *The juvenile offender is sentenced pursuant to K.S.A. 38-16,129,*
17 *and amendments thereto, and the term of the sentence including successful*
18 *completion of aftercare extends beyond the juvenile reaching 21 years of*
19 *age; or*

20 (2) *the juvenile offender is sentenced pursuant to an extended juris-*
21 *isdiction juvenile prosecution and continues to successfully serve the sen-*
22 *tence imposed pursuant to the Kansas juvenile justice code.*

23 ~~(d)~~ (e) (1) If a juvenile offender, at the time of sentencing, is in an
24 out of home placement in the custody of the secretary of social and re-
25 habilitation services under the Kansas code for care of children code, the
26 sentencing court may order the continued placement of the juvenile as a
27 child in need of care unless the offender was adjudicated for a felony or
28 a second, or subsequent, misdemeanor. If the adjudication was for a fel-
29 ony or a second, or subsequent misdemeanor, the continued placement
30 cannot be ordered unless the court finds there are compelling circum-
31 stances which require, in the best interest of the juvenile, that the place-
32 ment should be continued. In considering whether compelling circum-
33 stances exist, the court shall consider the reports and recommendations
34 of the foster placement, the contract provider, the secretary of social and
35 rehabilitation services, the presentence investigation and all other rele-
36 vant factors. If the foster placement refuses to continue the juvenile in
37 the foster placement the court shall not order continued placement as a
38 child in need of care.

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

42 (3) If such a juvenile offender is placed in the custody of the juvenile
43 justice authority, the secretary of social and rehabilitation services shall

1 not be responsible for furnishing services ordered in the child in need of
 2 care proceeding during the time of the placement pursuant to the Kansas
 3 juvenile justice code. Nothing in this subsection shall preclude such ju-
 4 venile offender from accessing services provided by the department of
 5 social and rehabilitation services or any other state agency if such juvenile
 6 is eligible for such services.

7 ~~(e)~~ (f) The Kansas code for care of children shall apply when neces-
 8 sary to carry out the provisions of subsection (d) of K.S.A. 38-1664, and
 9 amendments thereto.

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

12 Sec. ~~4~~ **3**. K.S.A. 2003 Supp. 38-1611 is hereby amended to read as
 13 follows: 38-1611. (a) Fingerprints or photographs shall not be taken of
 14 any juvenile who is taken into custody for any purpose, except that:

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

17 (2) a juvenile's fingerprints shall be taken, and photographs of a ju-
 18 venile may be taken, immediately upon taking the juvenile into custody
 19 or upon first appearance or in any event before final sentencing, before
 20 the court for an offense which, if committed by a person 18 or more years
 21 of age, would make the person liable to be arrested and prosecuted for
 22 the commission of a felony as defined by K.S.A. 21-3105 and amendments
 23 thereto, a class A or B misdemeanor or assault, as defined by K.S.A. 21-
 24 3408, and amendments thereto; ~~and~~

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

27 (A) Prosecuted as an adult by reason of K.S.A. 38-1636, and amend-
 28 ments thereto; or

29 (B) ~~convicted of aggravated juvenile delinquency as defined by K.S.A.~~
 30 ~~21-3611 and amendments thereto; or~~

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

33 (4) *fingerprints or photographs of a juvenile may be taken under sub-*
 34 *section (d)(9) of K.S.A. 75-7023, and amendments thereto.*

35 (b) Fingerprints and photographs taken under subsection (a)(1) ~~or~~,
 36 (2) ~~or~~ (4) shall be kept readily distinguishable from those of persons of
 37 the age of majority. Fingerprints and photographs taken under subsection
 38 (a)(3) may be kept in the same manner as those of persons of the age of
 39 majority.

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

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

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

4 (3) fingerprints or photographs taken under subsection (a)(3) shall be
5 processed and disseminated in the same manner as those of persons of
6 the age of majority.

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

11 ~~(e) Any fingerprints or photographs of a juvenile taken under the~~
12 ~~provisions of subsection (a)(2) as it existed before the effective date of~~
13 ~~this act may be sent to a state or federal repository on or before December~~
14 ~~31, 1984.~~

15 ~~(f)~~ Any law enforcement agency that willfully fails to make any report
16 required by this section shall be liable to the state for the payment of a
17 civil penalty, recoverable in an action brought by the attorney general, in
18 an amount not exceeding \$500 for each report not made. Any civil penalty
19 recovered under this subsection shall be paid into the state general fund.

20 ~~(g)~~ (f) The director of the Kansas bureau of investigation shall adopt
21 any rules and regulations necessary to implement, administer and enforce
22 the provisions of this section, including time limits within which finger-
23 prints shall be sent to a state or federal repository when required by this
24 section.

25 ~~(h)~~ (g) Nothing in this section shall preclude the custodian of a ju-
26 venile from authorizing photographs or fingerprints of the juvenile to be
27 used in any action under the Kansas parentage act.

28 ~~Sec. 5. K.S.A. 38-1616 is hereby amended to read as follows: 38-~~
29 ~~1616. (a) How paid. (1) If a juvenile accused of being or adjudicated to~~
30 ~~be a juvenile offender subject to this code is not eligible for assistance~~
31 ~~under K.S.A. 39-700 and amendments thereto, expenses for the care and~~
32 ~~eustody of the juvenile shall be paid out of the general fund of the county~~
33 ~~in which the proceedings are brought initiated. Upon entry of a written~~
34 ~~order pursuant to K.S.A. 38-1605, and amendments thereto, transferring~~
35 ~~venue, expenses shall be paid by the receiving county. For the purpose of~~
36 ~~this section, a juvenile who is a nonresident of the state of Kansas or~~
37 ~~whose residence is unknown shall have residence in the county where the~~
38 ~~proceedings are instituted initiated.~~

39 ~~(2) When a law enforcement officer has taken a juvenile into custody~~
40 ~~as authorized by subsection (a) of K.S.A. 38-1624 and amendments~~
41 ~~thereto and delivered the juvenile to a person or facility, other than a~~
42 ~~juvenile detention facility, designated by the commissioner or when cus-~~
43 ~~tody of a juvenile is awarded to the commissioner, the expenses of the~~

1 care and custody of the juvenile may be paid by the commissioner, subject
2 to payment or reimbursement as required in subsection (b), even though
3 the juvenile does not meet the eligibility standards of K.S.A. 39-709 and
4 amendments thereto.

5 — (3) When the custody of a juvenile is awarded to the commissioner,
6 the expenses for the care and custody of the juvenile from the date of
7 custody forward shall not be paid out of the county general fund, except
8 as provided in subsection (d) *or K.S.A. 38-1671, and amendments thereto.*
9 In no event shall the payment authorized by this subsection exceed the
10 state approved rate.

11 — (4) ~~(3)~~ Nothing in this section shall be construed to mean that any
12 person shall be relieved of legal responsibility to support a juvenile.

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

23 — (2) The court, After notice to the person who by law is liable to main-
24 tain, care for or support the juvenile, *the court, if requested,* may hear
25 and dispose of the matter and may enter an order relating to payment of
26 expenses for care and custody of the juvenile. If the person willfully fails
27 or refuses to pay the sum, the person may be adjudged in contempt of
28 court and punished accordingly.

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

34 — (c) *Reimbursement to the commissioner.* When expenses for the care
35 and custody of a juvenile accused of being or adjudicated to be a juvenile
36 offender *subject to this code* have been paid by the commissioner, the
37 commissioner may recover the expenses as provided by law from any
38 person who by law is liable to maintain, care for or support the juvenile.
39 The commissioner shall have the power to compromise and settle any
40 claim due or any amount claimed to be due to the commissioner from
41 any person who by law is liable to maintain, care for or support the ju-
42 venile. The commissioner may contract with a state agency, contract with
43 an individual or hire personnel to collect the reimbursements required

1 ~~under this subsection.~~
2 ~~—(d) When a county has made an interlocal agreement to maintain,~~
3 ~~care for or support juvenile offenders *juveniles subject to this code* who~~
4 ~~are residents of another county and such other county is a party to the~~
5 ~~interlocal agreement with the county which performs the actual mainte-~~
6 ~~nance, care and support of the accused or adjudicated juvenile offender~~
7 ~~*juveniles subject to this code*, such county of residence may pay from its~~
8 ~~county general fund to the other county whatever amount is agreed upon~~
9 ~~in the interlocal agreement irrespective of any amount paid or to be paid~~
10 ~~by the juvenile justice authority. The juvenile justice authority shall not~~
11 ~~diminish the amount it would otherwise reimburse any such county for~~
12 ~~maintaining, caring for and supporting any such accused or adjudicated~~
13 ~~juvenile offender because of any payment under such an interlocal~~
14 ~~agreement.~~

15 ~~Sec. 6. 4.~~ K.S.A. 38-1663 is hereby amended to read as follows: 38-
16 1663. (a) When a respondent has been adjudicated to be a juvenile of-
17 fender, the judge may select from the following alternatives:

18 (1) Place the juvenile offender on probation for a fixed period, subject
19 to the terms and conditions the court deems appropriate based on the
20 juvenile justice programs in the community, including a requirement of
21 making restitution as required by subsection (d).

22 (2) Place the juvenile offender in the custody of a parent or other
23 suitable person, subject to the terms and conditions the court orders
24 based on the juvenile justice programs in the community, including a
25 requirement of making restitution as required by subsection (d).

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

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

31 (5) Commit the juvenile offender to a sanctions house for a period
32 no longer than seven days. Following such period, the court shall review
33 the placement. The court may continue to recommit the juvenile offender
34 to a sanctions house for a period no longer than seven days followed by
35 a court review. Commitment to a sanctions house shall not exceed 28
36 total days for the same act or transaction. If in the adjudication order, the
37 court orders a sanctions house placement for a verifiable probation vio-
38 lation and such probation violation occurs, the juvenile may immediately
39 be taken to a sanctions house and detained for no more than 48 hours,
40 excluding Saturdays, Sundays and holidays, prior to court review of the
41 placement. The court and all other interested parties shall be notified of
42 the sanctions house placement. An offender over 18 years of age or less
43 than 23 years of age at sentencing may be committed to a county jail, in

1 lieu of a sanctions house, under the same time restrictions imposed by
2 this paragraph. No offender may be committed under this paragraph un-
3 less such offender has violated the terms of probation.

4 (6) Commit the juvenile offender to a community based program
5 available in such judicial district subject to the terms and conditions the
6 court orders.

7 (7) Impose any appropriate combination of paragraphs (1) through
8 (6) of this subsection and make other orders directed to the juvenile
9 offender as the court deems appropriate.

10 (8) Commit the juvenile offender ~~to~~ *directly to the custody of the*
11 *commissioner for a period of confinement in a juvenile correctional facility*
12 *and for any aftercare term* as provided by the placement matrix estab-
13 lished in K.S.A. 38-16,129, and amendments thereto. The provisions of
14 K.S.A. 38-1664, and amendments thereto, shall not apply to juvenile of-
15 fenders committed directly to *the custody of the commissioner to serve a*
16 *period of confinement in a juvenile correctional facility and any aftercare*
17 *term.*

18 (9) Place the juvenile offender under a house arrest program admin-
19 istered by the court pursuant to K.S.A. 21-4603b, and amendments
20 thereto.

21 (b) (1) In addition to any other order authorized by this section, the
22 court may order the: (A) Juvenile offender and the parents of the juvenile
23 offender to:

24 (i) Attend counseling sessions as the court directs; or

25 (ii) participate in mediation as the court directs. Participants in such
26 mediation may include, but shall not be limited to, the victim, the juvenile
27 offender and the juvenile offender's parents. Mediation shall not be man-
28 datory for the victim;

29 (B) parents of the juvenile offender to participate in parenting classes;
30 or

31 (C) juvenile offender to participate in a program of education offered
32 by a local board of education including placement in an alternative edu-
33 cational program approved by a local board of education.

34 (2) Upon entering an order requiring a juvenile offender's parent to
35 attend counseling sessions or mediation, the court shall give the parent
36 notice of the order. The notice shall inform the parent of the parent's
37 right to request a hearing within 10 days after entry of the order and the
38 parent's right to employ an attorney to represent the parent at the hearing
39 or, if the parent is financially unable to employ an attorney, the parent's
40 right to request the court to appoint an attorney to represent the parent.
41 If the parent does not request a hearing within 10 days after entry of the
42 order, the order shall take effect at that time. If the parent requests a
43 hearing, the court shall set the matter for hearing and, if requested, shall

1 appoint an attorney to represent the parent. The expense and fees of the
2 appointed attorney may be allowed and assessed as provided by K.S.A.
3 38-1606, and amendments thereto.

4 (3) The costs of any counseling or mediation may be assessed as ex-
5 penses in the case. No mental health center shall charge a fee for court-
6 ordered counseling greater than what the center would have charged the
7 person receiving the counseling if the person had requested counseling
8 on the person's own initiative. No mediator shall charge a fee for court-
9 ordered mediation greater than what the mediator would have charged
10 the person participating in the mediation if the person had requested
11 mediation on the person's own initiative.

12 (c) (1) If a respondent has been adjudged to be a juvenile offender,
13 the court, in addition to any other order authorized by this section, may
14 suspend the juvenile offender's driver's license or privilege to operate a
15 motor vehicle on the streets and highways of this state. The duration of
16 the suspension ordered by the court shall be for a definite time period to
17 be determined by the court. Upon suspension of a license pursuant to
18 this subsection, the court shall require the juvenile offender to surrender
19 the license to the court. The court shall transmit the license to the division
20 of motor vehicles of the department of revenue, to be retained until the
21 period of suspension expires. At that time, the licensee may apply to the
22 division for return of the license. If the license has expired, the juvenile
23 offender may apply for a new license, which shall be issued promptly
24 upon payment of the proper fee and satisfaction of other conditions es-
25 tablished by law for obtaining a license unless another suspension or rev-
26 ocation of the juvenile offender's privilege to operate a motor vehicle is
27 in effect. As used in this subsection, "highway" and "street" have the
28 meanings provided by K.S.A. 8-1424 and 8-1473, and amendments
29 thereto. Any respondent who is adjudicated to be a juvenile offender who
30 does not have a driver's license may have such juvenile offender's driving
31 privileges revoked. No Kansas driver's license shall be issued to a juvenile
32 offender whose driving privileges have been revoked pursuant to this
33 section for a definite time period to be determined by the court.

34 (2) In lieu of suspending the driver's license or privilege to operate
35 a motor vehicle on the highways of this state of any respondent adjudi-
36 cated to be a juvenile offender, as provided in subsection (c)(1), the court
37 in which such juvenile offender was adjudicated to be a juvenile offender
38 may enter an order which places conditions on such juvenile offender's
39 privilege of operating a motor vehicle on the streets and highways of this
40 state, a certified copy of which such juvenile offender shall be required
41 to carry any time such juvenile offender is operating a motor vehicle on
42 the streets and highways of this state. Any such order shall prescribe the
43 duration of the conditions imposed and shall specify that such duration

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

33 (d) Whenever a juvenile offender is placed pursuant to subsection
34 (a)(1) or (2), the court, unless it finds compelling circumstances which
35 would render a plan of restitution unworkable, shall order the juvenile
36 offender to make restitution to persons who sustained loss by reason of
37 the offense. The restitution shall be made either by payment of an amount
38 fixed by the court or, **upon approval by the victim as set forth in the**
39 **journal entry**, by working for the persons in order to compensate for
40 the loss. If the court finds compelling circumstances which would render
41 a plan of restitution unworkable, the court may order the juvenile of-
42 fender to perform charitable or social service for organizations perform-
43 ing services for the community.

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

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

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

11 (2) The amount of the fine should be related directly to the serious-
12 ness of the juvenile offender's offense and the juvenile offender's ability
13 to pay.

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

15 (4) Imposition of a restitution order is preferable to imposition of a
16 fine.

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

21 (f) In addition to or in lieu of any other order authorized by this
22 section, if a juvenile is adjudicated to be a juvenile offender by reason of
23 a violation of K.S.A. 41-719, 41-727, 65-4101 through 65-4164 or K.S.A.
24 2000 Supp. 8-1599, and amendments thereto, the court shall order the
25 juvenile offender to submit to and complete an alcohol and drug evalu-
26 ation by a community-based alcohol and drug safety action program cer-
27 tified pursuant to K.S.A. 8-1008, and amendments thereto, and to pay a
28 fee not to exceed the fee established by that statute for such evaluation.
29 The court may waive such evaluation if the court finds that the juvenile
30 offender has completed successfully an alcohol and drug evaluation, ap-
31 proved by the community-based alcohol and drug safety action program,
32 within 12 months before sentencing. If such evaluation occurred more
33 than 12 months before sentencing, the court shall order the juvenile of-
34 fender to resubmit to and complete such evaluation and program as pro-
35 vided herein. If the court finds that the juvenile offender and those legally
36 liable for the offender's support are indigent, the fee may be waived. In
37 no event shall the fee be assessed against the commissioner or the juvenile
38 justice authority. The court may require the parent or guardian of the
39 juvenile offender to attend such program with the juvenile offender.

40 (g) The board of county commissioners of a county may provide by
41 resolution that the parents or guardians of any juvenile offender placed
42 under a house arrest program pursuant to subsection (a)(9) shall be re-
43 quired to pay to the county the cost of such house arrest program. The

1 board of county commissioners shall prepare a sliding financial scale
2 based on the ability of the parents to pay for such a program.

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

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

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

33 (k) The sentencing hearing shall be open to the public as provided in
34 K.S.A. 38-1652, and amendments thereto.

35 Sec. ~~7~~ **5**. K.S.A. 38-1671 is hereby amended to read as follows: 38-
36 1671. (a) *Actions by the court.* (1) When a juvenile offender has been
37 committed to a juvenile correctional facility, the clerk of the court shall
38 ~~forthwith, within three days, notify the commissioner of the commitment~~
39 ~~and provide the commissioner with~~ **deliver to the officer having the**
40 **offender in charge forthwith** a certified copy of the complaint, the
41 journal entry of the ~~trial and the sentence~~ *adjudication and the disposi-*
42 *tion.* The court shall also forward those items from the social file which
43 could relate to a rehabilitative program. **Within three business days of**

1 **receipt of the order of commitment and the judgement form or**
2 **journal entry, the officer having the offender in charge shall for-**
3 **ward certified copies to the commissioner.** If the court wishes to
4 recommend placement of the juvenile offender in a specific juvenile cor-
5 rectional facility, the recommendation shall be included in the sentence.
6 ~~After the court has received notice of the juvenile correctional facility~~
7 ~~designated as provided in subsection (b);~~

8 (2) It shall be the duty of the court or the sheriff of the *committing*
9 county to deliver the juvenile offender to the facility ~~at the time desig-~~
10 ~~nated by the commissioner as provided in subsection (b).~~

11 ~~(2) When~~ (3) *Whenever* a juvenile offender *that* is residing in a ju-
12 venile correctional facility and is required to ~~go back to~~ *appear in* court
13 for any reason, the county demanding the juvenile's presence shall *give*
14 *the commissioner timely notice of the requirements and shall* be respon-
15 sible for *the* transportation, detention, custody and control of such of-
16 fender *for the entire period the offender is absent from the juvenile cor-*
17 *rectional facility.* In these cases, the county sheriff shall be responsible
18 for all transportation, detention, custody and control of such offender.

19 (b) *Actions by the commissioner.* (1) *Within three days* after receiving
20 *the* notice of commitment as ~~provided in~~ *required by* subsection (a), the
21 commissioner shall ~~give~~ *notify* the committing court ~~notice designating~~
22 ~~the juvenile correctional~~ *of the* facility to which *and on what date* the
23 juvenile offender ~~is to be admitted and the date of the admission~~ *should*
24 *be conveyed. The date thus provided shall be no later than five business*
25 *days after the commissioner is notified of the commitment unless the com-*
26 *missioner and committing county mutually agree to a later date. The*
27 *transportation, detention, custody and control of a juvenile offender sen-*
28 *tenced to a direct commitment to a juvenile correctional facility shall be*
29 *the responsibility of the committing county until the offender is delivered*
30 *to the facility designated by the commissioner.*

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

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

42 ~~Sec. 6.~~ K.S.A. 38-1691 is hereby amended to read as follows: 38-
43 1691. (a) ~~On and after January 1, 1993,~~ No juvenile shall be detained or

1 placed in any jail pursuant to the Kansas juvenile justice code except as
2 provided by subsections (b), (c) and (d).

3 (b) Upon being taken into custody, ~~an alleged a juvenile offender~~
4 may be detained temporarily in a jail, in quarters with sight and sound
5 separation from adult prisoners, for the purpose of identifying and proc-
6 essing the juvenile and transferring the juvenile to a youth residential
7 facility or juvenile detention facility. If a juvenile is detained in jail under
8 this subsection, the juvenile shall be detained only for the minimum time
9 necessary, not to exceed six hours, and in no case overnight.

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

12 (1) (A) Against whom a motion has been filed requesting prosecution
13 as an adult pursuant to K.S.A. 38-1636, and amendments thereto; ~~and~~
14 (B) who has received the benefit of a detention hearing pursuant to K.S.A.
15 38-1640, and amendments thereto; *and (C) who, on the record, has*
16 *waived the right to a hearing on the motion pursuant to K.S.A. 38-1636,*
17 *and amendments thereto, requesting prosecution as an adult;*

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

21 (3) who has been convicted previously as an adult under the code of
22 criminal procedure or the criminal laws of another state or foreign
23 jurisdiction.

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

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

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

33 ~~Sec. 9. 7. K.S.A. 38-16,130 is hereby amended to read as follows: 38-~~
34 ~~16,130. On and after July 1, 1999:~~ (a) For purposes of determining re-
35 lease of a juvenile offender for an offense committed on or after July 1,
36 1999, a system shall be developed whereby good behavior by juvenile
37 offenders is the expected norm and negative behavior will be punished.

38 (b) The commissioner of juvenile justice is hereby authorized to
39 adopt rules and regulations to carry out the provisions of this section
40 regarding good time calculations. Such rules and regulations shall provide
41 circumstances upon which a juvenile offender may earn good time credits
42 through participation in programs which may include, but not be limited
43 to, education programs, work participation, treatment programs, voca-

1 tional programs, activities and behavior modification. Such good time
2 credits may also include the juvenile offender's willingness to examine
3 and confront the past behavior patterns that resulted in the commission
4 of the juvenile's offense.

5 ~~(c) If the placement sentence established in K.S.A. 38-16,129, and~~
6 ~~amendments thereto, is used by the court, the juvenile offender shall~~
7 ~~serve no less than the minimum term authorized under the specific cat-~~
8 ~~egory of such placement sentence. *The total number of days a juvenile*~~
9 ~~*offender's sentence is reduced because of good time credits shall be re-*~~
10 ~~*served and, if the offender is sentenced to a correctional facility because*~~
11 ~~*of any conditional release violation, the number of days of good time*~~
12 ~~*credits thus reserved shall be served in addition and consecutively to the*~~
13 ~~*term of incarceration to which the offender is sentenced for the conditional*~~
14 ~~*release violation including a sentence in a new case which was committed*~~
15 ~~*while the offender was on conditional release. Good time shall not be*~~
16 ~~*awarded for the period of incarceration the offender is serving the term*~~
17 ~~*of the previously awarded good time.*~~ **The maximum amount of good**
18 **time credit a juvenile offender may receive is 15% of such place-**
19 **ment sentence imposed by the court.**

20 ~~Sec. 8.~~ **8.** K.S.A. 38-16,133 is hereby amended to read as follows:
21 38-16,133. In any action pursuant to the Kansas juvenile justice code in
22 which the respondent is adjudicated upon a plea of guilty or trial by court
23 or jury or upon completion of an appeal, the judge, if sentencing the
24 respondent to confinement, shall direct that, for the purpose of comput-
25 ing respondent's sentence and release, eligibility and conditional release
26 dates thereunder, that such sentence is to be computed from a date, to
27 be specifically designated by the court in the sentencing order. Such date
28 shall be established to reflect and shall be computed as an allowance for
29 the time which the respondent has spent incarcerated pending the dis-
30 position of the respondent's case. In recording the date of commence-
31 ment of such sentence, the date as specifically set forth by the court shall
32 be used as the date of sentence and all good time calculations authorized
33 by law are to be allowed on such sentence from such date as though the
34 defendant were actually incarcerated in a juvenile correctional facility.
35 ~~Such credit shall not reduce the minimum term of incarceration author-~~
36 ~~ized by law for the offense of which the respondent has been adjudicated.~~

37 ~~Sec. 9.~~ **9.** K.S.A. 2003 Supp. 75-7023 is hereby amended to read as
38 follows: 75-7023. (a) The supreme court through administrative orders
39 shall provide for the establishment of a juvenile intake and assessment
40 system and for the establishment and operation of juvenile intake and
41 assessment programs in each judicial district. On and after July 1, 1997,
42 the secretary of social and rehabilitation services may contract with the
43 commissioner of juvenile justice to provide for the juvenile intake and

1 assessment system and programs for children in need of care. Except as
2 provided further, on and after July 1, 1997, the commissioner of juvenile
3 justice shall promulgate rules and regulations for the juvenile intake and
4 assessment system and programs concerning juvenile offenders. If the
5 commissioner contracts with the office of judicial administration to ad-
6 minister the juvenile intake and assessment system and programs con-
7 cerning juvenile offenders, the supreme court administrative orders shall
8 be in force until such contract ends and the rules and regulations con-
9 cerning juvenile intake and assessment system and programs concerning
10 juvenile offenders have been adopted.

11 (b) No records, reports and information obtained as a part of the
12 juvenile intake and assessment process may be admitted into evidence in
13 any proceeding and may not be used in a child in need of care proceeding
14 except for diagnostic and referral purposes and by the court in considering
15 dispositional alternatives. However, if the records, reports or information
16 are in regard to abuse or neglect, which is required to be reported under
17 K.S.A. 38-1522, and amendments thereto, such records, reports or infor-
18 mation may then be used for any purpose in a child in need of care
19 proceeding pursuant to the Kansas code for care of children.

20 (c) Upon a juvenile being taken into custody pursuant to K.S.A. 38-
21 1624, and amendments thereto, a juvenile intake and assessment worker
22 shall complete the intake and assessment process as required by supreme
23 court administrative order or district court rule prior to July 1, 1997, or
24 except as provided above rules and regulations established by the com-
25 missioner of juvenile justice on and after July 1, 1997.

26 (d) Except as provided in subsection (g) and in addition to any other
27 information required by the supreme court administrative order, the sec-
28 retary, the commissioner or by the district court of such district, the ju-
29 venile intake and assessment worker shall collect the following
30 information:

31 (1) A standardized risk assessment tool, such as the problem oriented
32 screening instrument for teens;

33 (2) criminal history, including indications of criminal gang
34 involvement;

35 (3) abuse history;

36 (4) substance abuse history;

37 (5) history of prior community services used or treatments provided;

38 (6) educational history;

39 (7) medical history; ~~and~~

40 (8) family history; *and*

41 (9) *notwithstanding any other provision of law, fingerprints and pho-*
42 *tographs for all juveniles taken into custody pursuant to K.S.A. 38-1624,*
43 *and amendments thereto, for the purposes of maintaining accurate iden-*

- 1 *tification of the juvenile within the juvenile justice information system.*
2 (e) After completion of the intake and assessment process for such
3 child, the intake and assessment worker may:
- 4 (1) Release the child to the custody of the child's parent, other legal
5 guardian or another appropriate adult if the intake and assessment worker
6 believes that it would be in the best interest of the child and it would not
7 be harmful to the child to do so.
 - 8 (2) Conditionally release the child to the child's parent, other legal
9 guardian or another appropriate adult if the intake and assessment worker
10 believes that if the conditions are met, it would be in the child's best
11 interest to release the child to such child's parent, other legal guardian
12 or another appropriate adult; and the intake and assessment worker has
13 reason to believe that it might be harmful to the child to release the child
14 to such child's parents, other legal guardian or another appropriate adult
15 without imposing the conditions. The conditions may include, but not be
16 limited to:
 - 17 (A) Participation of the child in counseling;
 - 18 (B) participation of members of the child's family in counseling;
 - 19 (C) participation by the child, members of the child's family and other
20 relevant persons in mediation;
 - 21 (D) provision of inpatient treatment for the child;
 - 22 (E) referral of the child and the child's family to the secretary of social
23 and rehabilitation services for services and the agreement of the child and
24 family to accept and participate in the services offered;
 - 25 (F) referral of the child and the child's family to available community
26 resources or services and the agreement of the child and family to accept
27 and participate in the services offered;
 - 28 (G) requiring the child and members of the child's family to enter
29 into a behavioral contract which may provide for regular school attend-
30 ance among other requirements; or
 - 31 (H) any special conditions necessary to protect the child from future
32 abuse or neglect.
 - 33 (3) Deliver the child to a shelter facility or a licensed attendant care
34 center along with the law enforcement officer's written application. The
35 shelter facility or licensed attendant care facility shall then have custody
36 as if the child had been directly delivered to the facility by the law en-
37 forcement officer pursuant to K.S.A. 38-1528, and amendments thereto.
 - 38 (4) Refer the child to the county or district attorney for appropriate
39 proceedings to be filed or refer the child and family to the secretary of
40 social and rehabilitation services for investigations in regard to the
41 allegations.
 - 42 (5) Make recommendations to the county or district attorney con-
43 cerning immediate intervention programs which may be beneficial to the

1 juvenile.

2 (f) The commissioner may adopt rules and regulations which allow
3 local juvenile intake and assessment programs to create a risk assessment
4 tool, as long as such tool meets the mandatory reporting requirements
5 established by the commissioner.

6 (g) Parents, guardians and juveniles may access the juvenile intake
7 and assessment programs on a voluntary basis. The parent or guardian
8 shall be responsible for the costs of any such program utilized.

9 Sec. ~~12~~ **10**. K.S.A. 38-1604, ~~38-1616~~, 38-1663, 38-1671, 38-1691,
10 38-16,130, 38-16,133 and 76-2111 and K.S.A. 2003 Supp. 21-3811, ~~21-~~
11 ~~3826~~, 38-1611 and 75-7023 are hereby repealed.

12 Sec. ~~13~~ **11**. This act shall take effect and be in force from and after
13 its publication in the statute book.